

107TH CONGRESS
1ST SESSION

H. R. 1140

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2001

Received; read twice and referred to the Committee on Finance

AN ACT

To modernize the financing of the railroad retirement system
and to provide enhanced benefits to employees and bene-
ficiaries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Railroad Retirement and Survivors’ Improvement Act of
 4 2001”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
 6 this Act is as follows:

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 National Railroad Retirement Investment Trust.

Sec. 203. Repeal of supplemental annuity tax.

Sec. 204. Employer, employee representative, and employee tier 2 tax rate adjustments.

7 **TITLE I—AMENDMENTS TO RAIL-**
 8 **ROAD RETIREMENT ACT OF**
 9 **1974**

10 **SEC. 101. EXPANSION OF WIDOW’S AND WIDOWER’S BENE-**
 11 **FITS.**

12 (a) **IN GENERAL.**—Section 4(g) of the Railroad Re-
 13 tirement Act of 1974 (45 U.S.C. 231c(g)) is amended by
 14 adding at the end the following new subdivision:

1 “(10)(i) If for any month the unreduced annuity pro-
2 vided under this section for a widow or widower is less
3 than the widow’s or widower’s initial minimum amount
4 computed pursuant to paragraph (ii) of this subdivision,
5 the unreduced annuity shall be increased to that initial
6 minimum amount. For the purposes of this subdivision,
7 the unreduced annuity is the annuity without regard to
8 any deduction on account of work, without regard to any
9 reduction for entitlement to an annuity under section
10 2(a)(1) of this Act, without regard to any reduction for
11 entitlement to a benefit under title II of the Social Secu-
12 rity Act, and without regard to any reduction for entitle-
13 ment to a public service pension pursuant to section
14 202(e)(7), 202(f)(2), or 202(g)(4) of the Social Security
15 Act.

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

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

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

1 “(iii) If a widow or widower who was previously enti-
2 tled to a widow’s or widower’s annuity under section
3 2(d)(1)(ii) of this Act becomes entitled to a widow’s or
4 widower’s annuity under section 2(d)(1)(i) of this Act, a
5 new initial minimum amount shall be computed at the
6 time of award of the widow’s or widower’s annuity under
7 section 2(d)(1)(i) of this Act.”.

8 (b) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendment made by
10 this section shall take effect on the first day of the
11 first month that begins more than 30 days after en-
12 actment, and shall apply to annuity amounts accru-
13 ing for months after the effective date in the case
14 of annuities awarded—

15 (A) on or after that date; and

16 (B) before that date, but only if the annu-
17 ity amount under section 4(g) of the Railroad
18 Retirement Act of 1974 (45 U.S.C. 231c(g))
19 was computed under such section, as amended
20 by the Omnibus Budget Reconciliation Act of
21 1981 (Public Law 97–35; 95 Stat. 357).

22 (2) SPECIAL RULE FOR ANNUITIES AWARDED
23 BEFORE THE EFFECTIVE DATE.—In applying the
24 amendment made by this section to annuities award-
25 ed before the effective date, the calculation of the

1 initial minimum amount under new section
2 4(g)(10)(ii) of the Railroad Retirement Act of 1974
3 (45 U.S.C. 231c(g)(10)(ii)), as added by subsection
4 (a), shall be made as of the date of the award of the
5 widow's or widower's annuity.

6 **SEC. 102. RETIREMENT AGE RESTORATION.**

7 (a) EMPLOYEE ANNUITIES.—Section 3(a)(2) of the
8 Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(2))
9 is amended by inserting after “(2)” the following new sen-
10 tence: “For purposes of this subsection, individuals enti-
11 tled to an annuity under section 2(a)(1)(ii) of this Act
12 shall, except for the purposes of recomputations in accord-
13 ance with section 215(f) of the Social Security Act, be
14 deemed to have attained retirement age (as defined by sec-
15 tion 216(l) of the Social Security Act).”.

16 (b) SPOUSE AND SURVIVOR ANNUITIES.—Section
17 4(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C.
18 231c(a)(2)) is amended by striking “if an” and all that
19 follows through “section 2(c)(1) of this Act” and inserting
20 “a spouse entitled to an annuity under section
21 2(c)(1)(ii)(B) of this Act”.

22 (c) CONFORMING REPEALS.—Sections 3(a)(3),
23 4(a)(3), and 4(a)(4) of the Railroad Retirement Act of
24 1974 (45 U.S.C. 231b(a)(3), 231c(a)(3), and 231c(a)(4))
25 are repealed.

1 (d) EFFECTIVE DATES.—

2 (1) GENERALLY.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to annuities that begin to accrue on or
5 after January 1, 2002.

6 (2) EXCEPTION.—The amount of the annuity
7 provided for a spouse under section 4(a) of the Rail-
8 road Retirement Act of 1974 (45 U.S.C. 231e(a))
9 shall be computed under section 4(a)(3) of such Act,
10 as in effect on December 31, 2001, if the annuity
11 amount provided under section 3(a) of such Act (45
12 U.S.C. 231b(a)) for the individual on whose employ-
13 ment record the spouse annuity is based was com-
14 puted under section 3(a)(3) of such Act, as in effect
15 on December 31, 2001.

16 **SEC. 103. VESTING REQUIREMENT.**

17 (a) CERTAIN ANNUITIES FOR INDIVIDUALS.—Section
18 2(a) of the Railroad Retirement Act of 1974 (45 U.S.C.
19 231a(a)) is amended—

20 (1) by inserting in subdivision (1) “(or, for pur-
21 poses of paragraphs (i), (iii), and (v), five years of
22 service, all of which accrues after December 31,
23 1995)” after “ten years of service”; and

24 (2) by adding at the end the following new sub-
25 division:

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

13 (b) COMPUTATION RULE FOR INDIVIDUALS’ ANNU-
14 ITIES.—Section 3(a) of the Railroad Retirement Act of
15 1974 (45 U.S.C. 231b(a)), as amended by section 102 of
16 this Act, is further amended by adding at the end the fol-
17 lowing new subdivision:

18 “(3) If an individual entitled to an annuity under sec-
19 tion 2(a)(1)(i) or (iii) of this Act on the basis of less than
20 ten years of service is entitled to a benefit under section
21 202(a), section 202(b), or section 202(c) of the Social Se-
22 curity Act which began to accrue before the annuity under
23 section 2(a)(1)(i) or (iii) of this Act, the annuity amount
24 provided such individual under this subsection, shall be
25 computed as though the annuity under this Act began to

1 accrue on the later of (A) the date on which the benefit
2 under section 202(a), section 202(b), or section 202(c) of
3 the Social Security Act began, or (B) the date on which
4 the individual first met the conditions for entitlement to
5 an age reduced annuity under this Act other than the con-
6 ditions set forth in sections 2(e)(1) and 2(e)(2) of this Act
7 and the requirement that an application be filed.”.

8 (c) SURVIVORS’ ANNUITIES.—Section 2(d)(1) of the
9 Railroad Retirement Act of 1974 (45 U.S.C. 231a(d)(1))
10 is amended by inserting “(or five years of service, all of
11 which accrues after December 31, 1995)” after “ten years
12 of service”.

13 (d) LIMITATION ON ANNUITY AMOUNTS.—Section 2
14 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a)
15 is amended by adding at the end the following new sub-
16 section:

17 “(i) An individual entitled to an annuity under this
18 section who has completed five years of service, all of
19 which accrues after 1995, but who has not completed ten
20 years of service, and the spouse, divorced spouse, and sur-
21 vivors of such individual, shall not be entitled to an annu-
22 ity amount provided under section 3(a), section 4(a), or
23 section 4(f) of this Act unless the individual, or the indi-
24 vidual’s spouse, divorced spouse, or survivors, would be en-
25 titled to a benefit under title II of the Social Security Act

1 on the basis of the individual's employment record under
2 both this Act and title II of the Social Security Act.”.

3 (e) COMPUTATION RULE FOR SPOUSES' ANNU-
4 ITIES.—Section 4(a) of the Railroad Retirement Act of
5 1974 (45 U.S.C. 231c(a)), as amended by section 102 of
6 this Act, is further amended by adding at the end the fol-
7 lowing new subdivision:

8 “(3) If a spouse entitled to an annuity under section
9 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), or section 2(c)(2) of
10 this Act or a divorced spouse entitled to an annuity under
11 section 2(c)(4) of this Act on the basis of the employment
12 record of an employee who will have completed less than
13 10 years of service is entitled to a benefit under section
14 202(a), section 202(b), or section 202(c) of the Social Se-
15 curity Act which began to accrue before the annuity under
16 section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), section
17 2(c)(2), or section 2(c)(4) of this Act, the annuity amount
18 provided under this subsection shall be computed as
19 though the annuity under this Act began to accrue on the
20 later of (A) the date on which the benefit under section
21 202(a), section 202(b), or section 202(c) of the Social Se-
22 curity Act began or (B) the first date on which the annu-
23 itant met the conditions for entitlement to an age reduced
24 annuity under this Act other than the conditions set forth

1 in sections 2(e)(1) and 2(e)(2) of this Act and the require-
2 ment that an application be filed.”.

3 (f) APPLICATION DEEMING PROVISION.—Section
4 5(b) of the Railroad Retirement Act of 1974 (45 U.S.C.
5 231d(b)) is amended by striking the second sentence and
6 inserting the following new sentence: “An application filed
7 with the Board for an employee annuity, spouse annuity,
8 or divorced spouse annuity on the basis of the employment
9 record of an employee who will have completed less than
10 ten years of service shall be deemed to be an application
11 for any benefit to which such applicant may be entitled
12 under this Act or section 202(a), section 202(b), or section
13 202(c) of the Social Security Act. An application filed with
14 the Board for an annuity on the basis of the employment
15 record of an employee who will have completed ten years
16 of service shall, unless the applicant specified otherwise,
17 be deemed to be an application for any benefit to which
18 such applicant may be entitled under this Act or title II
19 of the Social Security Act.”.

20 (g) CREDITING SERVICE UNDER THE SOCIAL SECUR-
21 RITY ACT.—Section 18(2) of the Railroad Retirement Act
22 of 1974 (45 U.S.C. 231q(2)) is amended—

23 (1) by inserting “(or less than five years of
24 service, all of which accrues after December 31,

1 1995)” after “ten years of service” every place it ap-
2 pears; and

3 (2) by inserting “(or five or more years of serv-
4 ice, all of which accrues after December 31, 1995)”
5 after “ten or more years of service”.

6 (h) AUTOMATIC BENEFIT ELIGIBILITY ADJUST-
7 MENTS.—Section 19 of the Railroad Retirement Act of
8 1974 (45 U.S.C. 231r) is amended—

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

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

15 (i) CONFORMING AMENDMENTS.—

16 (1) Section 6(e)(1) of the Railroad Retirement
17 Act of 1974 (45 U.S.C. 231e(1)) is amended by in-
18 serting “(or five or more years of service, all of
19 which accrues after December 31, 1995)” after “ten
20 years of service”.

21 (2) Section 7(b)(2)(A) of the Railroad Retire-
22 ment Act of 1974 (45 U.S.C. 231f(b)(2)(A)) is
23 amended by inserting “(or five or more years of
24 service, all of which accrues after December 31,
25 1995)” after “ten years of service”.

1 (3) Section 205(i) of the Social Security Act
2 (42 U.S.C. 405(i)) is amended by inserting “(or five
3 or more years of service, all of which accrues after
4 December 31, 1995)” after “ten years of service”.

5 (4) Section 6(b)(2) of the Railroad Retirement
6 Act of 1974 (45 U.S.C. 231e(b)(2)) is amended by
7 inserting “(or five or more years of service, all of
8 which accrues after December 31, 1995)” after “ten
9 years of service” the second place it appears.

10 (j) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on January 1, 2002.

12 **SEC. 104. REPEAL OF RAILROAD RETIREMENT MAXIMUM.**

13 (a) EMPLOYEE ANNUITIES.—

14 (1) IN GENERAL.—Section 3(f) of the Railroad
15 Retirement Act of 1974 (45 U.S.C. 231b(f)) is
16 amended—

17 (A) by striking subdivision (1); and

18 (B) by redesignating subdivisions (2) and
19 (3) as subdivisions (1) and (2), respectively.

20 (2) CONFORMING AMENDMENTS.—

21 (A) The first sentence of section 3(f)(1) of
22 the Railroad Retirement Act of 1974 (45
23 U.S.C. 231b(f)(1)), as redesignated by para-
24 graph (1)(B), is amended by striking “, without

1 regard to the provisions of subdivision (1) of
2 this subsection.”.

3 (B) Paragraphs (i) and (ii) of section
4 7(d)(2) of the Railroad Retirement Act of 1974
5 (45 U.S.C. 231f(d)(2)) are each amended by
6 striking “section 3(f)(3)” and inserting “section
7 3(f)(2)”.

8 (b) SPOUSE AND SURVIVOR ANNUITIES.—Section 4
9 of the Railroad Retirement Act of 1974 (45 U.S.C. 231c)
10 is amended by striking subsection (c).

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on January 1, 2002, and shall
13 apply to annuity amounts accruing for months after De-
14 cember 2001.

15 **SEC. 105. INVESTMENT OF RAILROAD RETIREMENT ASSETS.**

16 (a) ESTABLISHMENT OF NATIONAL RAILROAD RE-
17 TIREMENT INVESTMENT TRUST.—Section 15 of the Rail-
18 road Retirement Act of 1974 (45 U.S.C. 231n) is amend-
19 ed by inserting after subsection (i) the following new sub-
20 section:

21 “(j) NATIONAL RAILROAD RETIREMENT INVEST-
22 MENT TRUST.—

23 “(1) ESTABLISHMENT.—The National Railroad
24 Retirement Investment Trust (hereinafter in this
25 subsection referred to as the ‘Trust’) is hereby es-

1 tablISHED as a trust domiciled in the District of Co-
2 lumbia and shall, to the extent not inconsistent with
3 this Act, be subject to the laws of the District of Co-
4 lumbia applicable to such trusts. The Trust shall
5 manage and invest its assets in the manner set forth
6 in this subsection.

7 “(2) NOT A FEDERAL AGENCY OR INSTRUMEN-
8 TALITY.—The Trust is not a department, agency, or
9 instrumentality of the Government of the United
10 States and shall not be subject to title 31, United
11 States Code.

12 “(3) BOARD OF TRUSTEES.—

13 “(A) GENERALLY.—

14 “(i) MEMBERSHIP.—The Trust shall
15 have a Board of Trustees, consisting of 7
16 members. Three shall represent the inter-
17 ests of labor, 3 shall represent the interests
18 of management, and 1 shall be an inde-
19 pendent Trustee. The members of the
20 Board of Trustees shall not be considered
21 officers or employees of the Government of
22 the United States.

23 “(ii) SELECTION.—

24 “(I) The 3 members representing
25 the interests of labor shall be selected

1 by the joint recommendation of labor
2 organizations, national in scope, orga-
3 nized in accordance with section 2 of
4 the Railway Labor Act, and rep-
5 resenting at least $\frac{2}{3}$ of all active em-
6 ployees, represented by such national
7 labor organizations, covered under
8 this Act.

9 “(II) The 3 members rep-
10 resenting the interests of management
11 shall be selected by the joint rec-
12 ommendation of carriers as defined in
13 section 1 of the Railway Labor Act
14 employing at least $\frac{2}{3}$ of all active em-
15 ployees covered under this Act.

16 “(III) The independent member
17 shall be selected by a majority of the
18 other 6 members of the Board of
19 Trustees.

20 A member of the Board of Trustees may
21 be removed in the same manner and by the
22 same constituency that selected that mem-
23 ber.

24 “(iii) DISPUTE RESOLUTION.—In the
25 event that the parties specified in sub-

1 clause (I), (II), or (III) of the previous
2 clause cannot agree on the selection of
3 Trustees within 60 days of the date of en-
4 actment or 60 days from any subsequent
5 date that a position of the Board of Trust-
6 ees becomes vacant, an impartial umpire to
7 decide such dispute shall, on the petition of
8 a party to the dispute, be appointed by the
9 District Court of the United States for the
10 District of Columbia.

11 “(B) QUALIFICATIONS.—Members of the
12 Board of Trustees shall be appointed only from
13 among persons who have experience and exper-
14 tise in the management of financial investments
15 and pension plans. No member of the Railroad
16 Retirement Board shall be eligible to be a mem-
17 ber of the Board of Trustees.

18 “(C) TERMS.—Except as provided in this
19 subparagraph, each member shall be appointed
20 for a 3-year term. The initial members ap-
21 pointed under this paragraph shall be divided
22 into equal groups so nearly as may be, of which
23 one group will be appointed for a 1-year term,
24 one for a 2-year term, and one for a 3-year
25 term. The Trustee initially selected pursuant to

1 clause (ii)(III) shall be appointed to a 3-year
2 term. A vacancy in the Board of Trustees shall
3 not affect the powers of the Board of Trustees
4 and shall be filled in the same manner as the
5 selection of the member whose departure caused
6 the vacancy. Upon the expiration of a term of
7 a member of the Board of Trustees, that mem-
8 ber shall continue to serve until a successor is
9 appointed.

10 “(4) POWERS OF THE BOARD OF TRUSTEES.—

11 The Board of Trustees shall—

12 “(A) retain independent advisers to assist
13 it in the formulation and adoption of its invest-
14 ment guidelines;

15 “(B) retain independent investment man-
16 agers to invest the assets of the Trust in a
17 manner consistent with such investment guide-
18 lines;

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

21 “(D) pay administrative expenses of the
22 Trust from the assets in the Trust; and

23 “(E) transfer money to the disbursing
24 agent or as otherwise provided in section

1 7(b)(4), to pay benefits payable under this Act
2 from the assets of the Trust.

3 “(5) REPORTING REQUIREMENTS AND FIDU-
4 CIARY STANDARDS.—The following reporting re-
5 quirements and fiduciary standards shall apply with
6 respect to the Trust:

7 “(A) DUTIES OF THE BOARD OF TRUST-
8 EES.—The Trust and each member of the
9 Board of Trustees shall discharge their duties
10 (including the voting of proxies) with respect to
11 the assets of the Trust solely in the interest of
12 the Railroad Retirement Board and through it,
13 the participants and beneficiaries of the pro-
14 grams funded under this Act—

15 “(i) for the exclusive purpose of—

16 “(I) providing benefits to partici-
17 pants and their beneficiaries; and

18 “(II) defraying reasonable ex-
19 penses of administering the functions
20 of the Trust;

21 “(ii) with the care, skill, prudence,
22 and diligence under the circumstances then
23 prevailing that a prudent person acting in
24 a like capacity and familiar with such mat-
25 ters would use in the conduct of an enter-

1 prise of a like character and with like
2 aims;

3 “(iii) by diversifying investments so as
4 to minimize the risk of large losses and to
5 avoid disproportionate influence over a
6 particular industry or firm, unless under
7 the circumstances it is clearly prudent not
8 to do so; and

9 “(iv) in accordance with Trust gov-
10 erning documents and instruments insofar
11 as such documents and instruments are
12 consistent with this Act.

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

16 “(i) deal with the assets of the Trust
17 in the trustee’s own interest or for the
18 trustee’s own account;

19 “(ii) in an individual or in any other
20 capacity act in any transaction involving
21 the assets of the Trust on behalf of a party
22 (or represent a party) whose interests are
23 adverse to the interests of the Trust, the
24 Railroad Retirement Board, or the inter-
25 ests of participants or beneficiaries; or

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

4 “(C) EXCULPATORY PROVISIONS AND IN-
5 SURANCE.—Any provision in an agreement or
6 instrument that purports to relieve a trustee
7 from responsibility or liability for any responsi-
8 bility, obligation, or duty under this Act shall
9 be void: *Provided, however,* That nothing shall
10 preclude—

11 “(i) the Trust from purchasing insur-
12 ance for its trustees or for itself to cover
13 liability or losses occurring by reason of
14 the act or omission of a trustee, if such in-
15 surance permits recourse by the insurer
16 against the trustee in the case of a breach
17 of a fiduciary obligation by such trustee;

18 “(ii) a trustee from purchasing insur-
19 ance to cover liability under this section
20 from and for his own account; or

21 “(iii) an employer or an employee or-
22 ganization from purchasing insurance to
23 cover potential liability of one or more
24 trustees with respect to their fiduciary re-

1 sponsibilities, obligations, and duties under
2 this section.

3 “(D) BONDING.—Every trustee and every
4 person who handles funds or other property of
5 the Trust (hereafter in this subsection referred
6 to as ‘Trust official’) shall be bonded. Such
7 bond shall provide protection to the Trust
8 against loss by reason of acts of fraud or dis-
9 honesty on the part of any Trust official, di-
10 rectly or through the connivance of others, and
11 shall be in accordance with the following:

12 “(i) The amount of such bond shall be
13 fixed at the beginning of each fiscal year
14 of the Trust by the Railroad Retirement
15 Board. Such amount shall not be less than
16 10 percent of the amount of the funds
17 handled. In no case shall such bond be less
18 than \$1,000 nor more than \$500,000, ex-
19 cept that the Railroad Retirement Board,
20 after consideration of the record, may pre-
21 scribe an amount in excess of \$500,000,
22 subject to the 10 per centum limitation of
23 the preceding sentence.

24 “(ii) It shall be unlawful for any
25 Trust official to receive, handle, disburse,

1 or otherwise exercise custody or control of
2 any of the funds or other property of the
3 Trust without being bonded as required by
4 this subsection and it shall be unlawful for
5 any Trust official, or any other person hav-
6 ing authority to direct the performance of
7 such functions, to permit such functions,
8 or any of them, to be performed by any
9 Trust official, with respect to whom the re-
10 quirements of this subsection have not
11 been met.

12 “(iii) It shall be unlawful for any per-
13 son to procure any bond required by this
14 subsection from any surety or other com-
15 pany or through any agent or broker in
16 whose business operations such person has
17 any control or significant financial interest,
18 direct or indirect.

19 “(E) AUDIT AND REPORT.—

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

24 “(ii) The Trust shall submit an an-
25 nual management report to the Congress

1 not later than 180 days after the end of
2 the Trust’s fiscal year. A management re-
3 port under this subsection shall include—

4 “(I) a statement of financial po-
5 sition;

6 “(II) a statement of operations;

7 “(III) a statement of cash flows;

8 “(IV) a statement on internal ac-
9 counting and administrative control
10 systems;

11 “(V) the report resulting from an
12 audit of the financial statements of
13 the Trust conducted under clause (i);
14 and

15 “(VI) any other comments and
16 information necessary to inform the
17 Congress about the operations and fi-
18 nancial condition of the Trust.

19 “(iii) The Trust shall provide the
20 President, the Railroad Retirement Board,
21 and the Director of the Office of Manage-
22 ment and Budget a copy of the manage-
23 ment report when it is submitted to Con-
24 gress.

1 “(F) ENFORCEMENT.—The Railroad Re-
2 tirement Board may bring a civil action—

3 “(i) to enjoin any act or practice by
4 the Trust, its Board of Trustees, or its em-
5 ployees or agents that violates any provi-
6 sion of this Act; or

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

10 “(6) RULES AND ADMINISTRATIVE POWERS.—

11 The Board of Trustees shall have the authority to
12 make rules to govern its operations, employ profes-
13 sional staff, and contract with outside advisers, in-
14 cluding the Railroad Retirement Board, to provide
15 legal, accounting, investment advisory, or other serv-
16 ices necessary for the proper administration of this
17 subsection. In the case of contracts with investment
18 advisory services, compensation for such services
19 may be on a fixed contract fee basis or on such
20 other terms and conditions as are customary for
21 such services.

22 “(7) QUORUM.—Five members of the Board of
23 Trustees constitute a quorum to do business. Invest-
24 ment guidelines must be adopted by a unanimous
25 vote of the entire Board of Trustees. All other deci-

1 sions of the Board of Trustees shall be decided by
2 a majority vote of the quorum present. All decisions
3 of the Board of Trustees shall be entered upon the
4 records of the Board of Trustees.

5 “(8) FUNDING.—The expenses of the Trust and
6 the Board of Trustees incurred under this sub-
7 section shall be paid from the Trust.”.

8 (b) CONFORMING AND TECHNICAL AMENDMENTS
9 GOVERNING INVESTMENTS.—Section 15(e) of the Rail-
10 road Retirement Act of 1974 (45 U.S.C. 231n(e)) is
11 amended—

12 (1) in the first sentence, by striking “, the Dual
13 Benefits Payments Account” and all that follows
14 through “may be made only” in the second sentence
15 and inserting “and the Dual Benefits Payments Ac-
16 count as are not transferred to the National Rail-
17 road Retirement Investment Trust as the Board
18 may determine”;

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

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

24 (c) MEANS OF FINANCING.—For all purposes of the
25 Congressional Budget Act of 1974, the Balanced Budget

1 and Emergency Deficit Control Act of 1985, and chapter
2 11 of title 31, United States Code, and notwithstanding
3 section 20 of the Office of Management and Budget Cir-
4 cular No. A-11, the purchase or sale of non-Federal assets
5 (other than gains or losses from such transactions) by the
6 National Railroad Retirement Investment Trust shall be
7 treated as a means of financing.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the first day of the month
10 that begins more than 30 days after enactment.

11 **SEC. 106. ELIMINATION OF SUPPLEMENTAL ANNUITY AC-**
12 **COUNT.**

13 (a) SOURCE OF PAYMENTS.—Section 7(c)(1) of the
14 Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1))
15 is amended by striking “payments of supplemental annu-
16 ities under section 2(b) of this Act shall be made from
17 the Railroad Retirement Supplemental Account, and”.

18 (b) ELIMINATION OF ACCOUNT.—Section 15(c) of
19 the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c))
20 is repealed.

21 (c) AMENDMENT TO RAILROAD RETIREMENT AC-
22 COUNT.—Section 15(a) of the Railroad Retirement Act of
23 1974 (45 U.S.C. 231n(a)) is amended by striking “, ex-
24 cept those portions of the amounts covered into the Treas-

1 ury under sections 3211(b),” and all that follows through
2 the end of the subsection and inserting a period.

3 (d) TRANSFER.—

4 (1) DETERMINATION.—As soon as possible
5 after December 31, 2001, the Railroad Retirement
6 Board shall—

7 (A) determine the amount of funds in the
8 Railroad Retirement Supplemental Account
9 under section 15(c) of the Railroad Retirement
10 Act of 1974 (45 U.S.C. 231n(c)) as of the date
11 of such determination; and

12 (B) direct the Secretary of the Treasury to
13 transfer such funds to the National Railroad
14 Retirement Investment Trust under section
15 15(j) of such Act (as added by section 105).

16 (2) TRANSFER BY THE SECRETARY OF THE
17 TREASURY.—The Secretary of the Treasury shall
18 make the transfer described in paragraph (1).

19 (e) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Subject to paragraph (2),
21 the amendments made by subsections (a), (b), and
22 (c) shall take effect January 1, 2002.

23 (2) ACCOUNT IN EXISTENCE UNTIL TRANSFER
24 MADE.—The Railroad Retirement Supplemental Ac-
25 count under section 15(c) of the Railroad Retire-

1 ment Act of 1974 (45 U.S.C. 231n(e)) shall con-
2 tinue to exist until the date that the Secretary of the
3 Treasury makes the transfer described in subsection
4 (d)(2).

5 **SEC. 107. TRANSFER AUTHORITY REVISIONS.**

6 (a) RAILROAD RETIREMENT ACCOUNT.—Section 15
7 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n)
8 is amended by adding after subsection (j) the following
9 new subsection:

10 “(k) TRANSFERS TO THE TRUST.—The Board shall,
11 upon establishment of the National Railroad Retirement
12 Investment Trust and from time to time thereafter, direct
13 the Secretary of the Treasury to transfer, in such manner
14 as will maximize the investment returns to the Railroad
15 Retirement system, that portion of the Railroad Retire-
16 ment Account that is not needed to pay current adminis-
17 trative expenses of the Board to the National Railroad Re-
18 tirement Investment Trust. The Secretary shall make that
19 transfer.”.

20 (b) TRANSFERS FROM THE NATIONAL RAILROAD
21 RETIREMENT INVESTMENT TRUST.—Section 15 of the
22 Railroad Retirement Act of 1974 (45 U.S.C. 231n), as
23 amended by subsection (a), is further amended by adding
24 after subsection (k) the following new subsection:

1 “(1) NATIONAL RAILROAD RETIREMENT INVEST-
2 MENT TRUST.—The National Railroad Retirement Invest-
3 ment Trust shall from time to time transfer to the dis-
4 bursing agent described in section 7(b)(4) or as otherwise
5 directed by the Railroad Retirement Board pursuant to
6 section 7(b)(4), such amounts as may be necessary to pay
7 benefits under this Act (other than benefits paid from the
8 Social Security Equivalent Benefit Account or the Dual
9 Benefit Payments Account).”.

10 (c) SOCIAL SECURITY EQUIVALENT BENEFIT AC-
11 COUNT.—

12 (1) TRANSFERS TO TRUST.—Section 15A(d)(2)
13 of the Railroad Retirement Act of 1974 (45 U.S.C.
14 231n–1(d)(2)) is amended to read as follows:

15 “(2) Upon establishment of the National Railroad
16 Retirement Investment Trust and from time to time there-
17 after, the Board shall direct the Secretary of the Treasury
18 to transfer, in such manner as will maximize the invest-
19 ment returns to the Railroad Retirement system, the bal-
20 ance of the Social Security Equivalent Benefit Account
21 not needed to pay current benefits and administrative ex-
22 penses required to be paid from that Account to the Na-
23 tional Railroad Retirement Investment Trust, and the
24 Secretary shall make that transfer. Any balance trans-
25 ferred under this paragraph shall be used by the National

1 Railroad Retirement Investment Trust only to pay bene-
2 fits under this Act or to purchase obligations of the United
3 States that are backed by the full faith and credit of the
4 United States pursuant to chapter 31 of title 31, United
5 States Code. The proceeds of sales of, and the interest
6 income from, such obligations shall be used by the Trust
7 only to pay benefits under this Act.”.

8 (2) TRANSFERS TO DISBURSING AGENT.—Sec-
9 tion 15A(c)(1) of the Railroad Retirement Act of
10 1974 (45 U.S.C. 231n–1(c)(1)) is amended by add-
11 ing at the end the following new sentence: “The Sec-
12 retary shall from time to time transfer to the dis-
13 bursing agent under section 7(b)(4) amounts nec-
14 essary to pay those benefits.”.

15 (3) CONFORMING AMENDMENT.—Section
16 15A(d)(1) of the Railroad Retirement Act of 1974
17 (45 U.S.C. 231n–1(d)(1)) is amended by striking
18 the second and third sentences.

19 (d) DUAL BENEFITS PAYMENTS ACCOUNT.—Section
20 15(d)(1) of the Railroad Retirement Act of 1974 (45
21 U.S.C. 231n(d)(1)) is amended by adding at the end the
22 following new sentence: “The Secretary of the Treasury
23 shall from time to time transfer from the Dual Benefits
24 Payments Account to the disbursing agent under section

1 7(b)(4) amounts necessary to pay benefits payable from
2 that Account.”.

3 (e) CERTIFICATION BY THE BOARD AND PAY-
4 MENT.—Paragraph (4) of section 7(b) of the Railroad Re-
5 tirement Act of 1974 (45 U.S.C. 231f(b)(4)) is amended
6 to read as follows:

7 “(4)(A) The Railroad Retirement Board, after con-
8 sultation with the Board of Trustees of the National Rail-
9 road Retirement Investment Trust and the Secretary of
10 the Treasury, shall enter into an arrangement with a non-
11 governmental financial institution to serve as disbursing
12 agent for benefits payable under this Act who shall dis-
13 burse consolidated benefits under this Act to each recipi-
14 ent. Pending the taking effect of that arrangement, bene-
15 fits shall be paid as under the law in effect prior to the
16 enactment of the Railroad Retirement and Survivors’ Im-
17 provement Act of 2001.

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

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

1 “(ii) to the Board of Trustees of the National
2 Railroad Retirement Investment Trust the amounts
3 required to be transferred from the National Rail-
4 road Retirement Investment Trust to the disbursing
5 agent to make payments of benefits and the Board
6 of Trustees shall transfer those amounts; and

7 “(iii) to the disbursing agent the name and ad-
8 dress of each individual entitled to receive a pay-
9 ment, the amount of such payment, and the time at
10 which the payment should be made.”.

11 (f) BENEFIT PAYMENTS.—Section 7(c)(1) of the
12 Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1))
13 is amended—

14 (1) by striking “from the Railroad Retirement
15 Account” and inserting “by the disbursing agent
16 under subsection (b)(4) from money transferred to it
17 from the National Railroad Retirement Investment
18 Trust or the Social Security Equivalent Benefit Ac-
19 count, as the case may be”; and

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

23 (g) TRANSITIONAL RULE FOR EXISTING OBLIGA-
24 TION.—In making transfers under sections 15(k) and
25 15A(d)(2) of the Railroad Retirement Act of 1974, as

1 amended by subsections (a) and (c), respectively, the Rail-
2 road Retirement Board shall consult with the Secretary
3 of the Treasury to design an appropriate method to trans-
4 fer obligations held as of the date of enactment of this
5 Act or to convert such obligations to cash at the discretion
6 of the Railroad Retirement Board prior to transfer. The
7 National Railroad Retirement Investment Trust may hold
8 to maturity any obligations so received or may redeem
9 them prior to maturity, as the Trust deems appropriate.

10 **SEC. 108. ANNUAL RATIO PROJECTIONS AND CERTIFI-**
11 **CATIONS BY THE RAILROAD RETIREMENT**
12 **BOARD.**

13 (a) PROJECTIONS.—Section 22(a)(1) of the Railroad
14 Retirement Act of 1974 (45 U.S.C. 231u(a)(1)) is
15 amended—

16 (1) by inserting after the first sentence the fol-
17 lowing new sentence: “On or before May 1 of each
18 year beginning in 2003, the Railroad Retirement
19 Board shall compute its projection of the account
20 benefits ratio and the average account benefits ratio
21 (as defined by section 3241(c) of the Internal Rev-
22 enue Code of 1986) for each of the next succeeding
23 five fiscal years.”; and

24 (2) by striking “the projection prepared pursu-
25 ant to the preceding sentence” and inserting “the

1 projections prepared pursuant to the preceding two
2 sentences”.

3 (b) CERTIFICATIONS.—The Railroad Retirement Act
4 of 1974 (45 U.S.C. 231 et seq.) is amended by adding
5 at the end the following new section:

6 “COMPUTATION AND CERTIFICATION OF ACCOUNT
7 BENEFIT RATIOS

8 “SEC. 23. (a) INITIAL COMPUTATION AND CERTIFI-
9 CATION.—On or before November 1, 2003, the Railroad
10 Retirement Board shall—

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

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

16 “(b) COMPUTATIONS AND CERTIFICATIONS AFTER
17 2003.—On or before November 1 of each year after 2003,
18 the Railroad Retirement Board shall—

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

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

23 “(c) DEFINITION.—As used in this section, the term
24 ‘account benefits ratio’ has the meaning given that term
25 in section 3241(c) of the Internal Revenue Code of
26 1986.”.

1 **TITLE II—AMENDMENTS TO THE**
2 **INTERNAL REVENUE CODE**
3 **OF 1986**

4 **SEC. 201. AMENDMENTS TO THE INTERNAL REVENUE CODE**
5 **OF 1986.**

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

11 **SEC. 202. EXEMPTION FROM TAX FOR NATIONAL RAILROAD**
12 **RETIREMENT INVESTMENT TRUST.**

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

15 “(28) The National Railroad Retirement Invest-
16 ment Trust established under section 15(j) of the
17 Railroad Retirement Act of 1974.”.

18 **SEC. 203. REPEAL OF SUPPLEMENTAL ANNUITY TAX.**

19 (a) **REPEAL OF TAX ON EMPLOYEE REPRESENTA-**
20 **TIVES.**—Section 3211 is amended by striking subsection
21 (b).

22 (b) **REPEAL OF TAX ON EMPLOYERS.**—Section 3221
23 is amended by striking subsections (c) and (d) and by re-
24 designating subsection (e) as subsection (c).

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to calendar years beginning after
3 December 31, 2001.

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

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

8 “(b) TIER 2 TAX.—

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

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

18 “(A) 15.6 percent in the case of compensa-
19 tion paid during 2002,

20 “(B) 14.2 percent in the case of compensa-
21 tion paid during 2003, and

22 “(C) in the case of compensation paid dur-
23 ing any calendar year after 2003, the percent-
24 age determined under section 3241 for such cal-
25 endar year.”.

1 (b) RATE OF TAX ON EMPLOYEE REPRESENTA-
2 TIVES.—Section 3211, as amended by section 203, is
3 amended by striking subsection (a) and inserting the fol-
4 lowing new subsections:

5 “(a) TIER 1 TAX.—In addition to other taxes, there
6 is hereby imposed on the income of each employee rep-
7 resentative a tax equal to the applicable percentage of the
8 compensation received during any calendar year by such
9 employee representative for services rendered by such em-
10 ployee representative. For purposes of the preceding sen-
11 tence, the term ‘applicable percentage’ means the percent-
12 age equal to the sum of the rates of tax in effect under
13 subsections (a) and (b) of section 3101 and subsections
14 (a) and (b) of section 3111 for the calendar year.

15 “(b) TIER 2 TAX.—

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

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

1 “(A) 14.75 percent in the case of com-
2 pensation received during 2002,

3 “(B) 14.20 percent in the case of com-
4 pensation received during 2003, and

5 “(C) in the case of compensation received
6 during any calendar year after 2003, the per-
7 centage determined under section 3241 for such
8 calendar year.

9 “(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).”.**

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

12 “(b) TIER 2 TAX.—

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

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

22 “(A) 4.90 percent in the case of compensa-
23 tion received during 2002 or 2003, and

1 “(B) in the case of compensation received
2 during any calendar year after 2003, the per-
3 centage determined under section 3241 for such
4 calendar year.”.

5 (d) DETERMINATION OF RATE.—Chapter 22 is
6 amended by adding at the end the following new sub-
7 chapter:

8 **“Subchapter E—Tier 2 Tax Rate**
9 **Determination**

 “Sec. 3241. Determination of tier 2 tax rate based on average ac-
 count benefits ratio.

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

12 “(a) IN GENERAL.—For purposes of sections
13 3201(b), 3211(b), and 3221(b), the applicable percentage
14 for any calendar year is the percentage determined in ac-
15 cordance with the table in subsection (b).

16 “(b) TAX RATE SCHEDULE.—

“Average account benefits ratio		Applicable per- centage for sec- tions 3211(b) and 3221(b)	Applicable per- centage 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

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

3 “(1) AVERAGE ACCOUNT BENEFITS RATIO.—

4 For purposes of this section, the term ‘average ac-
5 count benefits ratio’ means, with respect to any cal-
6 endar year, the average determined by the Secretary
7 of the account benefits ratios for the 10 most recent
8 fiscal years ending before such calendar year. If the
9 amount determined under the preceding sentence is
10 not a multiple of 0.1, such amount shall be in-
11 creased to the next highest multiple of 0.1.

12 “(2) ACCOUNT BENEFITS RATIO.—For pur-
13 poses of this section, the term ‘account benefits
14 ratio’ means, with respect to any fiscal year, the
15 amount determined by the Railroad Retirement
16 Board by dividing the fair market value of the assets
17 in the Railroad Retirement Account and of the Na-
18 tional Railroad Retirement Investment Trust (and
19 for years before 2002, the Social Security Equiva-
20 lent Benefits Account) as of the close of such fiscal
21 year by the total benefits and administrative ex-
22 penses paid from the Railroad Retirement Account

1 and the National Railroad Retirement Investment
2 Trust during such fiscal year.

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

8 (e) CONFORMING AMENDMENTS.—

9 (1) Section 24(d)(3)(A)(iii) is amended by
10 striking “section 3211(a)(1)” and inserting “section
11 3211(a)”.

12 (2) Section 72(r)(2)(B)(i) is amended by strik-
13 ing “3211(a)(2)” and inserting “3211(b)”.

14 (3) Paragraphs (2)(A)(iii)(II) and (4)(A) of
15 section 3231(e) are amended by striking
16 “3211(a)(1)” and inserting “3211(a)”.

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

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

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

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to calendar years beginning after
3 December 31, 2001.

Passed the House of Representatives July 31, 2001.

Attest:

JEFF TRANDAHL,

Clerk.