

105TH CONGRESS
2D SESSION

H. R. 3450

To protect the retirement security of Americans.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 1998

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Transportation and Infrastructure, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect the retirement security of Americans.

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 “Retirement Protection Act of 1998”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—PUBLIC EMPLOYEE PENSION PLANS

Sec. 101. Reporting and disclosure requirements.

Sec. 102. Civil enforcement of public employee pension plan terms.

Sec. 103. Review by qualified review boards of changes in employer contributions.

Sec. 201. Model spousal consent form and qualified domestic relations order.

Sec. 202. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.

Sec. 203. Survivor annuities for widows, widowers, and former spouses of Federal employees who die before attaining age for deferred annuity under Civil Service Retirement System.

Sec. 204. Court orders relating to Federal retirement benefits for former spouses of Federal employees.

Sec. 301. Increase in excise tax on reversions.
Sec. 302. Reversion report.

Sec. 401. Alternative dispute resolution of pension benefit claims.
Sec. 402. Effective date.

Sec. 501. Pre-judgment interest, attorney fees, and costs of action.
Sec. 502. Consequential damages.
Sec. 503. Effective date.

Sec. 601. Annual reports to participants and beneficiaries in understandable language.

Sec. 602. Effective date.

3 SEC. 101. REPORTING AND DISCLOSURE REQUIREMENTS.

(1) a statement of the assets and liabilities of the plan aggregated by categories and valued at their current value, and the same data displayed in

1 comparative form for the end of the previous plan
2 year;

3 (2) a statement of receipts and disbursements
4 during the preceding 12-month period aggregated by
5 general sources and applications;

6 (3) a report containing—

7 (A) a description of all investments and as-
8 sets of the plan, including their value;

9 (B) the names and positions of all of the
10 trustees of the plan, and the time remaining be-
11 fore the expiration of their term;

12 (C) a description of the method of trustee
13 selection;

14 (D) a description of any changes in invest-
15 ment policy of the plan during the fiscal year;

16 (E) an evaluation of the long-term solvency
17 of the plan, including the number of partici-
18 pants and beneficiaries and a summary of their
19 benefits, and a projection of the amount of ben-
20 efits expected to be paid for the fifth, tenth,
21 and fifteenth plan year following the date of the
22 publication of the report; and

23 (F) the percentage which the current value
24 of the assets of the plan is of the current liabil-
25 ity under the plan; and

1 (4) any other material as is necessary to fairly
2 summarize the latest annual report.

3 Such information shall be written and calculated to be un-
4 derstood by the average plan participant, and shall be suf-
5 ficiently accurate and comprehensive to reasonably apprise
6 such participants and beneficiaries of their rights and obli-
7 gations under the plan.

8 (b) AVAILABILITY OF PLAN DOCUMENTS FOR EXAM-
9 INATION.—The administrator shall make copies of the
10 plan description and the latest annual report and the bar-
11 gaining agreement, trust agreement, contract, or other in-
12 struments under which the plan was established or is oper-
13 ated available for examination by any plan participant or
14 beneficiary in the principal office of the administrator and
15 in such other places as may be necessary to make available
16 all pertinent information to all participants (including
17 such places as the Secretary of Labor may prescribe by
18 regulations).

19 (c) AVAILABILITY OF INFORMATION UPON RE-
20 QUEST.—The administrator shall, upon written request of
21 any participant or beneficiary, furnish a copy of the latest
22 annual report, any terminal report, the bargaining agree-
23 ment, trust agreement, contract, or other instruments
24 under which the plan is established or operated. The ad-
25 ministrator may make a reasonable charge to cover the

1 cost of furnishing such complete copies. The Secretary of
2 Labor may by regulation prescribe the maximum amount
3 which will constitute a reasonable charge under the pre-
4 ceding sentence.

5 **SEC. 102. CIVIL ENFORCEMENT OF PUBLIC EMPLOYEE PEN-**
6 **SION PLAN TERMS.**

7 (a) IN GENERAL.—A civil action may be brought, by
8 a participant or beneficiary under a public employee pen-
9 sion plan, against the plan—

10 (1) to recover benefits due to him or her under
11 the terms of the plan, to enforce his or her rights
12 under the terms of the plan or this title, or to clarify
13 his or her rights to future benefits under the terms
14 of the plan;

15 (2) to enjoin any act or practice which violates
16 the terms of the plan, or

17 (3) to obtain other appropriate equitable relief
18 (A) to redress violations of the terms of the plan or
19 this title or (B) to enforce the terms of the plan or
20 this title.

21 (b) BURDEN OF PROOF.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), in any action brought under this section,
24 the plaintiff may prevail if the plaintiff proves his or
25 her case by a preponderance of the evidence.

1 (2) SPECIAL RULE FOR PLANS SUBJECT TO RE-
2 VIEW BY QUALIFIED REVIEW BOARDS.—In the case
3 of a public employee pension plan which meets the
4 requirements of section 103 in any action brought
5 under this section relating to a change in employer
6 contributions, the plaintiff may prevail only if the
7 plaintiff proves his or her case by clear and convinc-
8 ing evidence.

9 (c) PLANS TREATED AS PERSONS.—A public em-
10 ployee pension plan may sue or be sued under this title
11 as a person. Service of summons, subpoena, or other legal
12 process of a court upon a trustee or an administrator of
13 a public employee pension plan in the trustee's or adminis-
14 trator's capacity as such shall constitute service upon the
15 plan.

16 (d) JURISDICTION AND VENUE.—

17 (1) IN GENERAL.—State courts of competent
18 jurisdiction and district courts of the United States
19 shall have concurrent jurisdiction of actions brought
20 under this section. The district courts of the United
21 States shall have jurisdiction without regard to the
22 amount in controversy or the citizenship of the par-
23 ties, to grant the relief provided for in subsection
24 (a).

1 (2) VENUE.—Notwithstanding section 94 of the
 2 National Banking Act (12 U.S.C. 94), in any case
 3 in which an action under this title is brought in a
 4 district court of the United States, it may be
 5 brought in any district of the State where the plan
 6 is administered, where the breach took place, or
 7 where a defendant resides or may be found, and
 8 process may be served in any other district where a
 9 defendant resides or may be found.

10 (e) ATTORNEY’S FEES.—In any action brought under
 11 this section, the court may in its discretion award a rea-
 12 sonable attorney’s fee and costs of action to any party who
 13 prevails or substantially prevails in such action.

14 **SEC. 103. REVIEW BY QUALIFIED REVIEW BOARDS OF**
 15 **CHANGES IN EMPLOYER CONTRIBUTIONS.**

16 (a) IN GENERAL.—A public employee pension plan
 17 meets the requirements of this section if, under the plan,
 18 changes in employer contributions are subject to review
 19 by a qualified review board established for the plan as pro-
 20 vided in this section. For purposes of this section, the term
 21 “qualified review board” means a board—

22 (1) whose membership is determined under the
 23 law of the principal State in accordance with sub-
 24 section (b), and

1 (2) whose powers are determined under the law
2 of the principal State in accordance with subsection
3 (c).

4 (b) MEMBERSHIP.—

5 (1) IN GENERAL.—The membership of a quali-
6 fied review board established for a plan shall consist
7 of 3 members selected from among individuals who,
8 by means of their education and experience, have
9 demonstrated expertise in the area of pension fund
10 management, as follows:

11 (A) one member is appointed by the Gov-
12 ernor of the State,

13 (B) one member is selected by the partici-
14 pants in the plan, by means of an election held
15 in such form and manner as shall be prescribed
16 in regulations of the Secretary of Labor, and

17 (C) one member is selected jointly by the
18 Governor and by a representative of partici-
19 pants in the plan (from a certified list of pen-
20 sion experts established in accordance with
21 paragraph (2)).

22 Each member of the board shall have 1 vote. Mem-
23 bers of the board shall serve for such equivalent
24 terms as shall be prescribed under the law of the
25 principal State.

1 (2) CERTIFIED LIST OF EXPERTS.—The Gov-
2 ernor of the State shall, for purposes of paragraph
3 (1)(C), establish and maintain with respect to each
4 public employee pension plan (for which such State
5 is the principal State) a certified list of pension ex-
6 perts meeting the requirements for membership on
7 the qualified review board. Individuals may be in-
8 cluded on such list only by agreement between the
9 Governor of the State and a representative elected
10 by participants in the plan, entered into by means
11 of collective bargaining in such form and manner as
12 shall be prescribed in regulations of the Secretary of
13 Labor.

14 (c) POWERS.—The board shall be treated as a quali-
15 fied review board for purposes of this section with respect
16 to any public employee pension plan (for which such State
17 is the principal State) only if the powers of such board
18 under the law of the principal State include review by the
19 board, for approval or disapproval by the board, of any
20 change in the terms of such plan, as a necessary pre-
21 requisite for such change to take effect, if—

22 (1) such change would have the effect of chang-
23 ing levels of employer contributions to the plan, and

1 (2) such review is requested, in such form and
2 manner as shall be prescribed in regulations of the
3 Secretary of Labor, by—

4 (A) at least one-third of the total number
5 of trustees of any trust fund forming a part of
6 the plan, or

7 (B) the head of any employee organization
8 representing at least 20 percent of the total
9 number of active participants in the plan.

10 The board may be treated as a qualified review board for
11 purposes of this section only if, under the law of the prin-
12 cipal State, any such change submitted to such review by
13 the board may take effect only upon approval of the
14 change by the board.

15 **SEC. 104. EFFECT ON OTHER LAWS.**

16 (a) IN GENERAL.—Nothing in this title shall be con-
17 strued to alter, amend, modify, invalidate, impair, or su-
18 persede any law of a State or any rule or regulation issued
19 under any such law, except to the extent that such law—

20 (1) may now or hereafter relate to the subject
21 matter of the provisions of this title as they apply
22 to any public employee pension plan described in
23 section 105(b)(1) and not exempt under section
24 105(b)(2), and

25 (2) prevents the application of such provisions.

1 (b) STATE CAUSES OF ACTION PRESERVED.—Noth-
2 ing in this title shall be construed to apply with respect
3 to State causes of action available in State courts.

4 **SEC. 105. DEFINITIONS AND COVERAGE.**

5 (a) DEFINITIONS.—For purposes of this title—

6 (1) ADMINISTRATOR.—The term “adminis-
7 trator” means—

8 (A) the board of trustees, retirement
9 board, or similar person with administrative re-
10 sponsibilities in connection with a plan, or any
11 other person specifically so designated in con-
12 nection with any requirement of this title by the
13 terms of the instrument or instruments under
14 which the plan is operated, including but not
15 limited to the law of any State or of any politi-
16 cal subdivision of any State, or

17 (B) in any case in which there is no person
18 described in subparagraph (A) in connection
19 with the plan, the plan sponsor.

20 (2) BENEFICIARY.—The term “beneficiary”
21 means a person designated by a participant, or by
22 the terms of a public employee pension plan, who is
23 or may become entitled to a benefit thereunder.

24 (3) CURRENT LIABILITY.—The term “current
25 liability” has the meaning provided in section

1 302(d)(7) of the Employee Retirement Income Secu-
2 rity Act of 1974.

3 (4) EMPLOYEE.—The term “employee” means
4 any individual employed by an employer, employer
5 representative, or other person required to make em-
6 ployer contributions under the plan.

7 (5) EMPLOYEE ORGANIZATION.—The term
8 “employee organization” means any labor union or
9 any organization of any kind, or any agency or em-
10 ployee representation committee, association, group,
11 or plan, in which employees participate and which
12 exists for the purpose, in whole or in part, of dealing
13 with employers or employer representatives concern-
14 ing a public employee pension plan or other matters
15 incidental to employment relationships; or any em-
16 ployees’ beneficiary association organized for the
17 purpose, in whole or in part, of establishing such a
18 plan.

19 (6) EMPLOYER.—The term “employer”
20 means—

21 (A) the government of any State or of any
22 political subdivision of a State,

23 (B) any agency or instrumentality of a
24 government referred to in subparagraph (A), or

1 (C) any agency or instrumentality of two
2 or more governments referred to in subpara-
3 graph (A).

4 (7) EMPLOYER CONTRIBUTION.—The term
5 “employer contribution” means any contribution to
6 a public employee pension plan other than a con-
7 tribution made by a participant in the plan.

8 (8) EMPLOYER REPRESENTATIVE.—The term
9 “employer representative” means—

10 (A) any group or association consisting, in
11 whole or in part, of employers acting, in connec-
12 tion with a public employee pension plan, for an
13 employer, or

14 (B) any person acting, in connection with
15 a public employee pension plan, indirectly in the
16 interest of an employer or of a group or asso-
17 ciation described in subparagraph (A).

18 (9) PUBLIC EMPLOYEE PENSION PLAN.—The
19 terms “public employee pension plan” and “plan”
20 mean any plan, fund, or program which was here-
21 tofore or is hereafter established or maintained, in
22 whole or in part, by an employer, an employer rep-
23 resentative, or an employee organization, or by a
24 combination thereof, to the extent that by its express

1 terms or as a result of surrounding circumstances
2 such plan, fund, or program—

3 (A) provides retirement income to employ-
4 ees, or

5 (B) results in a deferral of income by em-
6 ployees for periods extending to the termination
7 of covered employment or beyond,
8 regardless of the method of calculating the contribu-
9 tions made to the plan, the method of calculating
10 the benefits under the plan, or the method of distrib-
11 uting benefits from the plan.

12 (10) PRINCIPAL STATE.—The term “principal
13 State” means, for any plan year with respect to a
14 public employee pension plan, the State in which, as
15 of the beginning of such plan year, the largest per-
16 centage of the participants of the plan employed in
17 any single State is employed.

18 (11) GOVERNOR.—The term “Governor”
19 means, in connection with a public employee pension
20 plan, the Governor (or equivalent official) of the
21 principal State.

22 (12) PARTICIPANT.—The term “participant”
23 means any individual who is or may become eligible
24 to receive a benefit of any type from a public em-

1 ployee pension plan or whose beneficiaries may be el-
2 ible to receive any such benefit.

3 (13) PERSON.—The term “person” means a
4 State, a political subdivision of a State, any agency
5 or instrumentality of a State or a political subdivi-
6 sion of a State, an individual, a partnership, a joint
7 venture, a corporation, a mutual company, a joint-
8 stock company, a trust, an estate, an unincorporated
9 organization, an association, or an employee organi-
10 zation.

11 (14) PLAN SPONSOR.—The term “plan spon-
12 sor” means—

13 (A) in the case of a plan established or
14 maintained solely for employees of a single em-
15 ployer, such employer,

16 (B) in the case of a plan established or
17 maintained by an employee organization, the
18 employee organization, or

19 (C) in the case of a plan established or
20 maintained by two or more employers or jointly
21 by one or more employers and one or more em-
22 ployee organizations, the association, commit-
23 tee, board of trustees, or other similar group of
24 representatives of the parties who establish or
25 maintain the plan.

1 (15) PLAN YEAR.—The term “plan year”
2 means, with respect to a plan, the calendar, policy,
3 or fiscal year on which the records of the plan are
4 kept.

5 (16) STATE.—The term “State” means any
6 State of the United States, the District of Columbia,
7 the Commonwealth of Puerto Rico, the Virgin Is-
8 lands, American Samoa, and Guam.

9 (b) COVERAGE.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), this title shall apply to any public em-
12 ployee pension plan.

13 (2) EXCEPTIONS FROM COVERAGE.—The provi-
14 sions of this title shall not apply to—

15 (A) any employee benefit plan described in
16 section 4(a) of the Employee Retirement In-
17 come Security Act of 1974 (29 U.S.C.
18 1003(a)), which is not exempt under section
19 4(b)(1) of such Act (29 U.S.C. 1003(b)(1));

20 (B) any plan which is unfunded and is
21 maintained by an employer or employer rep-
22 resentative primarily for the purpose of provid-
23 ing deferred compensation for a select group of
24 management or highly compensated employees;

1 (C) any arrangement which would be a
2 severance pay arrangement, as defined in regu-
3 lations of the Secretary of Labor under section
4 3(2)(B)(i) of the Employee Retirement Income
5 Security Act of 1974 (29 U.S.C.
6 1002(2)(B)(i)), if the employer were an em-
7 ployer within the meaning of section 3(5) of
8 such Act (29 U.S.C. 1002(5));

9 (D) any agreement to the extent it is a
10 coverage agreement entered into pursuant to
11 section 218 of the Social Security Act (42
12 U.S.C. 418);

13 (E) any individual retirement account or
14 any individual retirement annuity within the
15 meaning of section 408 of the Internal Revenue
16 Code of 1986, or a retirement bond within the
17 meaning of section 409 of such Code;

18 (F) any plan described in section 401(d) of
19 such Code;

20 (G) any individual account plan consisting
21 of an annuity contract described in section
22 403(b) of such Code;

23 (H) any eligible State deferred compensa-
24 tion plan, as defined in section 457(b) of such
25 Code; or

1 (I) any plan maintained solely for the pur-
 2 pose of complying with applicable workers' com-
 3 pensation laws or disability insurance laws.

4 **SEC. 106. EFFECTIVE DATE.**

5 The preceding provisions of this title shall apply with
 6 respect to plan years beginning on or after January 1,
 7 1999.

8 **TITLE II—WOMEN'S PENSION**
 9 **EQUITY**

10 **SEC. 201. MODEL SPOUSAL CONSENT FORM AND QUALI-**
 11 **FIED DOMESTIC RELATIONS ORDER.**

12 (a) MODEL SPOUSAL CONSENT FORM.—

13 (1) AMENDMENT TO INTERNAL REVENUE
 14 CODE.—Section 417(a) of the Internal Revenue
 15 Code of 1986 is amended by adding at the end the
 16 following new paragraph:

17 “(8) CONSENT FORM.—The Secretary shall de-
 18 velop a form not later than January 1, 1999, for the
 19 spousal consent required under paragraph (2)
 20 which—

21 “(A) is written in a manner calculated to
 22 be understood by the average person, and

23 “(B) discloses in plain form whether—

24 “(i) the waiver is irrevocable, and

1 “(ii) the waiver may be revoked by a
2 qualified domestic relations order.”.

3 (2) AMENDMENT TO ERISA.—Section 205(c) of
4 the Employee Retirement Income Security Act of
5 1974 (29 U.S.C. 1055(c)) is amended by adding at
6 the end the following new paragraph:

7 “(9) The Secretary of the Treasury shall develop a
8 form not later than January 1, 1999, for the spousal con-
9 sent required under paragraph (2) which—

10 “(A) is written in a manner calculated to be un-
11 derstood by the average person, and

12 “(B) discloses in plain form whether—

13 “(i) the waiver is irrevocable, and

14 “(ii) the waiver may be revoked by a quali-
15 fied domestic relations order.”.

16 (b) MODEL QUALIFIED DOMESTIC RELATIONS
17 ORDER.—

18 (1) AMENDMENT TO ERISA.—Section 206(d)(3)
19 of the Employee Retirement Income Security Act of
20 1974 (29 U.S.C. 1056(d)(3)) is amended by adding
21 at the end the following new subparagraph:

22 “(O) The Secretary shall develop a form not later
23 than January 1, 1999, for a qualified domestic relations
24 order which meets—

1 “(i) the requirements of subparagraph (B)(i),
2 and

3 “(ii) the requirements of this Act related to the
4 need to consider the treatment of any lump sum
5 payment, qualified joint and survivor annuity, or
6 qualified preretirement survivor annuity.”.

7 (2) AMENDMENT TO INTERNAL REVENUE
8 CODE.—Section 414(p) of the Internal Revenue
9 Code of 1986 is amended by adding at the end the
10 following new paragraph:

11 “(13) The Secretary of Labor shall develop a
12 form not later than January 1, 1999, for a qualified
13 domestic relations order which meet—

14 “(A) the requirements of paragraph
15 (1)(A), and

16 “(B) the requirements of this Act related
17 to the need to consider the treatment of any
18 lump sum payment, qualified joint and survivor
19 annuity, or qualified preretirement survivor an-
20 nuity.”.

21 (c) PUBLICITY.—The Secretary of the Treasury and
22 the Secretary of Labor shall include publicity for the
23 model forms required by the amendments made by this
24 section in the pension outreach efforts undertaken by each
25 Secretary.

1 **SEC. 202. EXTENSION OF TIER II RAILROAD RETIREMENT**
2 **BENEFITS TO SURVIVING FORMER SPOUSES**
3 **PURSUANT TO DIVORCE AGREEMENTS.**

4 (a) IN GENERAL.—Section 5 of the Railroad Retirement Act of 1974 (45 U.S.C. 231d) is amended by adding
5 at the end the following new subsection:

7 “(d) Notwithstanding any other provision of law, the
8 payment of any portion of an annuity computed under section 3(b) to a surviving former spouse in accordance with
9 a court decree of divorce, annulment, or legal separation
10 or the terms of any court-approved property settlement
11 incident to any such court decree shall not be terminated
12 upon the death of the individual who performed the service
13 with respect to which such annuity is so computed unless
14 such termination is otherwise required by the terms of
15 such court decree.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall take effect on the date of the enactment
19 of this Act.

20 **SEC. 203. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**
21 **AND FORMER SPOUSES OF FEDERAL EMPLOYEES WHO DIE BEFORE ATTAINING AGE**
22 **FOR DEFERRED ANNUITY UNDER CIVIL**
23 **SERVICE RETIREMENT SYSTEM.**

25 (a) BENEFITS FOR WIDOW OR WIDOWER.—Section
26 8341(f) of title 5, United States Code, is amended—

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

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

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

9 (2) in paragraph (1)—

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

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

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

16 (A) in the matter preceding subparagraph

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

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

21 (b) BENEFITS FOR FORMER SPOUSE.—Section
22 8341(h) of title 5, United States Code, is amended—

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

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

11 (2) in paragraph (2)—

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

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

17 (c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—

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

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

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

5 **SEC. 204. COURT ORDERS RELATING TO FEDERAL RETIRE-**
 6 **MENT BENEFITS FOR FORMER SPOUSES OF**
 7 **FEDERAL EMPLOYEES.**

8 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

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

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

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

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

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

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

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

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

3 (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

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

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

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

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

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

16 **TITLE III—EMPLOYER** 17 **REVERSIONS**

18 **SEC. 301. INCREASE IN EXCISE TAX ON REVERSIONS.**

19 (a) IN GENERAL.—Section 4980 of the Internal Rev-
20 enue Code of 1986 (relating to tax on reversion of quali-
21 fied plan assets to employer) is amended—

22 (1) in subsection (a), by striking “20 percent”
23 and inserting “35 percent”; and

24 (2) in subsection (d)(1), by striking “substitut-
25 ing ‘50 percent’ for ‘20 percent’ with respect to any

1 employer reversion” and inserting “substituting ‘65
2 percent’ for ‘35 percent’ with respect to any em-
3 ployer reversion”.

4 **SEC. 302. REVERSION REPORT.**

5 (a) IN GENERAL.—Section 4008 of the Employee Re-
6 tirement Income Security Act of 1974 (29 U.S.C. 1308)
7 is amended by adding at the end the following new sub-
8 section:

9 “(b) REVERSION REPORT.—As soon as practicable
10 after the close of each fiscal year, the Secretary of Labor
11 (acting in the Secretary’s capacity as chairman of the cor-
12 poration’s board) shall transmit to the President and the
13 Congress a report providing information on plans from
14 which residual assets were distributed to employers pursu-
15 ant to section 4044(d).”

16 (b) CONFORMING AMENDMENT.—Section 4008 (29
17 U.S.C. 1308) is amended by striking “SEC. 4008.” and
18 inserting “SEC. 4008. (a) ANNUAL REPORT.—”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to fiscal years beginning after Sep-
21 tember 30, 1998.

TITLE IV—ALTERNATIVE DISPUTE RESOLUTION

SEC. 401. ALTERNATIVE DISPUTE RESOLUTION OF PENSION BENEFIT CLAIMS.

(a) IN GENERAL.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by adding at the end of the heading the following: “AND ARBITRATION OF PENSION CLAIMS”;

(2) by inserting “(a)” after “SEC. 503.”; and

(3) by adding at the end the following new subsection:

“(b)(1) Any claim of a participant or beneficiary against an employee pension benefit plan with respect to benefits under such plan remaining unresolved, after opportunity for review provided under subsection (a) has been exercised, may be resolved through arbitration, upon the request of the participant or beneficiary which is filed with the Secretary, in such form and manner as shall be prescribed by regulation and within the 60-day period after the participant or beneficiary has received written notice from the plan of the completion of such review. The filing of a request for arbitration under this section with respect to any claim shall constitute a waiver of any right

1 to review of such claim other than as provided in this sub-
2 section.

3 “(2) An arbitration proceeding under this subsection
4 shall be conducted in accordance with fair and equitable
5 procedures to be prescribed by the Secretary. Individuals
6 serving as arbitrators under this section shall be selected
7 by the Secretary from employees of the Department of
8 Labor or, to the extent considered by the Secretary more
9 cost-effective, from individuals whose services are acquired
10 from other sources. If the parties have not provided by
11 agreement for the costs of the arbitration, including arbi-
12 trator’s fees, the arbitrator shall assess such fees, in an
13 amount for each party not to exceed \$500. The arbitrator
14 shall also award to prevailing participants and bene-
15 ficiaries reasonable attorney’s fees and pre-judgment in-
16 terest on unpaid benefits. The award may require payment
17 of consequential damages.

18 “(3) Any arbitration proceedings under this sub-
19 section shall, to the extent consistent with this title, be
20 conducted in the same manner, subject to the same limita-
21 tions, carried out with the same powers (including sub-
22 pena power), and enforced in the United States courts as
23 an arbitration proceeding carried out under title 9, United
24 States Code, as if such arbitration had been entered into
25 by the parties by mutual agreement. Any arbitration

1 award which is not appealed under paragraph (4) may be
2 reviewed only pursuant to sections 9 through 13 of such
3 title 9.

4 “(4)(A) Upon completion of the arbitration proceed-
5 ings in favor of one of the parties, a party aggrieved by
6 the arbitrator’s award may bring an action in an appro-
7 priate United States district court or State court to vacate
8 or modify the award. Any action under this paragraph
9 must be brought no later than 30 days after the date of
10 the issuance of the arbitrator’s award, and in such action,
11 the findings of fact shall be subject to de novo review.

12 “(B) An action under this section in a United States
13 district court may be brought in the district where the
14 plan is administered or where a plaintiff or defendant re-
15 sides or does business, and process may be served in any
16 district where a plaintiff or defendant resides, does busi-
17 ness, or may be found.

18 “(C) In any action under this paragraph, the court
19 shall award, together with any consequential damages, the
20 costs and expenses incurred in connection with such ac-
21 tion, including reasonable attorney’s fees, to a prevailing
22 participant or beneficiary.

23 “(D) A copy of the complaint in any action under
24 this paragraph shall be served upon the Secretary by cer-

1 tified mail. The Secretary may intervene in any such ac-
 2 tion.”.

3 (b) CONFORMING AMENDMENT.—The item relating
 4 to section 503 in the table of contents in section 1 of such
 5 Act is amended to read as follows:

“Sec. 503. Claims procedure and arbitration of pension claims.”.

6 **SEC. 402. EFFECTIVE DATE.**

7 The amendments made by this title shall apply with
 8 respect to claims arising on or after the date of the enact-
 9 ment of this Act.

10 **TITLE V—ALLOWABLE RELIEF**

11 **SEC. 501. PRE-JUDGMENT INTEREST, ATTORNEY FEES, AND**
 12 **COSTS OF ACTION.**

13 (a) PRE-JUDGMENT INTEREST ON UNPAID BENE-
 14 FITS.—Section 502(a)(1)(B) of the Employee Retirement
 15 Income Security Act of 1974 (29 U.S.C. 1132(a)(1)(B))
 16 is amended by inserting “(together with reasonable pre-
 17 judgment interest on unpaid pension plan benefits)” after
 18 “to recover benefits due to him under the terms of his
 19 plan”.

20 (b) ATTORNEY FEES AND COSTS OF ACTION.—Sec-
 21 tion 502(g) of such Act (29 U.S.C. 1132(g)) is amended—

22 (1) in paragraph (1), by inserting “or (3)”
 23 after “paragraph (2)”; and

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

3 “(3) In any action or settlement proceeding under
4 this title with respect to an employee pension benefit plan
5 brought by a participant or beneficiary under such plan
6 in which the participant or beneficiary prevails or substan-
7 tially prevails, the participant or beneficiary shall be enti-
8 tled to reasonable attorney’s fees, reasonable expert wit-
9 ness fees, and other reasonable costs relating to the ac-
10 tion.”.

11 **SEC. 502. CONSEQUENTIAL DAMAGES.**

12 Section 502(c) of the Employee Retirement Income
13 Security Act of 1974 (29 U.S.C. 1132(c)) is amended by
14 inserting after paragraph (7) (added by section 3(b)(1)
15 of this Act) the following new paragraph:

16 “(8) In any case in which any party consisting of the
17 plan sponsor, the plan administrator, or any other fidu-
18 ciary of a pension plan acts or fails to act so as to deprive
19 a participant or beneficiary of the full and timely payment
20 of a benefit under the plan in violation of the terms of
21 the plan or this title, such party may, in the court’s discre-
22 tion, be jointly and severally liable to such participant or
23 beneficiary, in any action brought under subsection
24 (a)(1)(B), for consequential damages (whether economic

1 or noneconomic) in addition to any other remedy available
 2 to such participant or beneficiary.”.

3 **SEC. 503. EFFECTIVE DATE.**

4 The amendments made by this title shall apply with
 5 respect to causes of action arising on or after the date
 6 of the enactment of this Act.

7 **TITLE VI—ANNUAL REPORTS**

8 **SEC. 601. ANNUAL REPORTS TO PARTICIPANTS AND BENE-**
 9 **FICIARIES IN UNDERSTANDABLE LANGUAGE.**

10 (a) IN GENERAL.—Section 104(b) of the Employee
 11 Retirement Income Security Act of 1974 (29 U.S.C.
 12 1024(b)) is amended to read as follows:

13 “(b)(1) Within 210 days after the close of each plan
 14 year, the administrator shall furnish to each participant,
 15 and to each beneficiary receiving benefits under the plan—

16 “(A) a copy of the statements and schedules,
 17 for such plan, described in subparagraphs (A) and
 18 (B) of section 103(b)(3);

19 “(B) a report containing—

20 “(i) a description of all investments and
 21 assets of the plan, including their value;

22 “(ii) the names and positions of all of the
 23 trustees of the plan, and the time remaining be-
 24 fore the expiration of their term;

1 “(iii) a description of the method of trustee
2 selection;

3 “(iv) a description of any changes in in-
4 vestment policy of the plan during the fiscal
5 year; and

6 “(v) an evaluation of the long-term sol-
7 vency of the plan, including the number of par-
8 ticipants and beneficiaries and a summary of
9 their benefits, and a projection of the amount
10 of benefits expected to be paid for the fifth,
11 tenth, and fifteenth plan year following the date
12 of the publication of the report;

13 “(C) any other material (including the percent-
14 age determined under section 103(d)(11)) as is nec-
15 essary to fairly summarize the latest annual report;
16 and

17 “(D) information on where participants and
18 beneficiary may receive assistance with respect to
19 the plan.

20 Such information shall be written and calculated to be un-
21 derstood by the average plan participant, and shall be suf-
22 ficiently accurate and comprehensive to reasonably apprise
23 such participants and beneficiaries of their rights and obli-
24 gations under the plan.

1 “(2) The administrator shall make copies of the plan
2 description and the latest annual report and the bargain-
3 ing agreement, trust agreement, contract, or other instru-
4 ments under which the plan was established or is operated
5 available for examination by any plan participant or bene-
6 ficiary in the principal office of the administrator and in
7 such other places as may be necessary to make available
8 all pertinent information to all participants (including
9 such places as the Secretary may prescribe by regula-
10 tions).

11 “(3) The administrator shall, upon written request
12 of any participant or beneficiary, furnish a copy of the
13 latest annual report, any terminal report, the bargaining
14 agreement, trust agreement, contract, or other instru-
15 ments under which the plan is established or operated.
16 The administrator may make a reasonable charge to cover
17 the cost of furnishing such complete copies. The Secretary
18 may by regulation prescribe the maximum amount which
19 will constitute a reasonable charge under the preceding
20 sentence.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 101(a) of such Act (29 U.S.C.
23 1021(a)) is amended to read as follows—

24 “SEC. 101. (a) The administrator of each employee
25 benefit plan shall cause to be furnished in accordance with

1 section 104(b) to each participant covered under the plan
2 and to each beneficiary who is receiving benefits under the
3 plan the information described in sections 104(b)(1) and
4 105(a) and (c).”.

5 (2) Section 101(b) of such Act (29 U.S.C.
6 1021(b)) is amended by striking paragraph (1) and
7 redesignating paragraphs (2), (3), (4), and (5), as
8 paragraphs (1), (2), (3), and (4), respectively.

9 (3) Section 102(a)(1) of such Act (29 U.S.C.
10 1022(a)(1)) is amended to read as follows:

11 “SEC. 102. (a)(1) A report shall be furnished to par-
12 ticipants and beneficiaries as provided in section 104(b).”.

13 (4) Section 102(b) of such Act (29 U.S.C.
14 1022(b)) is amended by striking “and summary plan
15 description” and inserting “report”.

16 (5) Section 103(a)(3)(A) of such Act (29
17 U.S.C. 1023 (a)(3)(A)) is amended in the second
18 sentence by striking “104(b)(3)” and inserting
19 “104(b)(1) (A) and (C)”.

20 (6) Section 104(a)(1)(C) of such Act (29
21 U.S.C. 1024(a)(1)(C)) is amended to read as fol-
22 lows:

23 “(C) a copy of the materials required to be fur-
24 nished to participants and beneficiaries pursuant to
25 subsection (b)(1) of this section; and”.

1 **SEC. 602. EFFECTIVE DATE.**

2 The amendments made by this title shall apply with
3 respect to plan years beginning on or after January 1,
4 1999.

