

RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT
ACT OF 2000

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JULY 20, 2000.—Ordered to be printed
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Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4844]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4844) to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Railroad Retirement and Survivors’ Improvement Act of 2000”.

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

- Sec. 101. Expansion of widow’s and widower’s benefits.
- Sec. 102. Retirement age restoration.
- Sec. 103. Vesting requirement.
- Sec. 104. Repeal of railroad retirement maximum.
- Sec. 105. Investment of railroad retirement assets.
- Sec. 106. Elimination of supplemental annuity account.
- Sec. 107. Transfer authority revisions.
- Sec. 108. Annual ratio projections and certifications by the Railroad Retirement Board.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

- Sec. 201. Amendments to the Internal Revenue Code of 1986.
- Sec. 202. Exemption from tax for Railroad Retirement Investment Trust.
- Sec. 203. Repeal of supplemental annuity tax.
- Sec. 204. Employer, employee representative, and employee tier 2 tax rate adjustments.

TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974

SEC. 101. EXPANSION OF WIDOW'S AND WIDOWER'S BENEFITS.

(a) IN GENERAL.—Section 4(g) of the Railroad Retirement Act of 1974 is amended by adding at the end the following new subdivision:

“(10)(i) If for any month the unreduced annuity provided under this section for a widow or widower is less than the widow's or widower's initial minimum amount computed pursuant to paragraph (ii) of this subdivision, the unreduced annuity shall be increased to that initial minimum amount. For the purposes of this subdivision, the unreduced annuity is the annuity without regard to any deduction on account of work, without regard to any reduction for entitlement to an annuity under section 2(a)(1) of this Act, without regard to any reduction for entitlement to a benefit under title II of the Social Security Act, and without regard to any reduction for entitlement to a public service pension pursuant to sections 202(e)(7), 202(f)(2), or section 202(g)(4) of the Social Security Act.

“(ii) For the purposes of this subdivision, the widow or widower's initial minimum amount is the amount of the unreduced annuity computed at the time an annuity is awarded to that widow or widower, except that—

“(A) in subsection (g)(1)(i) ‘100 per centum’ shall be substituted for ‘50 per centum’; and

“(B) in subsection (g)(2)(ii) ‘130 per centum’ shall be substituted for ‘80 per centum’ both places it appears.

“(iii) If a widow or widower who was previously entitled to a widow's or widower's annuity under section 2(d)(1)(ii) of this Act becomes entitled to a widow's or widower's annuity under section 2(d)(1)(i) of this Act, a new initial minimum amount shall be computed at the time of award of the widow's or widower's annuity under section 2(d)(1)(i) of this Act.”.

(b) EFFECTIVE DATE.—

(1) GENERALLY.—The amendment made by this section shall take effect January 1, 2001 and shall apply to annuity amounts accruing for months after December 2000 in the case of annuities awarded on or after that date and in the case of annuities awarded before that date if the annuity amount under section 4(g) of the Railroad Retirement Act was computed under section 4(g), as amended by Public Law 97–35.

(2) SPECIAL RULE FOR ANNUITIES AWARDED BEFORE JANUARY 1, 2001.—In applying the amendments made by this section to annuities awarded before January 1, 2001, the calculation of the initial minimum amount under new section 4(g)(10)(ii) of the Act shall be made as of the date of award of the widow's or widower's annuity.

SEC. 102. RETIREMENT AGE RESTORATION.

(a) EMPLOYEE ANNUITIES.—Section 3(a)(2) of the Railroad Retirement Act of 1974 is amended by inserting after “(2)” the following: “For purposes of this subsection, individuals entitled to an annuity under section 2(a)(1)(ii) of this Act shall, except for the purposes of recomputations in accordance with section 215(f) of the Social Security Act, be deemed to have attained retirement age (as defined by section 216(l) of the Social Security Act).”.

(b) SPOUSE AND SURVIVOR ANNUITIES.—Section 4(a)(2) of the Railroad Retirement Act of 1974 is amended by striking “if an” and all that follows through “section 2(c)(1) of this Act” and inserting “a spouse entitled to an annuity under section 2(c)(1)(ii)(B) of this Act”.

(c) CONFORMING REPEALS.—Sections 3(a)(3), 4(a)(3), and 4(a)(4) of the Railroad Retirement Act are repealed.

(d) EFFECTIVE DATES.—

(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by this section shall apply to annuities that begin to accrue on or after January 1, 2001.

(2) EXCEPTION.—The amount of the annuity provided for a spouse under section 4(a) shall be computed under section 4(a)(3), as in effect before the date of the enactment of this section, if the annuity amount provided under section 3(a) for the individual on whose employment record the spouse annuity is based was computed under section 3(a)(3), as in effect before the date of the enactment of this section.

SEC. 103. VESTING REQUIREMENT.

(a) CERTAIN ANNUITIES FOR INDIVIDUALS.—Section 2(a) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting in subdivision (1) “or, for purposes of paragraphs (i), (iii), and (v), five years of service, all of which accrues after December 31, 1995,” after “ten years of service”, and

(2) by adding at the end the following:

“(4) An individual who is entitled to an annuity under paragraph (v) of subdivision (1), but who does not have at least ten years of service, shall, prior to the month in which the individual attains age 62, be entitled only to an annuity amount computed under section 3(a) of this Act (without regard to section 3(a)(2) of this Act) or section 3(f)(3) of this Act. Upon attainment of age 62, such an individual may also be entitled to an annuity amount computed under section 3(b), but such annuity amount shall be reduced for early retirement in the same manner as if the individual were entitled to an annuity under section 2(a)(1)(iii).”.

(b) COMPUTATION RULE FOR INDIVIDUALS’ ANNUITIES.—Section 3(a) of the Railroad Retirement Act of 1974, as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

“(3) If an individual entitled to an annuity under section 2(a)(1)(i) or (iii) of this Act on the basis of less than ten years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(a)(1)(i) or (iii) of this Act, the annuity amount provided such individual under this subsection, shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began or (B) the date on which the individual first met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.”.

(c) SURVIVORS’ ANNUITIES.—Section 2(d)(1) of the Railroad Retirement Act of 1974 is amended by inserting “or five years of service, all of which accrues after December 31, 1995,” after “ten years of service”.

(d) LIMITATION ON ANNUITY AMOUNTS.—Section 2 of the Railroad Retirement Act of 1974 is amended by adding at the end the following:

“(i) An individual entitled to an annuity under this section who has completed five years of service, all of which accrues after 1995, but who has not completed ten years of service, and the spouse, divorced spouse, and survivors of such individual, shall not be entitled to an annuity amount provided under section 3(a), section 4(a), or section 4(f) of this Act unless the individual, or the individual’s spouse, divorced spouse, or survivors, would be entitled to a benefit under the Social Security Act on the basis of the individual’s employment record under both the Railroad Retirement Act and the Social Security Act.”.

(e) COMPUTATION RULE FOR SPOUSES’ ANNUITIES.—Section 4(a) of the Railroad Retirement Act of 1974, as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

“(3) If a spouse entitled to an annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), or section 2(c)(2) of this Act or a divorced spouse entitled to an annuity under section 2(c)(4) of this Act on the basis of the employment record of an employee who will have completed less than 10 years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), section 2(c)(2), or section 2(c)(4) of this Act, the annuity amount provided under this subsection shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began or (B) the first date on which the annuitant met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.”.

(f) APPLICATION DEEMING PROVISION.—Section 5(b) of the Railroad Retirement Act of 1974 is amended by striking the second sentence and inserting the following: “An application filed with the Board for an employee annuity, spouse annuity, or divorced spouse annuity on the basis of the employment record of an employee who will have completed less than ten years of service shall be deemed to be an application for any benefit to which such applicant may be entitled under this Act or section 202(a), section 202(b), or section 202(c) of the Social Security Act. An application filed with the Board for an annuity on the basis of the employment record of an employee who will have completed ten years of service shall, unless the applicant specified otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this Act or title II of the Social Security Act.”.

(g) CREDITING SERVICE UNDER THE SOCIAL SECURITY ACT.—Section 18(2) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting “or less than five years of service, all of which accrues after December 31, 1995,” after “ten years of service” every place it occurs; and

(2) by inserting “or five or more years of service, all of which accrues after December 31, 1995,” after “ten or more years of service”.

(h) **AUTOMATIC BENEFIT ELIGIBILITY ADJUSTMENTS.**—Section 19 of the Railroad Retirement Act of 1974 is amended—

(1) by inserting “or five or more years of service, all of which accrues after December 31, 1995,” after “ten years of service” in subsection (c); and

(2) by inserting “or five or more years of service, all of which accrues after December 31, 1995,” after “ten years of service” in subsection (d)(2).

(i) **CONFORMING AMENDMENTS.**—

(1) Section 6(e)(1) of the Railroad Retirement Act of 1974 is amended by inserting “or five or more years of service, all of which accrues after December 31, 1995,” after “ten years of service”.

(2) Section 7(b)(2) of the Railroad Retirement Act of 1974 is amended by inserting “or five or more years of service, all of which accrues after December 31, 1995,” after “ten years of service”.

(3) Section 205(i) of the Social Security Act is amended by inserting “or five or more years of service, all of which accrues after December 31, 1995,” after “ten years of service”.

(j) **EFFECTIVE DATE.**—The amendments made by this section shall take effect January 1, 2001.

SEC. 104. REPEAL OF RAILROAD RETIREMENT MAXIMUM.

(a) **EMPLOYEE ANNUITIES.**—Section 3(f) of the Railroad Retirement Act of 1974 is amended by striking paragraph (1).

(b) **SPOUSE AND SURVIVOR ANNUITIES.**—Section 4 of the Railroad Retirement Act of 1974 is amended by striking subsection (c).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall be effective January 1, 2001, and shall apply to annuity amounts accruing for months after December 2000.

SEC. 105. INVESTMENT OF RAILROAD RETIREMENT ASSETS.

(a) **ESTABLISHMENT OF RAILROAD RETIREMENT INVESTMENT TRUST.**—Section 15 of the Railroad Retirement Act of 1974 is amended by inserting after subsection (i) the following:

“(j) **RAILROAD RETIREMENT INVESTMENT TRUST.**—

“(1) **ESTABLISHMENT.**—The Railroad Retirement Investment Trust (hereinafter in this subsection referred to as the ‘Trust’) is hereby established. The Trust shall manage and invest the assets of the Railroad Retirement Trust Fund (hereinafter in this section referred to as the ‘Fund’, which is hereby established as a trust organized in the District of Columbia and shall, to the extent not inconsistent with this Act, be subject to the laws of the District of Columbia applicable to such trusts.

“(2) **NOT A FEDERAL AGENCY OR INSTRUMENTALITY.**—The Trust is not a department, agency, or instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.

“(3) **BOARD OF TRUSTEES.**—

“(A) **GENERALLY.**—The Trust shall have a Board of Trustees, consisting of 7 members, each appointed by a unanimous vote of the Railroad Retirement Board. The Railroad Retirement Board may remove any member so appointed by unanimous vote. Of the 7 members, 3 shall represent the interests of labor, 3 shall represent the interests of management, and 1 shall represent the interests of the general public. The members of the Board of Trustees shall not be considered officers or employees of the Government of the United States.

“(B) **QUALIFICATIONS.**—Members of the Board of Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments and pension plans. No member of the Railroad Retirement Board shall be eligible to be a member of the Board of Trustees.

“(C) **TERMS.**—Except as provided in this subparagraph, each member shall be appointed for a 3-year term. The initial members appointed under this paragraph shall be divided into 3 equal groups so nearly as may be, of which one group will be appointed for a 1-year term, one for a 2-year term, and one for a 3-year term. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the selection of the member whose departure caused the vacancy. Upon the expiration of a term of a member of the Board of Trustees, that member shall continue to serve until a successor is appointed.

“(4) POWERS OF THE BOARD OF TRUSTEES.—The Board of Trustees shall—

“(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

“(B) retain independent investment managers to invest the assets of the Fund in a manner consistent with such investment guidelines;

“(C) invest assets in the Fund, pursuant to the policies adopted in subparagraph (A);

“(D) pay administrative expenses of the Fund and the Trust from the money in the Fund; and

“(E) transfer money to the disbursing agent to pay benefits payable under this Act from money in the Fund and administrative expenses related to those benefits.

“(5) REPORTING REQUIREMENTS AND FIDUCIARY STANDARDS.—The following reporting requirements and fiduciary standards shall apply with respect to the Railroad Retirement Trust and the Railroad Retirement Trust Fund (and the assets held in such Trust Fund):

“(A) DUTIES OF THE BOARD OF TRUSTEES.—The Railroad Retirement Trust and each member of the Board of Trustees shall discharge their duties with respect to the assets of the Fund solely in the interest of the Railroad Retirement Board and through it, the participants and beneficiaries of the programs funded under this Act—

“(i) for the exclusive purpose of—

“(I) providing benefits to participants and their beneficiaries; and

“(II) defraying reasonable expenses of administering the functions of the Trust;

“(ii) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

“(iii) by diversifying investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

“(iv) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this Act.

“(B) PROHIBITIONS WITH RESPECT TO MEMBERS OF THE BOARD OF TRUSTEES.—No member of the Board of Trustees shall—

“(i) deal with the assets of the Fund in the trustee’s own interest or for the trustee’s own account;

“(ii) in an individual or in any other capacity act in any transaction involving the assets of the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust, the Fund, the Railroad Retirement Board, or the interests of participants or beneficiaries; or

“(iii) receive any consideration for the trustee’s own personal account from any party dealing with the assets of the Fund.

“(C) EXCULPATORY PROVISIONS AND INSURANCE.—Any provision in an agreement or instrument that purports to relieve a trustee from responsibility or liability for any responsibility, obligation or duty under this Act shall be void: *Provided, however,* That nothing shall preclude—

“(i) the Trust from purchasing insurance for its trustees or for itself to cover liability or losses occurring by reason of the act or omission of a trustee, if such insurance permits recourse by the insurer against the trustee in the case of a breach of a fiduciary obligation by such trustee;

“(ii) a trustee from purchasing insurance to cover liability under this section from and for his own account; or

“(iii) an employer or an employee organization from purchasing insurance to cover potential liability of one or more trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.

“(D) BONDING.—Every trustee and every person who handles funds or other property of the Fund (hereafter in this subsection referred to as ‘Trust official’) shall be bonded in accordance with the following:

“(i) The amount of such bond shall be fixed at the beginning of each fiscal year of the Trust by the Railroad Retirement Board. Such amount shall not be less than 10 percent of the amount of the funds handled. In no case shall such bond be less than \$1,000 nor more than \$500,000, except that the Railroad Retirement Board, after consideration of the

record, may prescribe an amount in excess of \$500,000, subject to the 10 per centum limitation of the preceding sentence.

“(ii) It shall be unlawful for any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Fund without being bonded as required by this subsection and it shall be unlawful for any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements this subsection have not been met.

“(iii) It shall be unlawful for any person to procure any bond required by this subsection from any surety or other company or through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.

“(E) AUDIT AND REPORT.—

“(i) The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Fund.

“(ii) The Trust shall submit an annual management report to the Congress not later than 180 days after the end of the Trust’s fiscal year. A management report under this subsection shall include—

“(I) a statement of financial position;

“(II) a statement of operations;

“(III) a statement of cash flows;

“(IV) a statement on internal accounting and administrative control systems;

“(V) the report resulting from an audit of the financial statements of the Trust conducted under subparagraph (E)(i); and

“(VI) any other comments and information necessary to inform the Congress about the operations and financial condition of the Trust and the Fund.

“(iii) The Trust shall provide the President, the Railroad Retirement Board, and the Director of the Office of Management and Budget a copy of the management report when it is submitted to Congress.

“(F) ENFORCEMENT.—The Railroad Retirement Board may bring a civil action—

“(i) to enjoin any act or practice by the Railroad Retirement Investment Trust, its Board of Trustees or its employees or agents that violates any provision of this Act; or

“(ii) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this Act.

“(6) RULES AND ADMINISTRATIVE POWERS.—The Board of Trustees shall have the authority to make rules to govern its operations, employ professional staff, and contract with outside advisers to provide legal, accounting, investment advisory or other services necessary for the proper administration of this subsection. In the case of contracts with investment advisory services, compensation for such services may be on a fixed contract fee basis or on such other terms and conditions as are customary for such services.

“(7) QUORUM.—Five members of the Board of Trustees constitute a quorum to do business. Investment guidelines must be adopted by a unanimous vote of the entire Board of Trustees. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.”

(b) CONFORMING AND TECHNICAL AMENDMENTS GOVERNING INVESTMENTS.—Subsection 15(e) of the Railroad Retirement Act of 1974 is amended—

(1) beginning in the first sentence, by striking “, the Dual Benefits Payments Account” and all that follows through “may be made only” in the second sentence and inserting “and the Dual Benefits Payments Account as are not transferred to the Railroad Retirement Investment Trust as the Board may determine”;

(2) by striking “the Second Liberty Bond Act, as amended” and inserting “chapter 31 of title 31”; and

(3) by striking “the foregoing requirements” and inserting “the requirements of this subsection”.

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

SEC. 106. ELIMINATION OF SUPPLEMENTAL ANNUITY ACCOUNT.

(a) **SOURCE OF PAYMENTS.**—Section 7(c)(1) of the Railroad Retirement Act of 1974 is amended by striking “payments of supplemental annuities under section 2(b) of this Act shall be made from the Railroad Retirement Supplemental Account, and”.

(b) **ELIMINATION OF ACCOUNT.**—Section 15(c) of the Railroad Retirement Act of 1974 is repealed.

(c) **IN GENERAL.**—Section 15(a) of the Railroad Retirement Act of 1974 is amended by striking “, except those portions of the amounts covered into the Treasury under sections 3211(b),” and all that follows through the end of the subsection and inserting a period.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect January 1, 2001, except that the Railroad Retirement Supplemental Account shall continue to exist until the transfer authorized by the following sentence occurs. As soon as possible after December 31, 2000, the Board shall determine the balance in the Railroad Retirement Supplemental Account and shall direct the Secretary of the Treasury to transfer such amount to the Railroad Retirement Trust Fund and the Secretary shall make such transfer.

SEC. 107. TRANSFER AUTHORITY REVISIONS.

(a) **RAILROAD RETIREMENT ACCOUNT.**—Section 15 of the Railroad Retirement Act of 1974 is amended by adding after subsection (j) the following:

“(k) **TRANSFERS TO THE FUND.**—The Board shall, upon establishment of the Railroad Retirement Trust Fund and from time to time thereafter, direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, that portion of the Railroad Retirement Account that is not needed to pay current administrative expenses of the Board to the Railroad Retirement Trust Fund. The Secretary shall make that transfer.”.

(b) **RAILROAD RETIREMENT TRUST FUND.**—Section 15 of the Railroad Retirement Act of 1974, as amended by subsection (a), is further amended by adding after subsection (k) the following:

“(l) **RAILROAD RETIREMENT TRUST FUND.**—The Railroad Retirement Trust shall from time to time transfer to the disbursing agent described in section 7(b)(4) such amounts as may be necessary to pay benefits under this Act (other than benefits paid from the Social Security Equivalent Benefit Account or the Dual Benefit Payments Account).”.

(c) **SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.**—Section 15A(d)(2) of the Railroad Retirement Act of 1974 is amended to read as follows:

“(2) Upon establishment of the Railroad Retirement Trust Fund and from time to time thereafter, the Board shall direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, the balance of the Social Security Equivalent Benefit Account not needed to pay current benefits required to be paid from that Account to the Railroad Retirement Trust Fund, and the Secretary shall make that transfer. Any balance transferred under this paragraph shall be used by the Railroad Retirement Trust only to pay benefits under this Act or to purchase obligations of the United States that are backed by the full faith and credit of the United States pursuant to chapter 31 of title 31, United States Code. The proceeds of sales of, and the interest income from, such obligations shall be used by the Trust only to pay benefits under this Act.”.

(2) **TRANSFERS TO DISBURSING AGENT.**—Section 15A(c)(1) of the Railroad Retirement Act of 1974 is amended by adding at the end the following: “The Secretary shall from time to time transfer to the disbursing agent under section 7(b)(4) amounts necessary to pay those benefits.”.

(3) **CONFORMING AMENDMENT.**—Section 15A(d)(1) of the Railroad Retirement Act of 1974 is amended by striking the second and third sentences.

(d) **DUAL BENEFITS PAYMENTS ACCOUNT.**—Section 15(d)(1) of the Railroad Retirement Act of 1974 is amended by adding at the end the following: “The Secretary of the Treasury shall from time to time transfer from the Dual Benefits Payments Account to the disbursing agent under section 7(b)(4) amounts necessary to pay benefits payable from that Account.”.

(e) **CERTIFICATION BY THE BOARD AND PAYMENT.**—Paragraph (4) of section 7(b) of the Railroad Retirement Act of 1974 is amended to read as follows:

“(4)(A) The Railroad Retirement Board, after consultation with the Board of Trustees of the Railroad Retirement Trust and the Secretary of the Treasury, shall enter into an arrangement with a nongovernmental financial institution to serve as disbursing agent for benefits payable under this Act who shall disburse consolidated benefits under this Act to each recipient.

“(B) The Board shall from time to time certify—

“(i) to the Secretary of the Treasury the amounts required to be transferred from the Social Security Equivalent Benefit Account and the the Dual Benefits Payments Account to the disbursing agent to make payments of benefits and the Secretary of the Treasury shall transfer those amounts;

“(ii) to the Board of Trustees of the Railroad Retirement Investment Trust the amounts required to be transferred from the Railroad Retirement Investment Trust to the disbursing agent to make payments of benefits and the Board of Trustees shall transfer those amounts; and

“(iii) to the disbursing agent the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which the payment should be made.”

(f) **BENEFIT PAYMENTS.**—Section 7(c)(1) of the Railroad Retirement Act of 1974 is amended—

(1) by striking “from the Railroad Retirement Account” and inserting “by the disbursing agent under subsection (b)(4) from money transferred to it from the Railroad Retirement Trust Fund or the Social Security Equivalent Benefit Account, as the case may be”; and

(2) by inserting “by the disbursing agent under subsection (b)(4) from money transferred to it” after “Public Law 93–445 shall be made”.

(g) **TRANSITIONAL RULE FOR EXISTING OBLIGATION.**—In making transfers under subsections (a) and (c), the Board shall consult with the Secretary of the Treasury to design an appropriate method to transfer obligations held as of the date of enactment or to convert such obligations to cash prior to transfer. The Railroad Retirement Trust may hold to maturity any obligations so received or may redeem them prior to maturity, as the Trust deems appropriate.

SEC. 108. ANNUAL RATIO PROJECTIONS AND CERTIFICATIONS BY THE RAILROAD RETIREMENT BOARD.

(a) **PROJECTIONS.**—Section 22(a)(1) of the Railroad Retirement Act of 1974 is amended—

(1) by adding the following sentence after the first sentence: “On or before May 1 of each year beginning in 2002, the Railroad Retirement Board shall compute its projection of the account benefits ratio and the average account benefits ratio (as defined by section 3241(c) of the Internal Revenue Code of 1986) for each of the next succeeding five fiscal years.”; and

(2) by striking “the projection prepared pursuant to the preceding sentence” and inserting “the projections prepared pursuant to the preceding two sentences”.

(b) **CERTIFICATIONS.**—The Railroad Retirement Act of 1974 is amended by adding at the end the following:

“COMPUTATION AND CERTIFICATION OF ACCOUNT BENEFIT RATIOS

“SEC. 23. (a) On or before November 1, 2002, the Railroad Retirement Board shall—

“(1) compute the account benefits ratios for each of the most recent 10 preceding fiscal years, and

“(2) certify the account benefits ratios for each such fiscal year to the Secretary.

“(b) On or before November 1 of each year after 2002, the Railroad Retirement Board shall—

“(1) compute the account benefits ratio for the fiscal year ending in such year, and

“(2) certify the account benefits ratio for such fiscal year to the Secretary.

“(c) **DEFINITION.**—As used in this section, the term ‘account benefit ratio’ has the meaning given that term in section 3241(c) of the Internal Revenue Code of 1986.”.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 201. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Except as otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. EXEMPTION FROM TAX FOR RAILROAD RETIREMENT INVESTMENT TRUST.

Subsection (c) of section 501 is amended by adding at the end the following new paragraph:

“(28) The Railroad Retirement Investment Trust established under section 15(j) of the Railroad Retirement Act of 1974.”

SEC. 203. REPEAL OF SUPPLEMENTAL ANNUITY TAX.

(a) **REPEAL OF TAX ON EMPLOYEE REPRESENTATIVES.**—Section 3211 is amended by striking subsection (b).

(b) **REPEAL OF TAX ON EMPLOYERS.**—Section 3221 is amended by striking subsections (c) and (d).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to calendar years beginning after December 31, 2000.

SEC. 204. EMPLOYER, EMPLOYEE REPRESENTATIVE, AND EMPLOYEE TIER 2 TAX RATE ADJUSTMENTS.

(a) **RATE OF TAX ON EMPLOYERS.**—Subsection (b) of section 3221 is amended to read as follows:

“(b) **TIER 2 TAX.**—

“(1) **IN GENERAL.**—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the compensation paid during any calendar year by such employer for services rendered to such employer.

“(2) **APPLICABLE PERCENTAGE.**—For purposes of paragraph (1), the term ‘applicable percentage’ means—

“(A) 15.6 percent in the case of compensation paid during 2001,

“(B) 14.2 percent in the case of compensation paid during 2002, and

“(C) in the case of compensation paid during any calendar year after 2002, the percentage determined under section 3241 for such calendar year.”.

(b) **RATE OF TAX ON EMPLOYEE REPRESENTATIVES.**—Section 3211, as amended by section 203, is amended by striking subsection (a) and inserting the following new subsections:

“(a) **TIER 1 TAX.**—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative. For purposes of the preceding sentence, the term ‘applicable percentage’ means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year.

“(b) **TIER 2 TAX.**—

“(1) **IN GENERAL.**—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representatives for services rendered by such employee representative.

“(2) **APPLICABLE PERCENTAGE.**—For purposes of paragraph (1), the term ‘applicable percentage’ means—

“(A) 14.75 percent in the case of compensation received during 2001,

“(B) 14.20 percent in the case of compensation received during 2002, and

“(C) in the case of compensation received during any calendar year after 2002, the percentage determined under section 3241 for such calendar year.

“(c) **CROSS REFERENCE.**—

“**For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).**”.

(c) **RATE OF TAX ON EMPLOYEES.**—Subsection (b) of section 3201 is amended to read as follows:

“(b) **TIER 2 TAX.**—

“(1) **IN GENERAL.**—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee.

“(2) **APPLICABLE PERCENTAGE.**—For purposes of paragraph (1), the term ‘applicable percentage’ means—

“(A) 4.90 percent in the case of compensation received during 2001 or 2002, and

“(B) in the case of compensation received during any calendar year after 2002, the percentage determined under section 3241 for such calendar year.”.

(d) **DETERMINATION OF RATE.**—Chapter 22 is amended by adding at the end thereof the following new subchapter:

“Subchapter E—Tier 2 Tax Rate Determination

“Sec. 3241. Determination of tier 2 tax rate based on average account benefits ratio.

“SEC. 3241. DETERMINATION OF TIER 2 TAX RATE BASED ON AVERAGE ACCOUNT BENEFITS RATIO.

“(a) IN GENERAL.—For purposes of sections 3201(b), 3211(b), and 3221(b), the applicable percentage for any calendar year is the percentage determined in accordance with the table in subsection (b).

“(b) TAX RATE SCHEDULE.—

Average account benefits ratio		Applicable percentage for sections 3211(b) and 3221(b)	Applicable percentage for section 3201(b)
At least	But less than		
	2.5	22.1	4.9
2.5	3.0	18.1	4.9
3.0	3.5	15.1	4.9
3.5	4.0	14.1	4.9
4.0	6.1	13.1	4.9
6.1	6.5	12.6	4.4
6.5	7.0	12.1	3.9
7.0	7.5	11.6	3.4
7.5	8.0	11.1	2.9
8.0	8.5	10.1	1.9
8.5	9.0	9.1	0.9
9.0		8.2	0

“(c) DEFINITIONS RELATED TO DETERMINATION OF RATES OF TAX.—

“(1) AVERAGE ACCOUNT BENEFITS RATIO.—For purposes of this section, the term ‘average account benefits ratio’ means, with respect to any calendar year, the average determined by the Secretary of the account benefits ratios for the 10 most recent fiscal years ending before such calendar year. If the amount determined under the preceding sentence is not a multiple of 0.1, such amount shall be increased to the next highest multiple of 0.1.

“(2) ACCOUNT BENEFITS RATIO.—For purposes of this section, the term ‘account benefits ratio’ means, with respect to any fiscal year, the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and of the Railroad Retirement Investment Trust as of the close of such fiscal year by the total benefits and administrative expenses paid from the Railroad Retirement Account and the Railroad Retirement Investment Trust during such fiscal year.

“(d) NOTICE.—No later than December 1 of each calendar year, the Secretary shall publish a notice in the Federal Register of the rates of tax determined under this section which are applicable for the following calendar year.”.

(e) CONFORMING AMENDMENTS.—

(1) Section 24(d)(3)(A)(iii) is amended by striking “section 3211(a)(1)” and inserting “section 3211(a)”.

(2) Section 72(r)(2)(B)(i) is amended by striking “section 3211(a)(2)” and inserting “section 3211(b)”.

(3) Paragraphs (2)(A)(iii)(II) and (4)(A) of section 3231(e) is amended by striking “3211(a)(1)” and inserting “3211(a)”.

(4) Section 3231(e)(2)(B)(ii)(I) is amended by striking “3211(a)(2)” and inserting “3211(b)”.

(5) The table of subchapters for chapter 22 is amended by adding at the end the following new item:

“Subchapter E. Tier 2 tax rate determination.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2000.

INTRODUCTION

The railroad retirement system was created separate from the Social Security program through a series of laws enacted in the 1930’s, culminating in the Railroad Retirement and Carriers’ Taxing Act of 1937. There was ample precedent for legislation taking into account the particular circumstances of the rail industry. Nu-

merous laws pertaining to rail operations and safety, as well as the Railway Labor Act of 1926, had been enacted since the Interstate Commerce Act of 1887, and many more have been enacted since the 1930's.

The need for a separate railroad retirement system arose from the inadequate financing of many of the railroads' preexisting private pension plans, and a desire for immediate benefit payments based on prior service. Social Security did not begin paying benefits until 1940 and did not credit service prior to 1937.

Substantive changes to the Railroad Retirement and Carriers' Taxing Acts of 1937, including its replacement by the current Railroad Retirement Act of 1974, and substantive amendments to that latter Act have generally been enacted by the basis of joint recommendations negotiated by representatives of rail labor and management.

The last major reform to railroad retirement occurred in 1983 with enactment of the Railroad Retirement Solvency Act. This Act raised Tier II tax rates on both employers and employees, and for the first time subjected railroad retirement Tier II benefits to federal income tax. It also raised the age at which one can receive a full annuity from 60 with thirty years of service to 62 with thirty years of service.

The railroad retirement system is administered by the Railroad Retirement Board, which is an independent agency in the executive branch of the United States Government. The Board has three members, each of whom is appointed by the President and confirmed by the Senate. The Railroad Retirement Act requires that one Board Member be appointed upon the recommendation of railroad labor and another Member appointed upon the recommendation of rail management. The Chair is appointed to represent the public at large.

Annuities paid under the Railroad Retirement Act consist of different components called tiers. The Tier I benefit is based upon both the railroad and non-railroad earnings of the railroad employee, using social security formulas, and approximates what would be payable under the Social Security Act. Tier II benefits are based on an employee's railroad service only and are computed under benefit formulas in the Railroad Retirement Act. Tier II is the functional equivalent of a private industry-wide pension plan.

In fiscal year 1999, the Railroad Retirement Board paid \$8.2 billion in retirement and survivor benefits to 748,000 beneficiaries. At the end of fiscal year 1999, there were 316,358 railroad retirees, 167,478 spouses or divorced spouses of retirees, and 219,341 survivors receiving railroad retirement benefits.

Payroll taxes on railroad employers and employees serve as the primary source of funding for railroad retirement benefits. Other sources include transfers under the financial interchange with the Social Security system; investment earnings from the trust funds; general revenue appropriations for vested dual benefits; income taxes on benefits and a work hour tax paid by railroad employers called the supplemental annuity tax.

The changes made in H.R. 4844 apply only to the Tier II component of railroad retirement and are funded entirely by payroll taxes on railroad employers and employees and earnings from the investment of those taxes. Currently, railroads pay a 16.1 per cent pay-

roll tax and employees pay a 4.9 percent payroll tax for Tier II benefits. H.R. 4844 would not create or require any general fund subsidies to the railroad system.

On September 17, 1998, the then-Subcommittee on Railroads held a hearing on H. Con. Res. 52, Modifying the Railroad Retirement Tier II Benefits for Widows and Widowers, which had been introduced by Congressman Jack Quinn (R-NY). H. Con. Res. 52 was a concurrent resolution urging that the railroad industry, including rail labor, management and retiree organizations, open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum benefit for widows and widowers. Following the hearing, rail labor and management initiated discussions on a comprehensive reform of railroad retirement. H.R. 4844, cosponsored by the bipartisan leadership of the Transportation and Infrastructure Committee and the Ways and Means Committee, embodies the agreement between management and a majority of rail labor that was the result of those negotiations.

SUMMARY OF H.R. 4844

Changes to the tax structure

Both Railroad Retirement benefits and payroll tax rates are fixed by current law. Thus, changes in the system require Congressional action. H.R. 4844 would make the Tier II tax rates more responsive to actual financing needs by the establishment of an automatic tax adjustment formula. Under this statutory formula, payroll taxes would be raised or lowered automatically, without further action by Congress, depending on the level of funds available to pay benefits. (A similar system of adjustable tax rates for railroad unemployment benefits was enacted in 1988.)

Payroll taxes would be set each calendar year, pursuant to a statutory formula. In any calendar year for which the 10-year average balance ratio¹ at the close of the previous fiscal year was no lower than 4.0 percent and no higher than 6.0 percent, tax rates would be set at “normal” levels of 13.1 percent for the employer and 4.9 percent for the employee. (The proposed reduction of the employer tax rate from the current 16.1 percent to 13.1 percent is discussed below.) These “normal” rates are projected to keep the average balance at or above a 4-year benefit reserve over the next 75 years, based on improving returns by an estimated 2 percentage points (discussed below). If the average fund balance ratio falls below 4.0 percent or exceeds 6.0 percent, the tax rates would vary in accordance with the statutory formula. The 4-year minimum benefits reserve requirement represents the highest level of reserves in the Railroad Retirement Account over the last 40 years. Key features of the operation of the tax adjustment mechanism include:

- Allocation of Tax Rate Changes: Any increase in the payroll tax above the normal rates would be borne entirely by railroad employers. Any reduction in the rates below the normal rates would be divided equally between railroad employers and employees.

¹This is the ratio of the fund balance to estimated annual benefit payments and administrative expenses.

- **Future Benefit Changes:** If the average fund balance ratio exceeds 6.0 percent, employees may choose between a Tier II tax rate reduction specified in the statute, or a benefit increase of equal value. Benefit increases would be legislated by Congress, and management has agreed to support enactment of this legislation.
- **Increase in Employee Tax Rate by Additional Benefit Equivalent:** If any additional benefit is enacted as agreed above, the legislation would provide that the employee tax rate that otherwise would be effective under the statutory formula would be increased by the cost of the benefit.

Investment of assets

Currently, investment of RRA assets is limited to U.S. government securities. Railroad Retirement Board projections for the RRA assume an annual return of 6 percent of investments. Between 1985 and 1998, the average annual return on RRA assets was unusually high at 9.12 per cent, but this still lagged far behind the average annual return in large multi-employer pension plans of 15.17 percent over the same period. Under H.R. 4844, authority would be provided for Tier II RRA assets to be invested in a new diversified investment portfolio, as are assets of private sector pension plans. A Railroad Retirement Investment Trust would be established to invest the assets of the RRA in a Trust Fund outside of Treasury. An independent Board of Trustees would be appointed to administer the Trust. The Trustees would be responsible for establishing investment guidelines for the prudent management of Tier II assets and for selecting outside investment advisors and managers to implement investment policies. There would be 7 members of the Board of Trustees, all with investment experience and selected by a unanimous vote of the Railroad Retirement Board.

In designing this investment proposal, it was assuming that investments by the Trust would result in an average annual return of 8 percent, i.e., 2 percentage points above current projections. Improving performance of the Trust portfolio by this amount permits the enhancement of employee benefits and the reduction of railroad employer tax rates, while maintaining at least an average benefit reserve of 4 years or more. Based on future projections about rates of returns, employment levels, and other variables, the employee tax rate could be reduced in the future.

Benefit improvements

More effective management of Tier II assets would allow for the adoption of certain benefit improvements while protecting the long-term stability of the railroad retirement system. Payment of vested dual benefits and supplemental annuity benefits would continue as under current law. The bill would provide for the following benefit improvements.

- **Expansion of Surviving Spouse Benefit.** Surviving spouses would inherit the full Tier II annuity of the deceased retiree. Currently, the surviving spouse may receive no more than 50 percent of the retiree's annuity.
- **Liberalized Early Retirement.** Currently, an employee with 30 years of service is eligible to retire at age 62 with no actuarial reduction in benefits. H.R. 4844 would allow for early retirement at

age 60 with 30 years of service without a benefit reduction. As such, the bill would return the early retirement eligibility age to its pre-1983 level. The spouse of such an employee would also be eligible for an unreduced annuity at age 60.²

- Liberalized Vesting. The ten-year service requirement to vest for Tier I and Tier II annuities would be reduced to five years. Any employee with five years of post-1995 service would be vested. This requirement would be consistent with private industry practices.

- Railroad Retirement Act Maximum. The limit on certain Tier II annuities awarded to an employee and an employee's spouse would be repealed.

Tax reductions

Railroad employers currently pay 16.1 percent of taxable payroll into the Tier II account. Improved earnings from investing the Tier II assets would permit a phased reduction of employer taxes over the first three years following enactment of the proposal. The phase-in would occur as follows: 15.6 percent in 2001; 14.2 percent in 2002; and 13.1 percent in 2003. Employee tax rates would continue at the current 4.9 percent, except as provided under the tax adjustment mechanism described above.

In addition, the supplemental annuity tax (SAT) would be eliminated and supplemental annuity benefits would be paid directly from the Trust. (There would be *no change* in supplemental annuity benefits paid to eligible retirees.) The SAT is a cents-per-hour tax, currently set at 26.5 cents, paid only by employers. Benefits are available only to employees hired prior to October 1981.

Administration

H.R. 4844 would continue the basic administrative structure of railroad retirement for Tier I, the railroad industry counterpart to Social Security. Tier II benefits would be paid from the Trust, which would be administered by a fiduciary, seven-member Board of Trustees. The Board is required to hire professional investment managers. Management of the Trust assets is subject to fiduciary standards similar to those under ERISA.

CONCLUSION

H.R. 4844 is a landmark piece of legislation that provides benefits for all the participants in the railroad retirement system. It modernizes and strengthens the financing of the program while also providing for improved retirement benefits for railroad workers and their families.

HEARINGS AND LEGISLATIVE HISTORY

No hearings were held by the Committee on H.R. 4844.

²Post-retirement Health Benefit. As part of the national collective bargaining agreement between labor and rail management, an early retirement health benefits plan is available for retirees at age 61. Management and labor have agreed to re-negotiate the agreement to lower the eligibility age to 60 and to adjust the maximum lifetime benefit for medical inflation, if H.R. 4844 is enacted. This would conform eligibility for this private health benefit plan with eligibility for early retirement.

COMMITTEE CONSIDERATION

On July 19, 2000, the Ground Transportation Subcommittee and the Full Committee met in open session and favorably reported H.R. 4844.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There was one rollcall vote on final passage with 62 ayes and 1 nay. Following are the names of those members voting for and against.

AYES

Mr. Baird
Mr. Baldacci
Mr. Barcia
Mr. Bass
Mr. Bateman
Mr. Bereuter
Mr. Berkley
Mr. Blumenauer
Mr. Boehlert
Mr. Borski
Ms. Brown
Mr. Clement
Mr. Coble
Mr. Cook
Mr. Cooksey
Mr. Costello
Ms. Danner
Mr. DeMint
Mr. Doolittle
Mr. Duncan
Mr. Ehlers
Mr. Ewing
Mr. Filner
Mrs. Fowler
Mr. Franks
Mr. Gilchrest
Mr. Holden
Mr. Horn
Mr. Hutchinson
Ms. Johnson
Mrs. Kelly
Mr. Kuykendall
Mr. Lahood

NAY

Mr. Taylor (MS)

Mr. Lampson
 Mr. LaTourette
 Mr. LoBiondo
 Mr. McGovern
 Mr. Mascara
 Mr. Menendez
 Mr. Metcalf
 Mr. Mica
 Ms. Millender-McDonald
 Mr. Miller
 Mr. Morgan
 Mr. Ney
 Ms. Norton
 Mr. Oberstar
 Mr. Pascrell
 Mr. Pease
 Mr. Petri
 Mr. Quinn
 Mr. Rahall
 Mr. Sandlin
 Mr. Sherwood
 Mr. Simpson
 Mr. Sweeney
 Mrs. Tauscher
 Mr. Terry
 Mr. Thune
 Mr. Vitter
 Mr. Wise
 Mr. Shuster

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives is satisfied where a cost estimate and comparison prepared by the Director of the Congressional Budget Office (CBO) under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. The Committee has received no cost estimate and comparison. When available it will be printed in the Congressional Record.

COMMITTEE COST ESTIMATE

The changes in railroad employee benefits proposed by H.R. 4844 are estimated to result in an increase in budget authority of approximately \$112 million in 2001, and \$1.3 billion for the five-year period from 2001 through 2005. The changes in railroad taxes proposed by the bill are estimated to result in a decrease in revenues of approximately \$87 million in 2001, and \$1.4 billion for the five-year period from 2001 through 2005.

In addition to these benefit payment increases and payroll tax decreases, H.R. 4844 would authorize the transfer of the balance currently held in the Rail Industry Pension Fund to the newly created Railroad Retirement Investment Trust (RRIT). The RRIT would be authorized to invest this balance in a diversified portfolio,

including corporate stocks and bonds, similar to other multi-employer pension funds.

The scoring of investments such as those authorized by H.R. 4844 is currently an unresolved issue of budget concepts. There are two options for scoring investments held outside of the U.S. Treasury. Under a conventional budget treatment, any investments made by the RRIT outside of U.S. Treasury securities would be scored as an immediate outlay, since the cash would physically be leaving the Treasury. This conventional budget treatment makes no distinction between Government expenditures to purchase goods or services, and Government expenditures to purchase financial assets. In terms of personal finance, this is the equivalent of saying that writing a \$1,000 check from your checking account to purchase shares in a mutual fund is the same as writing a \$1,000 check to finance a vacation. This conventional budget treatment would result in H.R. 4844 being scored as causing an increase in outlays of approximately \$15 billion in FY 2001.

Alternatively, investments made by the RRIT outside of Treasury could be considered to be a non-scoreable means of financing. Under this alternative budget treatment, the upfront investment by the RRIT in corporate stocks and bonds would not be scored as outlays. In addition, the increased rate of return that would be earned on the investments made outside of Treasury would be scored as increased revenues to the Government, thereby offsetting in part the costs of the increased benefits and decreased taxes discussed above. The Committee believes that this alternative budget treatment is more appropriate than the conventional budget treatment in this case, as it better reflects the true cost of H.R. 4844.

The Committee will file a supplemental report containing a cost estimate prepared by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act when it becomes available.

COMPLIANCE WITH HOUSE RULE XIII

1. Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, oversight findings and recommendations have been made by the Committee as reflected in this report.

2. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office has not been received. When available, it will be printed in the Congressional Record.

3. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on the subject of H.R. 4844.

4. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, a cost estimate from the Director of Congressional Budget Office (CBO) is not available.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of Rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint reso-

lution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104-4.)

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate and conditions of employment or access to public service or accommodations within the meaning of Section 102(b)(3) of the Congressional Accountability Act. (Public Law 104-1.)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

RAILROAD RETIREMENT ACT OF 1974

* * * * *

ANNUITY ELIGIBILITY REQUIREMENTS

SEC. 2. (a)(1) The following-described individuals, if they shall have completed ten years of service *or, for purposes of paragraphs (i), (iii), and (v), five years of service, all of which accrues after December 31, 1995,* and shall have filed application for annuities, shall, subject to the conditions set forth in subsections (e), (f), and (h), be entitled to annuities in the amounts provided under section 3 of this Act—

(i) * * *

* * * * *

(4) *An individual who is entitled to an annuity under paragraph (v) of subdivision (1), but who does not have at least ten years of service, shall, prior to the month in which the individual attains age 62, be entitled only to an annuity amount computed under section 3(a) of this Act (without regard to section 3(a)(2) of this Act) or section 3(f)(3) of this Act. Upon attainment of age 62, such an individual may also be entitled to an annuity amount computed under section 3(b), but such annuity amount shall be reduced for*

early retirement in the same manner as if the individual were entitled to an annuity under section 2(a)(1)(iii).

* * * * *

(d)(1) The following described survivors of a deceased employee who will have completed ten years of service or five years of service, all of which accrues after December 31, 1995, and will have had a current connection with the railroad industry at the time of his death shall, subject to the conditions set forth in subsections (g) and (h), be entitled to annuities, if they have filed application therefor, in the amounts provided under section 4 of this Act—

(i) * * *

* * * * *

(i) An individual entitled to an annuity under this section who has completed five years of service, all of which accrues after 1995, but who has not completed ten years of service, and the spouse, divorced spouse, and survivors of such individual, shall not be entitled to an annuity amount provided under section 3(a), section 4(a), or section 4(f) of this Act unless the individual, or the individual's spouse, divorced spouse, or survivors, would be entitled to a benefit under the Social Security Act on the basis of the individual's employment record under both the Railroad Retirement Act and the Social Security Act.

COMPUTATION OF EMPLOYEE ANNUITIES

SEC. 3. (a)(1) * * *

(2) For purposes of this subsection, individuals entitled to an annuity under section 2(a)(1)(ii) of this Act shall, except for the purposes of recomputations in accordance with section 215(f) of the Social Security Act, be deemed to have attained retirement age (as defined by section 216(l) of the Social Security Act). For purposes of this subsection, individuals entitled to an annuity under paragraph (iv) or (v) of such section 2(a)(1) shall be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act.

[(3) In lieu of an annuity amount provided under subdivision (1), the annuity of an individual entitled to an annuity under paragraph (ii) of section 2(a)(1) of this Act which begins to accrue before the individual attains age 62 shall be in an amount equal to—

[(i) for each month prior to the first month throughout which the individual is age 62, the amount (after any reduction on account of age but before any deductions on account of work) of the old-age insurance benefit to which such individual would have been entitled under the Social Security Act as of the date on which such individual's annuity begins to accrue if such individual had attained age 62 on the first day of the month in which his or her annuity begins to accrue and if all of such individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act, using for purposes of this computation the number of benefit computation years applicable to a person born in the year in which such individual was born; and

[(ii) for months beginning with the first month throughout which the individual is age 62, the amount (after any reduction on account of age but before any deductions on account of

work) of the old-age insurance benefit to which such individual would have been entitled under the Social Security Act if all of such individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act.】

(3) *If an individual entitled to an annuity under section 2(a)(1)(i) or (iii) of this Act on the basis of less than ten years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(a)(1)(i) or (iii) of this Act, the annuity amount provided such individual under this subsection, shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began or (B) the date on which the individual first met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.*

* * * * *

(f)【(1) If the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age, before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act, and disregarding any increases in such total amount which become effective after the date on which such individual's annuity under section 2(a)(1) of this Act begins to accrue, exceed an amount equal to the sum of (A) 100 per centum of his "final average monthly compensation" up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, plus (B) 80 per centum of so much of his "final average monthly compensation" as exceeds 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsection (b) of this section, shall be reduced until such total amount of such individual's annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsection (b) of this section are reduced to zero, whichever occurs first: *Provided, however,* That the provisions of this subdivision shall not operate to reduce the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section below \$1,200. For purposes of this subdivision, the "final average monthly compensation" of an individual shall except as provided in the following sentence be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue by 24. If the individual's "aver-

age monthly compensation” is determined under subdivision (2) of subsection (b) of this section, the “final average monthly compensation” for such individual shall be the average of the compensation for the 24 months in which the compensation determined for the purpose of subdivision (2) of subsection (b) of this section is the highest. For purposes of this subdivision, the term “compensation” shall include “compensation” as defined in section 1(h) of this Act, “wages” as defined in section 209 of the Social Security Act, “self-employment income” as defined in section 211(b) of the Social Security Act, and wages deemed to have been paid under section 217 or 229 of the Social Security Act on account of military service: *Provided, however,* That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977.】

* * * * *

COMPUTATION OF SPOUSE AND SURVIVOR ANNUITIES

SEC. 4. (a)(1) * * *

(2) For purposes of this subsection, [if an individual is entitled to an annuity under paragraph (ii) of section 2(a)(1) of this Act which did not begin to accrue before such individual attained age 62, the spouse of such individual entitled to an annuity under clause (B) of paragraph (ii) of section 2(c)(1) of this Act] *a spouse entitled to an annuity under section 2(c)(1)(ii)(B) of this Act* shall be deemed to have attained retirement age (as defined in section 216(1) of the Social Security Act.

【(3) In the case of an individual entitled to an annuity under section 2(a)(1)(ii) of this Act which began to accrue before such individual attained age 62, the annuity of the spouse of such individual under section 2(c) of this Act shall, in lieu of an annuity amount provided under subdivision (1), be in an amount equal to—

【(i) for each month prior to the first month throughout which both the individual and the spouse are age 62, 50 per centum of that portion of the individual’s annuity as is, or was prior to such individual’s attaining age 62, computed under section 3(a)(3)(i) of this Act, reduced to the same extent such amount would be reduced under section 202(b)(4) of the Social Security Act (in the case of a wife) or under section 202(c)(2) of the Social Security Act (in the case of a husband) as if such amount were a wife’s insurance benefit or a husband’s insurance benefit, respectively, under such Act; and

【(ii) for months beginning with the first month throughout which both the individual and the spouse are age 62, the amount (after any reduction on account of age are based on the spouse’s age at the time the amount under this paragraph first becomes payable but before any deductions on account of work)

of the wife's insurance benefit or the husband's insurance benefit to which such spouse would have been entitled under the Social Security Act if the individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act.

[(4) In the case of an individual entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act, the annuity of the spouse of such individual entitled to an annuity under section 2(c)(1)(ii)(B) of this Act shall, in lieu of an annuity amount provided under subdivision (1), be in an amount equal to the amount (after any reduction on account of age but before any deductions on account of work) of the wife's insurance benefit or the husband's insurance benefit to which such spouse would have been entitled under the Social Security Act if the individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act. For purposes of this subdivision, spouses who have not attained age 62 shall be deemed to have attained age 62.]

(3) If a spouse entitled to an annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), or section 2(c)(2) of this Act or a divorced spouse entitled to an annuity under section 2(c)(4) of this Act on the basis of the employment record of an employee who will have completed less than 10 years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), section 2(c)(2), or section 2(c)(4) of this Act, the annuity amount provided under this subsection shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began or (B) the first date on which the annuitant met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.

* * * * *

[(c) If (A) the total amount of the annuity of a spouse of an individual as computed under the preceding subsections of this section as of the date on which the annuity of such individual under section 2(a)(1) of this Act began to accrue (before any reduction due to such spouse's entitlement to a monthly insurance benefit under the Social Security Act) plus (B) the total amount of the annuity and supplemental annuity of the individual (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act) subject to the provisions of section 3(f)(1) of this Act would, before any reductions in the amounts specified in clauses (A) and (B) on account of age and disregarding any increases in such amounts which become effective after the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue, exceed the amount determined under clauses (A) and (B) of section 3(f)(1) of this Act, the portion of the annuity of such spouse determined under subsection (b) of this section as of the date on which the individual's annuity under section 2(a)(1) began to accrue shall be reduced until the sum of the amounts specified in clauses (A) and (B) of the subsection equals the amount determined under clauses (A) and (B) of section 3(f)(1) or until such

amount under subsection (b) is reduced to zero, whichever occurs first. If, after such amount under subsection (b) is reduced to zero, the sum of the remaining amounts specified in clauses (A) and (B) of this subsection still exceeds the amount determined under clauses (A) and (B) of section 3(f)(1), the supplemental annuity of the individual first, and then, if necessary, the annuity amount of the individual computed under subsections (b), (c), and (d) of section 3 as of the date on which the individual's annuity under section 2(a)(1) began to accrue, shall be reduced until the amounts specified in clauses (A) and (B) of this subsection equals the amounts determined under clauses (A) and (B) of section 3(f)(1) or until such supplemental annuity and such annuity amount are reduced to zero, whichever occurs first. Notwithstanding the preceding provisions of this subsection, the provisions of this subsection shall not operate to reduce the total of the amounts specified in clauses (A) and (B) of this subsection below \$1,200.】

* * * * *
 (g)(1) * * * * *
 * * * * *

(10)(i) *If for any month the unreduced annuity provided under this section for a widow or widower is less than the widow's or widower's initial minimum amount computed pursuant to paragraph (ii) of this subdivision, the unreduced annuity shall be increased to that initial minimum amount. For the purposes of this subdivision, the unreduced annuity is the annuity without regard to any deduction on account of work, without regard to any reduction for entitlement to an annuity under section 2(a)(1) of this Act, without regard to any reduction for entitlement to a benefit under title II of the Social Security Act, and without regard to any reduction for entitlement to a public service pension pursuant to sections 202(e)(7), 202(f)(2), or section 202(g)(4) of the Social Security Act.*

(ii) *For the purposes of this subdivision, the widow or widower's initial minimum amount is the amount of the unreduced annuity computed at the time an annuity is awarded to that widow or widower, except that—*

(A) *in subsection (g)(1)(i) "100 per centum" shall be substituted for "50 per centum"; and*

(B) *in subsection (g)(2)(ii) "130 per centum" shall be substituted for "80 per centum" both places it appears.*

(iii) *If a widow or widower who was previously entitled to a widow's or widower's annuity under section 2(d)(1)(ii) of this Act becomes entitled to a widow's or widow's annuity under section 2(d)(1)(i) of this Act, a new initial minimum amount shall be computed at the time of award of the widow's or widower's annuity under section 2(d)(1)(i) of this Act.*

* * * * *

ANNUITY BEGINNING AND ENDING DATES

SEC. 5. (a) * * * *

* * * * *

(b) An application for any payment under this Act shall be made and filed in such manner and form as the Board may prescribe.

【An application filed with the Board for an annuity under this Act shall, unless the applicant specified otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this Act or title II of the Social Security Act.】 *An application filed with the Board for an employee annuity, spouse annuity, or divorced spouse annuity on the basis of the employment record of an employee who will have completed less than ten years of service shall be deemed to be an application for any benefit to which such applicant may be entitled under this Act or section 202(a), section 202(b), or section 202(c) of the Social Security Act. An application filed with the Board for an annuity on the basis of the employment record of an employee who will have completed ten years of service shall, unless the applicant specified otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this Act or title II of the Social Security Act.* An individual who was entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act for the month preceding the month in which he attained retirement age (as defined in section 216(l) of the Social Security Act), shall be deemed to have filed an application for an annuity under paragraph (i) of section 2(a)(1) on the date on which he attained retirement age (as defined in section 216(l) of the Social Security Act), and a widow or widower who was entitled to an annuity under section 2(d)(1) of this Act on the basis of disability for the month preceding the month in which she or he attained age 60, shall be deemed to have filed an application for an annuity under such section 2(d)(1) on the basis of age on the date on which she or he attained age 60.

* * * * *

LUMP-SUM PAYMENTS

SEC. 6. (a) * * *

* * * * *

(e)(1) Every individual who will have completed ten years of service or five or more years of service, all of which accrues after December 31, 1995, at the time of his retirement or death, who will have received compensation in the nature of separation of severance pay on or after January 1, 1985, and who would have been credited with additional months of service pursuant to section 3(i)(4) of this Act except for the fact that such individual was not in an employment relation to one or more employers nor an employee representative in such months, shall, at the time his annuity under section 2(a)(1) of this Act begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If the full amount of a lump sum under this subsection cannot be determined at the time an individual's annuity under section 2(a)(1) begins to accrue, such lump sum shall be payable at such time thereafter as such amount can be determined. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 2(a)(1), or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren,

parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c)(1) of this section.

* * * * *

POWERS AND DUTIES OF THE BOARD

SEC. 7. (a) * * *

(b)(1) * * *

(2) In the case of—

(A) an individual who will have completed ten years of service or five or more years of service, all of which accrues after December 31, 1995, creditable under this Act,

* * * * *

[(4) The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursements of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.]

(4)(A) *The Railroad Retirement Board, after consultation with the Board of Trustees of the Railroad Retirement Trust and the Secretary of the Treasury, shall enter into an arrangement with a non-governmental financial institution to serve as disbursing agent for benefits payable under this Act who shall disburse consolidated benefits under this Act to each recipient.*

(B) *The Board shall from time to time certify—*

(i) *to the Secretary of the Treasury the amounts required to be transferred from the Social Security Equivalent Benefit Account and the the Dual Benefits Payments Account to the disbursing agent to make payments of benefits and the Secretary of the Treasury shall transfer those amounts;*

(ii) *to the Board of Trustees of the Railroad Retirement Investment Trust the amounts required to be transferred from the Railroad Retirement Investment Trust to the disbursing agent to make payments of benefits and the Board of Trustees shall transfer those amounts; and*

(iii) *to the disbursing agent the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which the payment should be made.*

* * * * *

(c)(1) Benefit payments determined by the Board to be payable under this Act shall be made [from the Railroad Retirement Account] by the disbursing agent under subsection (b)(4) from money transferred to it from the Railroad Retirement Trust Fund or the Social Security Equivalent Benefit Account, as the case may be, except that [payments of supplemental annuities under section 2(b) of this Act shall be made from the Railroad Retirement Supplemental Account, and] payments of annuity amounts made under sections 3(h), 4(e), and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 shall be made by the disbursing agent under subsection (b)(4) from money transferred to it from the Dual Benefits Payments Account. In any fiscal

year, the total amounts paid under such sections shall not exceed the total sums appropriated to the Dual Benefits Payments Account for that fiscal year. The Board shall prescribe regulations for allocation of annuity amounts which would without regard to such regulations be payable under sections 3(h), 4(e), and 4(h) of this Act and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 so that the sums appropriated to the Dual Benefits Payments Account for a fiscal year so far as practicable, are expended in equal monthly installments throughout such fiscal year, and are distributed so that recipients are paid annuity amounts which bear the same ratio to the annuity amounts such recipients would have received but for such regulations as the ratio of the total sums appropriated to pay such annuity amounts bear to the total sums necessary to pay such annuity amounts without regard to such regulations. Notwithstanding any other provision of law, the entitlement of an individual to an annuity amount under section 3(h), 4(e), or 4(h) of this Act or section 204(a)(3), 204(a)(4), 206(3), or 207(3) of Public Law 93-445 for any month in which the amount payable to such individual is allocated under the regulations prescribed by the Board under this subsection shall not exceed the amount so allocated for that month to such individual.

* * * * *

RAILROAD RETIREMENT ACCOUNT

SEC. 15. (a) The Railroad Retirement Account established by section 15(a) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby appropriated to such Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, to provide for the payment of benefits to be made from such Account in accordance with the provisions of section 7(c)(1) of this Act, and to provide for expenses necessary for the Board in the administration of all provisions of this Act, an amount equal to amounts covered into the Treasury (minus refunds) during each fiscal year under the Railroad Retirement Tax Act, except those portions of the amounts covered into the Treasury under sections 3211(b), 3221(c), and 3221(d) of such Tax Act as are necessary to provide sufficient funds to meet the obligation to pay supplemental annuities at the level provided under section 3(e) of this Act and, with respect to those entitled to supplemental annuities under section 205(a) of title II of this Act, at the level provided under section 205(a). The Board is directed to determine what portion of the taxes collected under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act is to be credited to the Railroad Retirement Account pursuant to the preceding provisions of this subsection and what portion of such taxes is to be credited to the Railroad Retirement Supplemental Account pursuant to the provisions of subsection (c) of this section. The Board shall make such a determination with respect to each calendar quarter commencing with the quarter beginning January 1, 1975, shall make each such determination not later than fifteen days before each calendar quarter, and shall, as soon as practicable after each such determination, advise the Secretary of the Treasury of the determination made. The Secretary of the Treasury shall credit the amounts covered into the Treasury under

sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act to the Railroad Retirement Account and the Railroad Retirement Supplemental Account in such proportions as is determined by the Board pursuant to the provisions of this subsection].

* * * * *

[(c) The Railroad Retirement Supplemental Account established by section 15(b) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby appropriated to such account for each fiscal year, beginning with the fiscal year ending June 30, 1975, out of any moneys in the Treasury not otherwise appropriated, to provide for the payment of supplemental annuities under section 2(b) of this Act, and to provide for the expenses necessary for the Board in the administration of the payment of such supplemental annuities, an amount equal to such portions of the amounts covered into the Treasury (minus refunds) during each fiscal year under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act as are not appropriated to the Railroad Retirement Account pursuant to the provisions of subsection (a) of this section. Whenever the Board finds at any time that the balance in the Railroad Retirement Supplemental Account will be insufficient to pay the supplemental annuities which it estimates are due, or will become due, under section 2(b) of this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of such supplemental annuities, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the Railroad Retirement Supplemental Account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such supplemental annuities, it shall request the Secretary of the Treasury to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such supplemental annuities, plus interest at an annual rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer.]

(d)(1) There is hereby created an account in the Treasury of the United States to be known as the Dual Benefits Payments Account. There is hereby authorized to be appropriated to such account for each fiscal year beginning with the fiscal year ending September 30, 1982, such sums as are necessary to pay during such fiscal year the amounts of annuities estimated by the Board to be paid under sections 3(h), 4(e), and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445. Not more than 30 days prior to each fiscal year beginning with the fiscal year ending September 30, 1982, the Board may request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Dual Benefits Payments Account any amount not exceeding the amount that the Board estimates will be necessary to pay on the first day of the next succeeding month the annuity amounts under sections 3(h), 4(e), and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-

445, taking into account any reduction in such annuity amounts as determined under section 7(c)(1) of this Act, and the Secretary of the Treasury shall make such transfer, but at no time shall the total amount of money outstanding to the Dual Benefits Payments Account from the Railroad Retirement Account exceed the amount necessary to pay the annuity amounts under sections 3(h), 4(e), and 4(h) of this Act and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 for one month. Not more than 10 days after the funds appropriated to the Dual Benefits Payments Account for each such fiscal year are received into such Account, the Board shall request the Secretary of the Treasury to retransfer from the Dual Benefits Payments Account to the credit of the Railroad Retirement Account an amount equal to the amount transferred to the Dual Benefits Payments Account prior to or during such fiscal year under the preceding sentence, together with such additional amount determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from such transfer, and the Secretary of the Treasury shall make such retransfer. *The Secretary of the Treasury shall from time to time transfer from the Dual Benefits Payments Account to the disbursing agent under section 7(b)(4) amounts necessary to pay benefits payable from that Account.*

* * * * *

(e) At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury (hereinafter referred to as the "Secretary") to invest such portion of the amounts credited to the Railroad Retirement Account, the Dual Benefits Payments Account and the Railroad Retirement Supplemental Account as, in the judgment of the Board, is not immediately required for the payment of annuities, supplemental annuities, and death benefits. Such investments may be made only *and the Dual Benefits Payments Account as are not transferred to the Railroad Retirement Investment Trust as the Board may determine* in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price; or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under **the Second Liberty Bond Act, as amended** *chapter 31 of title 31*, are hereby extended to authorize the issuance at par of special obligations exclusively to the accounts. Such obligations issued for purchase by the accounts shall have maturities fixed with due regard for the needs of the accounts, and shall bear interest at a rate equal to the average market yield, computed as of the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing notes of the United States then forming a part of the public debt that are not due or callable until after the expiration of three years from the end of such calendar month, except that where such rate is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such rate: *Provided*, That the rate of interest on such obligations shall in no case be less than 3 per centum per annum. At the request of the Board the Secretary shall purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both

principal and interest by the United States, or other obligations which are lawful investments for trust funds of the United States, on original issue or at the market price: *Provided*, That the interest yield of such obligations shall not be less than the interest rate determined in accordance with the preceding sentence. At the request of the Board, the Secretary shall sell at the market price such obligations in the accounts (other than special obligations issued exclusively to the accounts) as the Board designates. The Board shall from time to time request the Secretary to redeem such special obligations issued exclusively to the accounts as the Board designates and upon such request the Secretary shall redeem such obligations at par plus accrued interest. All requests of the Board to the Secretary, provided for in this subsection, shall be mandatory upon the Secretary. It shall be the duty of the Board to determine at all times what proportion of the accounts shall be invested in other than special obligations issued to the accounts and further to determine which of such obligations available to the accounts consistent with [the foregoing requirements] *the requirements of this subsection* will provide the greatest rate of return on the funds invested.

* * * * *

(j) *RAILROAD RETIREMENT INVESTMENT TRUST.*—

(1) *ESTABLISHMENT.*—*The Railroad Retirement Investment Trust (hereinafter in this subsection referred to as the "Trust") is hereby established. The Trust shall manage and invest the assets of the Railroad Retirement Trust Fund (hereinafter in this section referred to as the Fund", which is hereby established as a trust organized in the District of Columbia and shall, to the extent not inconsistent with this Act, be subject to the laws of the District of Columbia applicable to such trusts.*

(2) *NOT A FEDERAL AGENCY OR INSTRUMENTALITY.*—*The Trust is not a department, agency, or instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.*

(3) *BOARD OF TRUSTEES.*—

(A) *GENERALLY.*—*The Trust shall have a Board of Trustees, consisting of 7 members, each appointed by a unanimous vote of the Railroad Retirement Board. The Railroad Retirement Board may remove any member so appointed by unanimous vote. Of the 7 members, 3 shall represent the interests of labor, 3 shall represent the interests of management, and 1 shall represent the interests of the general public. The members of the Board of Trustees shall not be considered officers or employees of the Government of the United States.*

(B) *QUALIFICATIONS.*—*Members of the Board of Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments and pension plans. No member of the Railroad Retirement Board shall be eligible to be a member of the Board of Trustees.*

(C) *TERMS.*—*Except as provided in this subparagraph, each member shall be appointed for a 3-year term. The initial members appointed under this paragraph shall be divided into 3 equal groups so nearly as may be, of which one*

group will be appointed for a 1-year term, one for a 2-year term, and one for a 3-year term. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the selection of the member whose departure caused the vacancy. Upon the expiration of a term of a member of the Board of Trustees, that member shall continue to serve until a successor is appointed.

(4) *POWERS OF THE BOARD OF TRUSTEES.*—The Board of Trustees shall—

(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

(B) retain independent investment managers to invest the assets of the Fund in a manner consistent with such investment guidelines;

(C) invest assets in the Fund, pursuant to the policies adopted in subparagraph (A);

(D) pay administrative expenses of the Fund and the Trust from the money in the Fund; and

(E) transfer money to the disbursing agent to pay benefits payable under this Act from money in the Fund and administrative expenses related to those benefits.

(5) *REPORTING REQUIREMENTS AND FIDUCIARY STANDARDS.*—The following reporting requirements and fiduciary standards shall apply with respect to the Railroad Retirement Trust and the Railroad Retirement Trust Fund (and the assets held in such Trust Fund):

(A) *DUTIES OF THE BOARD OF TRUSTEES.*—The Railroad Retirement Trust and each member of the Board of Trustees shall discharge their duties with respect to the assets of the Fund solely in the interest of the Railroad Retirement Board and through it, the participants and beneficiaries of the programs funded under this Act—

(i) for the exclusive purpose of—

(I) providing benefits to participants and their beneficiaries; and

(II) defraying reasonable expenses of administering the functions of the Trust;

(ii) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(iii) by diversifying investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(iv) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this Act.

(B) *PROHIBITIONS WITH RESPECT TO MEMBERS OF THE BOARD OF TRUSTEES.*—No member of the Board of Trustees shall—

(i) deal with the assets of the Fund in the trustee's own interest or for the trustee's own account;

(ii) *in an individual or in any other capacity act in any transaction involving the assets of the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust, the Fund, the Railroad Retirement Board, or the interests of participants or beneficiaries; or*

(iii) *receive any consideration for the trustee's own personal account from any party dealing with the assets of the Fund.*

(C) *EXCULPATORY PROVISIONS AND INSURANCE.*—Any provision in an agreement or instrument that purports to relieve a trustee from responsibility or liability for any responsibility, obligation or duty under this Act shall be void: Provided, however, That nothing shall preclude—

(i) *the Trust from purchasing insurance for its trustees or for itself to cover liability or losses occurring by reason of the act or omission of a trustee, if such insurance permits recourse by the insurer against the trustee in the case of a breach of a fiduciary obligation by such trustee;*

(ii) *a trustee from purchasing insurance to cover liability under this section from and for his own account; or*

(iii) *an employer or an employee organization from purchasing insurance to cover potential liability of one or more trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.*

(D) *BONDING.*—Every trustee and every person who handles funds or other property of the Fund (hereafter in this subsection referred to as “Trust official”) shall be bonded in accordance with the following:

(i) *The amount of such bond shall be fixed at the beginning of each fiscal year of the Trust by the Railroad Retirement Board. Such amount shall not be less than 10 percent of the amount of the funds handled. In no case shall such bond be less than \$1,000 nor more than \$500,000, except that the Railroad Retirement Board, after consideration of the record, may prescribe an amount in excess of \$500,000, subject to the 10 per centum limitation of the preceding sentence.*

(ii) *It shall be unlawful for any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Fund without being bonded as required by this subsection and it shall be unlawful for any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements of this subsection have not been met.*

(iii) *It shall be unlawful for any person to procure any bond required by this subsection from any surety or other company or through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.*

(E) AUDIT AND REPORT.—

(i) *The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Fund.*

(ii) *The Trust shall submit an annual management report to the Congress not later than 180 days after the end of the Trust's fiscal year. A management report under this subsection shall include—*

(I) a statement of financial position;

(II) a statement of operations;

(III) a statement of cash flows;

(IV) a statement on internal accounting and administrative control systems;

(V) the report resulting from an audit of the financial statements of the Trust conducted under subparagraph (E)(i); and

(VI) any other comments and information necessary to inform the Congress about the operations and financial condition of the Trust and the Fund.

(iii) *The Trust shall provide the President, the Railroad Retirement Board, and the Director of the Office of Management and Budget a copy of the management report when it is submitted to Congress.*

(F) ENFORCEMENT.—*The Railroad Retirement Board may bring a civil action—*

(i) to enjoin any act or practice by the Railroad Retirement Investment Trust, its Board of Trustees or its employees or agents that violates any provision of this Act; or

(ii) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this Act.

(6) RULES AND ADMINISTRATIVE POWERS.—*The Board of Trustees shall have the authority to make rules to govern its operations, employ professional staff, and contract with outside advisers to provide legal, accounting, investment advisory or other services necessary for the proper administration of this subsection. In the case of contracts with investment advisory services, compensation for such services may be on a fixed contract fee basis or on such other terms and conditions as are customary for such services.*

(7) QUORUM.—*Five members of the Board of Trustees constitute a quorum to do business. Investment guidelines must be adopted by a unanimous vote of the entire Board of Trustees. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.*

(k) TRANSFERS TO THE FUND.—*The Board shall, upon establishment of the Railroad Retirement Trust Fund and from time to time thereafter, direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, that portion of the Railroad Retirement Account that is not needed to pay current administrative expenses of the Board to the Railroad Retirement Trust Fund. The Secretary shall make that transfer.*

(l) *RAILROAD RETIREMENT TRUST FUND.*—*The Railroad Retirement Trust shall from time to time transfer to the disbursing agent described in section 7(b)(4) such amounts as may be necessary to pay benefits under this Act (other than benefits paid from the Social Security Equivalent Benefit Account or the Dual Benefit Payments Account).*

SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT

SEC. 15A. (a) * * *

* * * * *

(c)(1) Except as otherwise provided in this section, amounts in the Social Security Equivalent Benefit Account shall be available only for purposes of paying social security equivalent benefits under this Act and to provide for the administrative expenses of the Board allocable to social security equivalent benefits. *The Secretary shall from time to time transfer to the disbursing agent under section 7(b)(4) amounts necessary to pay those benefits.*

* * * * *

(d)(1) Whenever the Board finds that the balance in the Social Security Equivalent Benefit Account will be insufficient to pay social security equivalent benefits which it estimates are due in any month, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Social Security Equivalent Benefit Account such moneys as the Board estimates will be necessary for the payment of such benefits, and the Secretary shall make such transfer. **【Whenever later in such month there is a transfer to the Social Security Equivalent Benefit Account under paragraph (2) or (4) of section 7(c) of this Act, the amount so transferred shall be immediately retransferred to the Railroad Retirement Account. The amount retransferred under the preceding sentence shall not exceed the amount of any outstanding transfers under this paragraph from the Railroad Retirement Account plus such additional amounts determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from such outstanding transfers.】**

【(2) Whenever the Board determines that—

【(A) amounts in the Railroad Retirement Account will not be sufficient to pay the annuities which it estimates are due, or will become due, from such Account, and

【(B) the transfer under this paragraph will not jeopardize the present or future payment of social security equivalent benefits,

the Board shall request the Secretary of the Treasury to transfer from the Social Security Equivalent Benefit Account to the Railroad Retirement Account such moneys as the Board estimates will be necessary for the payment of such annuities, and the Secretary shall make such transfer. No transfer under this paragraph shall be required to be repaid.】

(2) Upon establishment of the Railroad Retirement Trust Fund and from time to time thereafter, the Board shall direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, the balance of the Social Security Equivalent Benefit Account not needed to pay current benefits required to be paid from that Account to the

Railroad Retirement Trust Fund, and the Secretary shall make that transfer. Any balance transferred under this paragraph shall be used by the Railroad Retirement Trust only to pay benefits under this Act or to purchase obligations of the United States that are backed by the full faith and credit of the United States pursuant to chapter 31 of title 31, United States Code. The proceeds of sales of, and the interest income from, such obligations shall be used by the Trust only to pay benefits under this Act.

* * * * *

CREDITING SERVICE UNDER THE SOCIAL SECURITY ACT

SEC. 18. (1) Except as provided in subdivision (2), the term "employment" as defined in section 210 of the Social Security Act shall not include service performed by an individual as an employee as defined in section 1(b) of this Act.

(2) For the purpose of determining (i) monthly insurance benefits under the Social Security Act to an employee who will have completed less than ten years of service *or less than five years of service, all of which accrues after December 31, 1995*, and to others deriving from him or her during his or her life and (ii) monthly insurance benefits and lump-sum death benefits under such Act with respect to the death of an employee who (A) will have completed less than ten years of service *or less than five years of service, all of which accrues after December 31, 1995*, or (B) will have completed ten or more years of service *or five or more years of service, all of which accrues after December 31, 1995*, but will not have had a current connection with the railroad industry at the time of his death, and for the purposes of section 203 and section 216(i) of that Act, section 210(a)(9) of the Social Security Act and subdivision (1) of this section shall not operate to exclude from "employment" under the Social Security Act service which would otherwise be included in such "employment" but for such sections. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee. In the application of the Social Security Act pursuant to this subdivision to service as an employee, all service as defined in section 1(d) of this Act shall be deemed to have been performed within the United States.

AUTOMATIC BENEFIT ELIGIBILITY REQUIREMENT ADJUSTMENTS

SEC. 19. (a) * * *

* * * * *

(c) If section 226 or title XVII of the Social Security Act is amended at any time after December 31, 1974, to reduce the conditions of entitlement to, or to expand the nature of, the benefits payable thereunder, or if health care benefits in addition to, or in lieu of, the benefits payable under such section 226 or such title XVIII are provided by any provision of law which becomes effective at any time after December 31, 1974, such reductions in the conditions of entitlement to benefits, such expanded benefits, or such additional, or substituted, health care benefits shall be available to every employee (as defined in this Act), and those deriving from him, in the

same manner, and to the same extent, as if his service as an employee after December 31, 1936, had been included in the term “employment” as defined in the Social Security Act. The Board shall have the same authority, in accordance with regulations prescribed by it, to determine the rights of employees who will have completed ten years of service *or five or more years of service, all of which accrues after December 31, 1995*, and of those deriving from such employees, to benefits provided by reason of the provisions of this subsection as the Secretary of Health, Education, and Welfare has with respect to individuals insured under the Social Security Act.

(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section—

(1) * * *

(2) No annuity shall be payable to a person by reason of subsection (a) or (b) of this section unless the individual upon whose compensation and years of service such annuity would be based will have (A) completed ten years of service *or five or more years of service, all of which accrues after December 31, 1995*, and (B) in the case of a survivor, had a current connection with the railroad industry at the time of his death.

* * * * *

BENEFIT PRESERVATION

SEC. 22. (a)(1) On or before May 1 of each year beginning in 1984, the Railroad Retirement Board shall prepare a five-year projection of anticipated revenues to and payments from the Railroad Retirement Account to determine the ability of such Account to pay benefits in each of the next succeeding five calendar years. *On or before May 1 of each year beginning in 2002, the Railroad Retirement Board shall compute its projection of the account benefits ratio and the average account benefits ratio (as defined by section 3241(c) of the Internal Revenue Code of 1986) for each of the next succeeding five fiscal years.* No later than July 1 of each year, the Board shall submit a written report to the President, the Speaker of the House, and the President of the Senate setting forth the results of ~~the projection prepared pursuant to the preceding sentence~~ *the projections prepared pursuant to the preceding two sentences*. If the projection indicates that the funds in the Railroad Retirement Account will be insufficient to pay the full amount of the benefits under this Act which are payable from that Account at any time during the five-year period, the Board’s report shall include—

(A) * * *

* * * * *

COMPUTATION AND CERTIFICATION OF ACCOUNT BENEFIT RATIOS

SEC. 23. (a) *On or before November 1, 2002, the Railroad Retirement Board shall—*

(1) *compute the account benefits ratios for each of the most recent 10 preceding fiscal years, and*

(2) *certify the account benefits ratios for each such fiscal year to the Secretary.*

(b) *On or before November 1 of each year after 2002, the Railroad Retirement Board shall—*

(1) compute the account benefits ratio for the fiscal year ending in such year, and

(2) certify the account benefits ratio for such fiscal year to the Secretary.

(c) *DEFINITION.—As used in this section, the term “account benefit ratio” has the meaning given that term in section 3241(c) of the Internal Revenue Code of 1986.*

SECTION 205 OF THE SOCIAL SECURITY ACT

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) * * *

* * * * *

(i) Upon final decision of the Commissioner of Social Security, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this title, the Commissioner of Social Security shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Fiscal Service of the Department of the Treasury, and prior to any action thereon by the General Accounting Office, shall make payment in accordance with the certification of the Commissioner of Social Security (except that in the case of (A) an individual who will have completed ten years of service or five or more years of service, all of which accrues after December 31, 1995, creditable under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1974, (B) the wife or husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of the Railroad Retirement Act of 1974, and (D) any other person entitled to benefits under section 202 of this Act on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry, as defined in the Railroad Retirement Act of 1974, at the time of his death), such certification shall be made to the Railroad Retirement Board which shall provide for such payment or payments to such person on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974): *Provided*, That where a review of the Commissioner’s decision is or may be sought under subsection (g) the Commissioner of Social Security may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Commissioner of Social Security.

* * * * *

INTERNAL REVENUE CODE OF 1986

Subtitle A—Income Taxes

* * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * *

Subchapter A—Determination of Tax Liability

* * * * *

PART IV—CREDITS AGAINST TAX

* * * * *

Subpart A—Nonrefundable Personal Credits

* * * * *

SEC. 24 CHILD TAX CREDIT.

(a) * * *

* * * * *

(d) ADDITIONAL CREDIT FOR FAMILIES WITH 3 OR MORE CHILDREN.—

(1) * * *

* * * * *

(3) SOCIAL SECURITY TAXES.—For purposes of paragraph (1)—
(A) IN GENERAL.—The term “social security taxes” means, with respect to any taxpayer for any taxable year—

(i) * * *

* * * * *

(iii) 50 percent of the taxes imposed by [section 3211(a)(1)] *section 3211(a)* on amounts received by the taxpayer during the calendar year in which the taxable year begins.

* * * * *

Subchapter B—Computation of Taxable Income

* * * * *

PART II—ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME

* * * * *

SEC. 72. ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.

(a) * * *

* * * * *

(r) CERTAIN RAILROAD RETIREMENT BENEFITS TREATED AS RECEIVED UNDER EMPLOYER PLANS.—

(1) * * *

(2) TIER 2 TAXES TREATED AS CONTRIBUTIONS.—

(A) * * *

* * * * *

(B) TIER 2 PORTION.—For purposes of subparagraph (A)—

(i) AFTER 1984.—With respect to compensation paid after 1984, the tier 2 portion shall be the taxes imposed by sections 3201(b), [3211(a)(2)] section 3211(b), and 3221(b).

* * * * *

Subchapter F—Exempt Organizations

* * * * *

PART I—GENERAL RULE

* * * * *

SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

(a) * * *

* * * * *

(c) LIST OF EXEMPT ORGANIZATIONS.—The following organizations are referred to in subsection (a):

(1) * * *

* * * * *

(28) *The Railroad Retirement Investment Trust established under section 15(j) of the Railroad Retirement Act of 1974.*

* * * * *

Subtitle C—Employment Taxes

* * * * *

CHAPTER 22—RAILROAD RETIREMENT TAX ACT

* * * * *

Subchapter E. Tier 2 tax rate determination.

* * * * *

Subchapter A—Tax on Employees

* * * * *

SEC. 3201. RATE OF TAX.

(a) * * *

[(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 4.90 percent of the compensation received during any calendar year by such employee for services rendered by such employee.]

(b) *TIER 2 TAX.*—

(1) *IN GENERAL.*—*In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee.*

(2) *APPLICABLE PERCENTAGE.*—*For purposes of paragraph (1), the term “applicable percentage” means—*

(A) *4.90 percent in the case of compensation received during 2001 or 2002, and*

(B) *in the case of compensation received during any calendar year after 2002, the percentage determined under section 3241 for such calendar year.*

* * * * *

Subchapter B—Tax on Employee Representatives

* * * * *

SEC. 3211. RATE OF TAX.

[(a) IMPOSITION OF TAXES.—

[(1) TIER 1 TAX.—*In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative. For purposes of the preceding sentence, the term “applicable percentage” means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year.*

[(2) TIER 2 TAX.—*In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the following percentage of the compensation received during any calendar year by such employee representatives for services rendered by such employee representative:*

[In the case of compensation received during:	The rate shall be:
1985	13.75
1986 or thereafter	14.75

[(3) CROSS REFERENCE.—*For application of different contribution bases with respect to the taxes imposed by paragraphs (1) and (2), see section 3231(e)(2).*

[(b) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax at a rate equal to the rate of excise tax imposed on every employer, provided for in section 3221(c), for each man-hour for which compensation is paid to him for services rendered as an employee representative.]

(a) TIER 1 TAX.—*In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative. For purposes of the preceding sentence, the term “applicable percentage” means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b)*

of section 3101 and subsections (a) and (b) of section 3111 for the calendar year.

(b) **TIER 2 TAX.**—

(1) **IN GENERAL.**—*In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representatives for services rendered by such employee representative.*

(2) **APPLICABLE PERCENTAGE.**—*For purposes of paragraph (1), the term “applicable percentage” means—*

(A) *14.75 percent in the case of compensation received during 2001,*

(B) *14.20 percent in the case of compensation received during 2002, and*

(C) *in the case of compensation received during any calendar year after 2002, the percentage determined under section 3241 for such calendar year.*

(c) **CROSS REFERENCE.**—

For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).

* * * * *

Subchapter C—Tax on Employers

* * * * *

SEC. 3221. RATE OF TAX.

(a) * * *

[(b) TIER 2 TAX.—*In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer.*]

(b) **TIER 2 TAX.**—

(1) **IN GENERAL.**—*In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the compensation paid during any calendar year by such employer for services rendered to such employer.*

(2) **APPLICABLE PERCENTAGE.**—*For purposes of paragraph (1), the term “applicable percentage” means—*

(A) *15.6 percent in the case of compensation paid during 2001,*

(B) *14.2 percent in the case of compensation paid during 2002, and*

(C) *in the case of compensation paid during any calendar year after 2002, the percentage determined under section 3241 for such calendar year.*

[(c) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during any calendar quarter, at such rate as will make available sufficient funds to meet the obligation to pay supplemental annuities at the level provided under section 3(j) of the Railroad Retirement Act of 1937 as in effect on

December 31, 1974 and administrative expenses in connection therewith. For the purpose of this subsection, the Railroad Retirement Board is directed to determine what rate is required for each calendar quarter. The Railroad Retirement Board shall make the determinations provided for not later than fifteen days before each calendar quarter. As soon as practicable after each determination of the rate, as provided in this subsection, the Railroad Retirement Board shall publish a notice in the Federal Register, and shall advise all employers, employee representatives, and the Secretary, of the rate so determined. With respect to daily, weekly, or monthly rates of compensation such tax shall apply to the number of hours comprehended in the rate together with the number of overtime hours for which compensation in addition to the daily, weekly, or monthly rate is paid. With respect to compensation paid on a mileage or piecework basis such tax shall apply to the number of hours constituting the hourly equivalent of the compensation paid. Each employer of employees whose supplemental annuities are reduced pursuant to section 3(j)(2) of the Railroad Retirement Act of 1937 or section 2(h)(2) of the Railroad Retirement Act of 1974 shall be allowed as a credit against the tax imposed by this subsection an amount equivalent in each month to the aggregate amount of reductions in supplemental annuities accruing in such month to employees of such employer. If the credit so allowed to such an employer for any month exceeds the tax liability of such employer accruing under this subsection in such month, the excess may be carried forward for credit against such taxes accruing in subsequent months but the total credit allowed by this paragraph to an employer shall not exceed the total of the taxes on such employer imposed by this subsection. At the end of each calendar quarter the Railroad Retirement Board shall certify to the Secretary with respect to each such employer the amount of credit accruing to such employer under this paragraph during such quarter and shall notify such employer as to the amount so certified.

[(d) Notwithstanding the provisions of subsection (c) of this section, the tax imposed by such subsection (c) shall not apply to an employer with respect to employees who are covered by a supplemental pension plan which is established pursuant to an agreement reached through collective bargaining between the employer and employees. There is hereby imposed on every such employer an excise tax equal to the amount of the supplemental annuity paid to each such employee under section 2(b) of the Railroad Retirement Act of 1974, plus a percentage thereof determined by the Railroad Retirement Board to be sufficient to cover the administrative costs attributable to such payments under section 2(b) of such Act.]

* * * * *

Subchapter D—General Provisions

* * * * *

SEC. 3231. DEFINITIONS.

(a) * * *

* * * * *

(e) COMPENSATION.—For purposes of this chapter—

(1) * * *

(2) APPLICATION OF CONTRIBUTION BASES.—

(A) COMPENSATION IN EXCESS OF APPLICABLE BASE EXCLUDED.—

(i) * * *

* * * * *

(iii) HOSPITAL INSURANCE TAXES.—Clause (i) shall not apply to—

(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the rate of tax in effect under section 3101(b), and

(II) so much of the rate applicable under section ~~3211(a)(1)~~ 3211(a) as does not exceed the rate of tax in effect under section 1401(b).

* * * * *

(B) APPLICABLE BASE.—

(i) TIER 2 TAXES, ETC.—For purposes of—

(I) the taxes imposed by sections 3201(b), ~~3211(a)(2)~~ 3211(b), and 3221(b), and

* * * * *

(4)(A) For purposes of applying sections 3201(a), ~~3211(a)(1)~~ 3211(a), and 3221(a), in the case of payments made to an employee or any of his dependents on account of sickness or accident disability, clause (i) of the second sentence of paragraph (1) shall exclude from the term “compensation” only—

(i) payments which are received under a workmen’s compensation law, and

(ii) benefits received under the Railroad Retirement Act of 1974.

* * * * *

Subchapter E—Tier 2 Tax Rate Determination

Sec. 3241. Determination of tier 2 tax rate based on average account benefits ratio.

SEC. 3241. DETERMINATION OF TIER 2 TAX RATE BASED ON AVERAGE ACCOUNT BENEFITS RATIO.

(a) *IN GENERAL.*—For purposes of sections 3201(b), 3211(b), and 3221(b), the applicable percentage for any calendar year is the percentage determined in accordance with the table in subsection (b).

(b) *TAX RATE SCHEDULE.*—

<i>Average account benefits ratio</i>		<i>Applicable percentage for sections 3211(b) and 3221(b)</i>	<i>Applicable percentage for section 3201(b)</i>
<i>At least</i>	<i>But less than</i>		
	2.5	22.1	4.9
2.5	3.0	18.1	4.9
3.0	3.5	15.1	4.9
3.5	4.0	14.1	4.9
4.0	6.1	13.1	4.9
6.1	6.5	12.6	4.4
6.5	7.0	12.1	3.9
7.0	7.5	11.6	3.4

<i>Average account benefits ratio</i>		<i>Applicable percentage for sections 3211(b) and 3221(b)</i>	<i>Applicable percentage for section 3201(b)</i>
<i>At least</i>	<i>But less than</i>		
7.5	8.0	11.1	2.9
8.0	8.5	10.1	1.9
8.5	9.0	9.1	0.9
9.0		8.2	0

(c) *DEFINITIONS RELATED TO DETERMINATION OF RATES OF TAX.*—

(1) *AVERAGE ACCOUNT BENEFITS RATIO.*—For purposes of this section, the term “average account benefits ratio” means, with respect to any calendar year, the average determined by the Secretary of the account benefits ratios for the 10 most recent fiscal years ending before such calendar year. If the amount determined under the preceding sentence is not a multiple of 0.1, such amount shall be increased to the next highest multiple of 0.1.

(2) *ACCOUNT BENEFITS RATIO.*—For purposes of this section, the term “account benefits ratio” means, with respect to any fiscal year, the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and of the Railroad Retirement Investment Trust (and for years before 2001, the Social Security Equivalent Benefits Account) as of the close of such fiscal year by the total benefits and administrative expenses paid from the Railroad Retirement Account and the Railroad Retirement Investment Trust during such fiscal year.

(d) *NOTICE.*—No later than December 1 of each calendar year, the Secretary shall publish a notice in the Federal Register of the rates of tax determined under this section which are applicable for the following calendar year.

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