

107TH CONGRESS
1ST SESSION

S. 697

To modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2001

Mr. HATCH (for himself, Mr. BAUCUS, Mr. HAGEL, Mr. ROCKEFELLER, Mr. CRAIG, Mr. BINGAMAN, Mr. CRAPO, Mrs. LINCOLN, Mr. BROWNBACK, Mr. TORRICELLI, Mr. WARNER, Mr. CONRAD, Mr. ROBERTS, Mr. KERRY, Mr. SMITH of Oregon, Mr. DASCHLE, Ms. COLLINS, Mr. BREAUX, Mr. HUTCHINSON, Ms. MIKULSKI, Ms. LANDRIEU, Mr. CARPER, Mr. CLELAND, Mr. SCHUMER, Mr. DORGAN, Mr. BIDEN, Mrs. CARNAHAN, Mr. NELSON of Nebraska, Ms. STABENOW, Mr. WELLSTONE, Mr. DAYTON, Mr. SARBANES, Mr. DURBIN, Mr. BAYH, and Mr. MILLER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Railroad Retirement and Survivors’ Improvement Act of
6 2001”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 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 Railroad Retirement Investment Trust.

Sec. 203. Repeal of supplemental annuity tax.

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

3 **TITLE I—AMENDMENTS TO RAIL-** 4 **ROAD RETIREMENT ACT OF** 5 **1974**

6 **SEC. 101. EXPANSION OF WIDOW'S AND WIDOWER'S BENE-** 7 **FITS.**

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

11 “(10)(i) If for any month the unreduced annuity pro-
 12 vided under this section for a widow or widower is less
 13 than the widow's or widower's initial minimum amount
 14 computed pursuant to paragraph (ii) of this subdivision,
 15 the unreduced annuity shall be increased to that initial

1 minimum amount. For the purposes of this subdivision,
 2 the unreduced annuity is the annuity without regard to
 3 any deduction on account of work, without regard to any
 4 reduction for entitlement to an annuity under section
 5 2(a)(1) of this Act, without regard to any reduction for
 6 entitlement to a benefit under title II of the Social Secu-
 7 rity Act, and without regard to any reduction for entitle-
 8 ment to a public service pension pursuant to section
 9 202(e)(7), 202(f)(2), or 202(g)(4) of the Social Security
 10 Act.

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

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

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

20 “(iii) If a widow or widower who was previously enti-
 21 tled to a widow’s or widower’s annuity under section
 22 2(d)(1)(ii) of this Act becomes entitled to a widow’s or
 23 widower’s annuity under section 2(d)(1)(i) of this Act, a
 24 new initial minimum amount shall be computed at the

1 time of award of the widow's or widower's annuity under
 2 section 2(d)(1)(i) of this Act.”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendment made by
 5 this section shall take effect on the first day of the
 6 first month that begins more than 30 days after the
 7 date of enactment of this Act, and shall apply to an-
 8 nuity amounts accruing for months after the effec-
 9 tive date in the case of annuities awarded—

10 (A) on or after that date; and

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

17 (2) SPECIAL RULE FOR ANNUITIES AWARDED
 18 BEFORE THE EFFECTIVE DATE.—In applying the
 19 amendment made by this section to annuities award-
 20 ed before the effective date, the calculation of the
 21 initial minimum amount under section 4(g)(10)(ii)
 22 of the Railroad Retirement Act of 1974 (45 U.S.C.
 23 231c(g)(10)(ii)), as added by subsection (a), shall be
 24 made as of the date of the award of the widow's or
 25 widower's annuity.

1 **SEC. 102. RETIREMENT AGE RESTORATION.**

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

11 (b) SPOUSE AND SURVIVOR ANNUITIES.—Section
 12 4(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C.
 13 231c(a)(2)) is amended by striking “if an” and all that
 14 follows through “section 2(c)(1) of this Act” and inserting
 15 “a spouse entitled to an annuity under section
 16 2(c)(1)(ii)(B) of this Act”.

17 (c) CONFORMING REPEALS.—Sections 3(a)(3),
 18 4(a)(3), and 4(a)(4) of the Railroad Retirement Act of
 19 1974 (45 U.S.C. 231b(a)(3), 231c(a)(3), and 231c(a)(4))
 20 are repealed.

21 (d) EFFECTIVE DATES.—

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

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

11 **SEC. 103. VESTING REQUIREMENT.**

12 (a) CERTAIN ANNUITIES FOR INDIVIDUALS.—Section
 13 2(a) of the Railroad Retirement Act of 1974 (45 U.S.C.
 14 231a(a)) is amended—

15 (1) by inserting in subdivision (1) “(or, for pur-
 16 poses of paragraphs (i), (iii), and (v), five years of
 17 service, all of which accrues after December 31,
 18 1995)” after “ten years of service”; and

19 (2) by adding at the end the following new sub-
 20 division:

21 “(4) An individual who is entitled to an annuity
 22 under paragraph (v) of subdivision (1), but who does not
 23 have at least ten years of service, shall, prior to the month
 24 in which the individual attains age 62, be entitled only
 25 to an annuity amount computed under section 3(a) of this

1 Act (without regard to section 3(a)(2) of this Act) or sec-
 2 tion 3(f)(3) of this Act. Upon attainment of age 62, such
 3 an individual may also be entitled to an annuity amount
 4 computed under section 3(b), but such annuity amount
 5 shall be reduced for early retirement in the same manner
 6 as if the individual were entitled to an annuity under sec-
 7 tion 2(a)(1)(iii).”.

8 (b) COMPUTATION RULE FOR INDIVIDUALS’ ANNU-
 9 ITIES.—Section 3(a) of the Railroad Retirement Act of
 10 1974 (45 U.S.C. 231b(a)), as amended by section 102 of
 11 this Act, is further amended by adding at the end the fol-
 12 lowing new subdivision:

13 “(3) If an individual entitled to an annuity under sec-
 14 tion 2(a)(1)(i) or (iii) of this Act on the basis of less than
 15 ten years of service is entitled to a benefit under section
 16 202(a), section 202(b), or section 202(c) of the Social Se-
 17 curity Act which began to accrue before the annuity under
 18 section 2(a)(1)(i) or (iii) of this Act, the annuity amount
 19 provided such individual under this subsection, shall be
 20 computed as though the annuity under this Act began to
 21 accrue on the later of (A) the date on which the benefit
 22 under section 202(a), section 202(b), or section 202(c) of
 23 the Social Security Act began, or (B) the date on which
 24 the individual first met the conditions for entitlement to
 25 an age reduced annuity under this Act other than the con-

1 ditions set forth in sections 2(e)(1) and 2(e)(2) of this Act
2 and the requirement that an application be filed.”.

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

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

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

23 (e) COMPUTATION RULE FOR SPOUSES’ ANNU-
24 ITIES.—Section 4(a) of the Railroad Retirement Act of
25 1974 (45 U.S.C. 231c(a)), as amended by section 102 of

1 this Act, is further amended by adding at the end the fol-
 2 lowing new subdivision:

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

22 (f) APPLICATION DEEMING PROVISION.—Section
 23 5(b) of the Railroad Retirement Act of 1974 (45 U.S.C.
 24 231d(b)) is amended by striking the second sentence and
 25 inserting the following new sentence: “An application filed

1 with the Board for an employee annuity, spouse annuity,
 2 or divorced spouse annuity on the basis of the employment
 3 record of an employee who will have completed less than
 4 ten years of service shall be deemed to be an application
 5 for any benefit to which such applicant may be entitled
 6 under this Act or section 202(a), section 202(b), or section
 7 202(c) of the Social Security Act. An application filed with
 8 the Board for an annuity on the basis of the employment
 9 record of an employee who will have completed ten years
 10 of service shall, unless the applicant specified otherwise,
 11 be deemed to be an application for any benefit to which
 12 such applicant may be entitled under this Act or title II
 13 of the Social Security Act.”.

14 (g) CREDITING SERVICE UNDER THE SOCIAL SECU-
 15 RITY ACT.—Section 18(2) of the Railroad Retirement Act
 16 of 1974 (45 U.S.C. 231q(2)) is amended—

17 (1) by inserting “(or less than five years of
 18 service, all of which accrues after December 31,
 19 1995)” after “ten years of service” each place it ap-
 20 pears; and

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

1 (h) AUTOMATIC BENEFIT ELIGIBILITY ADJUST-
2 MENTS.—Section 19 of the Railroad Retirement Act of
3 1974 (45 U.S.C. 231r) is amended—

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

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

10 (i) CONFORMING AMENDMENTS.—

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

16 (2) Section 7(b)(2)(A) of the Railroad Retire-
17 ment Act of 1974 (45 U.S.C. 231f(b)(2)(A)) is
18 amended by inserting “(or five or more years of
19 service, all of which accrues after December 31,
20 1995)” after “ten years of service”.

21 (3) Section 205(i) of the Social Security Act
22 (42 U.S.C. 405(i)) is amended by inserting “(or five
23 or more years of service, all of which accrues after
24 December 31, 1995)” after “ten years of service”.

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

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

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

9 (a) EMPLOYEE ANNUITIES.—

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

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

14 (B) by redesignating subdivisions (2) and
 15 (3) as subdivisions (1) and (2), respectively.

16 (2) CONFORMING AMENDMENTS.—

17 (A) The first sentence of section 3(f)(1) of
 18 the Railroad Retirement Act of 1974 (45
 19 U.S.C. 231b(f)(1)), as redesignated by para-
 20 graph (1)(B), is amended by striking “, without
 21 regard to the provisions of subdivision (1) of
 22 this subsection,”.

23 (B) Paragraphs (i) and (ii) of section
 24 7(d)(2) of the Railroad Retirement Act of 1974
 25 (45 U.S.C. 231f(d)(2)) are each amended by

1 striking “section 3(f)(3)” and inserting “section
2 3(f)(2)”.

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

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

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

11 (a) ESTABLISHMENT OF RAILROAD RETIREMENT IN-
12 VESTMENT TRUST.—Section 15 of the Railroad Retire-
13 ment Act of 1974 (45 U.S.C. 231n) is amended by insert-
14 ing after subsection (i) the following new subsection:

15 “(j) RAILROAD RETIREMENT INVESTMENT TRUST.—

16 “(1) ESTABLISHMENT.—The Railroad Retire-
17 ment Investment Trust (hereafter in this subsection
18 referred to as the ‘Trust’) is hereby established as
19 a trust domiciled in the District of Columbia and
20 shall, to the extent not inconsistent with this Act, be
21 subject to the laws of the District of Columbia appli-
22 cable to such trusts. The Trust shall manage and in-
23 vest its assets in the manner set forth in this sub-
24 section.

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

6 “(3) BOARD OF TRUSTEES.—

7 “(A) GENERALLY.—The Trust shall have a
8 Board of Trustees, consisting of 7 members,
9 each appointed by a unanimous vote of the
10 Railroad Retirement Board. The Railroad Re-
11 tirement Board may remove any member so ap-
12 pointed by unanimous vote. Of the members, 3
13 shall represent the interests of labor, 3 shall
14 represent the interests of management, and 1
15 shall represent the interests of the general pub-
16 lic. The members of the Board of Trustees shall
17 not be considered officers or employees of the
18 Government of the United States.

19 “(B) QUALIFICATIONS.—Members of the
20 Board of Trustees shall be appointed only from
21 among persons who have experience and exper-
22 tise in the management of financial investments
23 and pension plans. No member of the Railroad
24 Retirement Board shall be eligible to be a mem-
25 ber of the Board of Trustees.

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

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

18 “(A) retain independent advisers to assist
 19 it in the formulation and adoption of its invest-
 20 ment guidelines;

21 “(B) retain independent investment man-
 22 agers to invest the assets of the Trust in a
 23 manner consistent with such investment guide-
 24 lines;

1 “(C) invest assets of the Trust, pursuant
2 to the policies adopted in subparagraph (A);

3 “(D) pay administrative expenses of the
4 Trust from the assets of the Trust; and

5 “(E) transfer money to the disbursing
6 agent or as otherwise provided in section
7 7(b)(4), to pay benefits payable under this Act
8 from the assets of the Trust.

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

13 “(A) DUTIES OF THE BOARD OF TRUST-
14 EES.—The Trust and each member of the
15 Board of Trustees shall discharge their duties
16 with respect to the assets of the Trust solely in
17 the interest of the Railroad Retirement Board
18 and through it, the participants and bene-
19 ficiaries of the programs funded under this
20 Act—

21 “(i) for the exclusive purpose of—

22 “(I) providing benefits to partici-
23 pants and their beneficiaries; and

1 “(II) defraying reasonable ex-
2 penses of administering the functions
3 of the Trust;

4 “(ii) with the care, skill, prudence,
5 and diligence under the circumstances then
6 prevailing that a prudent person acting in
7 a like capacity and familiar with such mat-
8 ters would use in the conduct of an enter-
9 prise of a like character and with like
10 aims;

11 “(iii) by diversifying investments so as
12 to minimize the risk of large losses, unless
13 under the circumstances it is clearly pru-
14 dent not to do so; and

15 “(iv) in accordance with Trust gov-
16 erning documents and instruments insofar
17 as such documents and instruments are
18 consistent with this Act.

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

22 “(i) deal with the assets of the Trust
23 in the trustee’s own interest or for the
24 trustee’s own account;

1 “(ii) in an individual or in any other
 2 capacity act in any transaction involving
 3 the assets of the Trust on behalf of a party
 4 (or represent a party) whose interests are
 5 adverse to the interests of the Trust, the
 6 Railroad Retirement Board, or the inter-
 7 ests of participants or beneficiaries; or

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

11 “(C) EXCULPATORY PROVISIONS AND IN-
 12 SURANCE.—Any provision in an agreement or
 13 instrument that purports to relieve a trustee
 14 from responsibility or liability for any responsi-
 15 bility, obligation or duty under this Act shall be
 16 void: *Provided, however,* That nothing shall
 17 preclude—

18 “(i) the Trust from purchasing insur-
 19 ance for its trustees or for itself to cover
 20 liability or losses occurring by reason of
 21 the act or omission of a trustee, if such in-
 22 surance permits recourse by the insurer
 23 against the trustee in the case of a breach
 24 of a fiduciary obligation by such trustee;

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

4 “(iii) an employer or an employee or-
 5 ganization from purchasing insurance to
 6 cover potential liability of one or more
 7 trustees with respect to their fiduciary re-
 8 sponsibilities, obligations, and duties under
 9 this section.

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

19 “(i) The amount of such bond shall be
 20 fixed at the beginning of each fiscal year
 21 of the Trust by the Railroad Retirement
 22 Board. Such amount shall not be less than
 23 10 percent of the amount of the funds
 24 handled. In no case shall such bond be less
 25 than \$1,000 nor more than \$500,000, ex-

cept that the Railroad Retirement Board, after consideration of the record, may prescribe an amount in excess of \$500,000, subject to the 10 percent 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 Trust 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 Trust.

“(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 clause (i); and

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

1 “(iii) The Trust shall provide the
 2 President, the Railroad Retirement Board,
 3 and the Director of the Office of Manage-
 4 ment and Budget a copy of the manage-
 5 ment report when it is submitted to Con-
 6 gress.

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

9 “(i) to enjoin any act or practice by
 10 the Trust, its Board of Trustees or its em-
 11 ployees or agents that violates any provi-
 12 sion of this Act; or

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

16 “(6) APPLICATION OF FIDUCIARY STANDARDS
 17 TO RAILROAD RETIREMENT BOARD.—

18 “(A) IN GENERAL.—The provisions of
 19 paragraph (5)(A) shall apply to the members of
 20 the Railroad Retirement Board in the discharge
 21 of their duty to appoint the members of the
 22 Board of Trustees under paragraph (3)(A) in
 23 the same manner as such provisions apply to
 24 the members of the Board of Trustees.

1 “(B) ENFORCEMENT.—For purposes of
 2 this paragraph, the provisions of paragraph
 3 (5)(F) shall apply by substituting ‘the Secretary
 4 of Labor’ for ‘the Railroad Retirement Board’.

5 “(7) RULES AND ADMINISTRATIVE POWERS.—
 6 The Board of Trustees shall have the authority to
 7 make rules to govern its operations, employ profes-
 8 sional staff, and contract with outside advisers, in-
 9 cluding the Railroad Retirement Board, to provide
 10 legal, accounting, investment advisory or other serv-
 11 ices necessary for the proper administration of this
 12 subsection. In the case of contracts with investment
 13 advisory services, compensation for such services
 14 may be on a fixed contract fee basis or on such
 15 other terms and conditions as are customary for
 16 such services.

17 “(8) QUORUM.—Five members of the Board of
 18 Trustees constitute a quorum to do business. Invest-
 19 ment guidelines must be adopted by a unanimous
 20 vote of the entire Board of Trustees. All other deci-
 21 sions of the Board of Trustees shall be decided by
 22 a majority vote of the quorum present. All decisions
 23 of the Board of Trustees shall be entered upon the
 24 records of the Board of Trustees.

1 “(9) FUNDING.—The expenses of the Trust and
2 the Board of Trustees incurred under this sub-
3 section shall be paid from the Trust.”.

4 (b) CONFORMING AND TECHNICAL AMENDMENTS
5 GOVERNING INVESTMENTS.—Subsection 15(e) of the
6 Railroad Retirement Act of 1974 (45 U.S.C. 231n(e)) is
7 amended—

8 (1) in the first sentence, by striking “, the Dual
9 Benefits Payments Account” and all that follows
10 through “may be made only” in the second sentence
11 and inserting “and the Dual Benefits Payments Ac-
12 count as are not transferred to the Railroad Retire-
13 ment Investment Trust as the Board may deter-
14 mine”;

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

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

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the first day of the first
22 month that begins more than 30 days after the date of
23 enactment of this Act.

1 **SEC. 106. ELIMINATION OF SUPPLEMENTAL ANNUITY AC-**
2 **COUNT.**

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

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

11 (c) AMENDMENT TO RAILROAD RETIREMENT AC-
12 COUNT.—Section 15(a) of the Railroad Retirement Act of
13 1974 (45 U.S.C. 231n(a)) is amended by striking “, ex-
14 cept those portions of the amounts covered into the Treas-
15 ury under sections 3211(b),” and all that follows through
16 the end of the subsection and inserting a period.

17 (d) TRANSFER.—

18 (1) DETERMINATION.—As soon as possible
19 after December 31, 2001, the Railroad Retirement
20 Board shall—

21 (A) determine the amount of funds in the
22 Railroad Retirement Supplemental Account
23 under section 15(c) of the Railroad Retirement
24 Act of 1974 (45 U.S.C. 231n(c)) as of the date
25 of such determination; and

1 (B) direct the Secretary of the Treasury to
 2 transfer such funds to the Railroad Retirement
 3 Investment Trust under section 15(j) of such
 4 Act (as added by section 105).

5 (2) TRANSFER BY THE SECRETARY OF THE
 6 TREASURY.—The Secretary of the Treasury shall
 7 make the transfer described in paragraph (1).

8 (e) EFFECTIVE DATE.—

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

12 (2) ACCOUNT IN EXISTENCE UNTIL TRANSFER
 13 MADE.—The Railroad Retirement Supplemental Ac-
 14 count under section 15(c) of the Railroad Retire-
 15 ment Act of 1974 (45 U.S.C. 231n(c)) shall con-
 16 tinue to exist until the date that the Secretary of the
 17 Treasury makes the transfer described in subsection
 18 (d)(2).

19 **SEC. 107. TRANSFER AUTHORITY REVISIONS.**

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

24 “(k) TRANSFERS TO THE TRUST.—The Board shall,
 25 upon establishment of the Railroad Retirement Invest-

1 ment Trust and from time to time thereafter, direct the
 2 Secretary of the Treasury to transfer, in such manner as
 3 will maximize the investment returns to the Railroad Re-
 4 tirement system, that portion of the Railroad Retirement
 5 Account that is not needed to pay current administrative
 6 expenses of the Board to the Railroad Retirement Invest-
 7 ment Trust. The Secretary shall make that transfer.”.

8 (b) TRANSFERS FROM THE RAILROAD RETIREMENT
 9 INVESTMENT TRUST.—Section 15 of the Railroad Retire-
 10 ment Act of 1974 (45 U.S.C. 231n), as amended by sub-
 11 section (a), is further amended by adding after subsection
 12 (k) the following new subsection:

13 “(l) RAILROAD RETIREMENT INVESTMENT TRUST.—
 14 The Railroad Retirement Investment Trust shall from
 15 time to time transfer to the disbursing agent described
 16 in section 7(b)(4), or as otherwise directed by the Railroad
 17 Retirement Board pursuant to section 7(b)(4), such
 18 amounts as may be necessary to pay benefits under this
 19 Act (other than benefits paid from the Social Security
 20 Equivalent Benefit Account or the Dual Benefit Payments
 21 Account).”.

22 (c) SOCIAL SECURITY EQUIVALENT BENEFIT AC-
 23 COUNT.—

1 (1) TRANSFERS TO TRUST.—Section 15A(d)(2)
 2 of the Railroad Retirement Act of 1974 (45 U.S.C.
 3 231n–1(d)(2)) is amended to read as follows:

4 “(2) Upon establishment of the Railroad Retirement
 5 Investment Trust and from time to time thereafter, the
 6 Board shall direct the Secretary of the Treasury to trans-
 7 fer, in such manner as will maximize the investment re-
 8 turns to the Railroad Retirement system, the balance of
 9 the Social Security Equivalent Benefit Account not needed
 10 to pay current benefits and administrative expenses re-
 11 quired to be paid from that Account to the Railroad Re-
 12 tirement Investment Trust, and the Secretary shall make
 13 that transfer. Any balance transferred under this para-
 14 graph shall be used by the Railroad Retirement Invest-
 15 ment Trust only to pay benefits under this Act or to pur-
 16 chase obligations of the United States that are backed by
 17 the full faith and credit of the United States pursuant to
 18 chapter 31 of title 31, United States Code. The proceeds
 19 of sales of, and the interest income from, such obligations
 20 shall be used by the Trust only to pay benefits under this
 21 Act.”.

22 (2) TRANSFERS TO DISBURSING AGENT.—Sec-
 23 tion 15A(c)(1) of the Railroad Retirement Act of
 24 1974 (45 U.S.C. 231n–1(c)(1)) is amended by add-
 25 ing at the end the following new sentence: “The Sec-

1 retary shall from time to time transfer to the dis-
 2 bursing agent under section 7(b)(4) amounts nec-
 3 essary to pay those benefits.”.

4 (3) CONFORMING AMENDMENT.—Section
 5 15A(d)(1) of the Railroad Retirement Act of 1974
 6 (45 U.S.C. 231n–1(d)(1)) is amended by striking
 7 the second and third sentences.

8 (d) DUAL BENEFITS PAYMENTS ACCOUNT.—Section
 9 15(d)(1) of the Railroad Retirement Act of 1974 (45
 10 U.S.C. 231n(d)(1)) is amended by adding at the end the
 11 following new sentence: “The Secretary of the Treasury
 12 shall from time to time transfer from the Dual Benefits
 13 Payments Account to the disbursing agent under section
 14 7(b)(4) amounts necessary to pay benefits payable from
 15 that Account.”.

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

20 “(4)(A) The Railroad Retirement Board, after con-
 21 sultation with the Board of Trustees of the Railroad Re-
 22 tirement Investment Trust and the Secretary of the Treas-
 23 ury, shall enter into an arrangement with a nongovern-
 24 mental financial institution to serve as disbursing agent
 25 for benefits payable under this Act who shall disburse con-

1 solidated benefits under this Act to each recipient. Pend-
 2 ing the taking effect of that arrangement, benefits shall
 3 be paid as under the law in effect prior to the date of
 4 enactment of the Railroad Retirement and Survivors' Im-
 5 provement Act of 2001.

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

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

13 “(ii) to the Board of Trustees of the Railroad
 14 Retirement Investment Trust the amounts required
 15 to be transferred from the Railroad Retirement In-
 16 vestment Trust to the disbursing agent to make pay-
 17 ments of benefits and the Board of Trustees shall
 18 transfer those amounts; and

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

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

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

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

10 (g) TRANSITIONAL RULE FOR EXISTING OBLIGA-
11 TION.—In making transfers under sections 15(k) and
12 15A(d)(2) of the Railroad Retirement Act of 1974, as
13 amended by subsections (a) and (c), respectively, the Rail-
14 road Retirement Board shall consult with the Secretary
15 of the Treasury to design an appropriate method to trans-
16 fer obligations held as of the date of enactment of this
17 Act or to convert such obligations to cash at the discretion
18 of the Railroad Retirement Board prior to transfer. The
19 Railroad Retirement Investment Trust may hold to matu-
20 rity any obligations so received or may redeem them prior
21 to maturity, as the Trust deems appropriate.

1 **SEC. 108. ANNUAL RATIO PROJECTIONS AND CERTIFI-**
 2 **CATIONS BY THE RAILROAD RETIREMENT**
 3 **BOARD.**

4 (a) PROJECTIONS.—Section 22(a)(1) of the Railroad
 5 Retirement Act of 1974 (45 U.S.C. 231u(a)(1)) is
 6 amended—

7 (1) by inserting after the first sentence the fol-
 8 lowing new sentence: “On or before May 1 of each
 9 year beginning in 2003, the Railroad Retirement
 10 Board shall compute its projection of the account
 11 benefits ratio and the average account benefits ratio
 12 (as defined by section 3241(c) of the Internal Rev-
 13 enue Code of 1986) for each of the next succeeding
 14 five fiscal years.”; and

15 (2) by striking “the projection prepared pursu-
 16 ant to the preceding sentence” and inserting “the
 17 projections prepared pursuant to the preceding two
 18 sentences”.

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

22 “COMPUTATION AND CERTIFICATION OF ACCOUNT
 23 BENEFIT RATIOS

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

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

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

6 “(b) COMPUTATIONS AND CERTIFICATIONS AFTER
 7 2003.—On or before November 1 of each year after 2003,
 8 the Railroad Retirement Board shall—

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

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

13 “(c) DEFINITION.—As used in this section, the term
 14 ‘account benefits ratio’ has the meaning given that term
 15 in section 3241(c) of the Internal Revenue Code of
 16 1986.”.

17 **TITLE II—AMENDMENTS TO THE** 18 **INTERNAL REVENUE CODE** 19 **OF 1986**

20 **SEC. 201. AMENDMENTS TO THE INTERNAL REVENUE CODE** 21 **OF 1986.**

22 Except as otherwise provided, whenever in this title
 23 an amendment or repeal is expressed in terms of an
 24 amendment to, or repeal of, a section or other provision,

1 the reference shall be considered to be made to a section
 2 or other provision of the Internal Revenue Code of 1986.

3 **SEC. 202. EXEMPTION FROM TAX FOR RAILROAD RETIRE-**
 4 **MENT INVESTMENT TRUST.**

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

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

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

11 (a) REPEAL OF TAX ON EMPLOYEE REPRESENTA-
 12 TIVES.—Section 3211 is amended by striking subsection
 13 (b).

14 (b) REPEAL OF TAX ON EMPLOYERS.—Section 3221
 15 is amended by striking subsections (c) and (d) and by re-
 16 designating subsection (e) as subsection (c).

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

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

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

24 “(b) TIER 2 TAX.—

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

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

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

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

14 “(C) in the case of compensation paid dur-
 15 ing any calendar year after 2003, the percent-
 16 age determined under section 3241 for such cal-
 17 endar year.”.

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

22 “(a) TIER 1 TAX.—In addition to other taxes, there
 23 is hereby imposed on the income of each employee rep-
 24 resentative a tax equal to the applicable percentage of the
 25 compensation received during any calendar year by such

1 employee representative for services rendered by such em-
 2 ployee representative. For purposes of the preceding sen-
 3 tence, the term ‘applicable percentage’ means the percent-
 4 age equal to the sum of the rates of tax in effect under
 5 subsections (a) and (b) of section 3101 and subsections
 6 (a) and (b) of section 3111 for the calendar year.

7 “(b) TIER 2 TAX.—

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

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

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

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

21 “(C) in the case of compensation received
 22 during any calendar year after 2003, the per-
 23 centage determined under section 3241 for such
 24 calendar year.

1 “(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).”.

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

4 “(b) TIER 2 TAX.—

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

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

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

16 “(B) in the case of compensation received
17 during any calendar year after 2003, the per-
18 centage determined under section 3241 for such
19 calendar year.”.

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

1 **“Subchapter E—Tier 2 Tax Rate**
2 **Determination**

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

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

5 “(a) IN GENERAL.—For purposes of sections
6 3201(b), 3211(b), and 3221(b), the applicable percentage
7 for any calendar year is the percentage determined in accordance with the table in subsection (b).

9 “(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

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

12 “(1) AVERAGE ACCOUNT BENEFITS RATIO.—

13 For purposes of this section, the term ‘average account benefits ratio’ means, with respect to any calendar year, the average determined by the Secretary
15 of the account benefits ratios for the 10 most recent
16

1 fiscal years ending before such calendar year. If the
2 amount determined under the preceding sentence is
3 not a multiple of 0.1, such amount shall be in-
4 creased to the next highest multiple of 0.1.

5 “(2) ACCOUNT BENEFITS RATIO.—For pur-
6 poses of this section, the term ‘account benefits
7 ratio’ means, with respect to any fiscal year, the
8 amount determined by the Railroad Retirement
9 Board by dividing the fair market value of the assets
10 in the Railroad Retirement Account and of the Rail-
11 road Retirement Investment Trust (and for years
12 before 2002, the Social Security Equivalent Benefits
13 Account) as of the close of such fiscal year by the
14 total benefits and administrative expenses paid from
15 the Railroad Retirement Account and the Railroad
16 Retirement Investment Trust during such fiscal
17 year.

18 “(d) NOTICE.—Not later than December 1 of each
19 calendar year, the Secretary shall publish a notice in the
20 Federal Register of the rates of tax determined under this
21 section which are applicable for the following calendar
22 year.”.

23 (e) CONFORMING AMENDMENTS.—

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

4 (2) Section 72(r)(2)(B)(i) is amended by strik-
 5 ing “section 3211(a)(2)” and inserting “section
 6 3211(b)”.

7 (3) Paragraphs (2)(A)(iii)(II) and (4)(A) of
 8 section 3231(e) are amended by striking
 9 “3211(a)(1)” and inserting “3211(a)”.

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

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

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

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

○