

however, That where an employee is not entitled to such an annuity, payments made pursuant to paragraph (2) may not begin before the month in which the following three conditions are satisfied:

“(A) The employee has completed ten years of service in the railroad industry or, five years of service all of which accrues after December 31, 1995.

“(B) The spouse or former spouse attains age 62.

“(C) The employee attains age 62 (or if deceased, would have attained age 62).

“(ii) Payments made pursuant to paragraph (2) of this subsection shall terminate upon the death of the spouse or former spouse, unless the court document provides for termination at an earlier date. Notwithstanding the language in a court order, that portion of payments made pursuant to paragraph (2) which represents payments computed pursuant to section 3(f)(2) of this Act shall not be paid after the death of the employee.

“(iii) If the employee is not entitled to an annuity under section 2(a)(1) of this Act, payments made pursuant to paragraph (2) of this subsection shall be computed as though the employee were entitled to an annuity.”.

(2) Subsection (d) of section 5 of the Railroad Retirement Act (45 U.S.C. 231d) is repealed.

(b) EFFECTIVE DATES.—

(1) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply with respect to payments due for months after August 2007. If, prior to the effective date of such amendment, payment pursuant to paragraph (2) of section 14(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(b)) was terminated because of the employee's death, payment to the former spouse may be reinstated for months after August 2007.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall take effect upon the date of the enactment of this Act.

**SEC. 12. AMENDMENTS RELATED TO TITLE XI.**

(a) AMENDMENT RELATED TO SECTION 1104.—Section 1104(d)(1) of the 2006 Act is amended by striking “Act” the first place it appears and inserting “section”.

(b) AMENDMENTS RELATED TO SECTION 1105.—Section 3304(a) of the 1986 Code is amended—

(1) in paragraph (15)—

(A) by redesignating clauses (i) and (ii) of subparagraph (A) as subclauses (I) and (II),

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(C) by striking the semicolon at the end of clause (ii) (as so redesignated) and inserting “, and”.

(D) by striking “(15)” and inserting “(15)(A) subject to subparagraph (B).”, and

(E) by adding at the end the following:

“(B) the amount of compensation shall not be reduced on account of any payments of governmental or other pensions, retirement or retired pay, annuity, or other similar payments which are not includible in the gross income of the individual for the taxable year in which it was paid because it was part of a rollover distribution.”; and

(2) by striking the last sentence.

(c) AMENDMENTS RELATED TO SECTION 1106.—Section 3(37)(G) of ERISA is amended by—

(1) striking “paragraph” each place it appears in clauses (ii), (iii), and (v)(I) and inserting “subparagraph”,

(2) striking “subclause (i)(II)” in clause (iii) and inserting “clause (i)(II)”,

(3) striking “subparagraph” in clause (v)(II) and inserting “clause”, and

(4) by striking “section 101(b)(4)” in clause (v)(III) and inserting “section 101(b)(1)”.

**SEC. 13. AMENDMENT RELATED TO TITLE XII.**

Section 408(d)(8)(D) of the 1986 Code is amended by striking “all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72” and inserting “all amounts in all individual retirement plans of the individual were distributed during such taxable year and all such plans were treated as 1 contract for purposes of determining under section 72 the aggregate amount which would have been so includible”.

**SEC. 14. OTHER PROVISIONS.**

(a) AMENDMENTS RELATED TO SECTIONS 102 AND 112.—

(1) AMENDMENT OF ERISA.—The last sentence of section 303(g)(3)(B) of ERISA is amended to read as follows: “Any such averaging shall be adjusted for contributions, distributions, and expected earnings (as determined by the plan's actuary on the basis of an assumed earnings rate specified by the actuary but not in excess of the third segment rate applicable under subsection (h)(2)(C)(iii)), as specified by the Secretary of the Treasury.”.

(2) AMENDMENT OF 1986 CODE.—The last sentence of section 430(g)(3)(B) of the 1986 Code is amended to read as follows: “Any such averaging shall be adjusted for contributions, distributions, and expected earnings (as determined by the plan's actuary on the basis of an assumed earnings rate specified by the actuary but not in excess of the third segment rate applicable under subsection (h)(2)(C)(iii)), as specified by the Secretary.”.

(b) AMENDMENTS RELATED TO SECTION 1004.—

(1) AMENDMENT OF ERISA.—Paragraph (2) of section 205(d) of ERISA is amended by adding at the end the following:

“(C) Notwithstanding subparagraph (B), the applicable percentage is any percentage greater than or equal to 66½ percent but not more than 75 percent if—

“(i) the plan is a defined contribution plan maintained for its employees by an employer which is either exempt from tax under section 501(a) of the Internal Revenue Code of 1986 or aggregated under subsection (b), (c), (m), or (o) of section 414 of such Code with an organization that is exempt from tax under section 501(a) of such Code,

“(ii) the survivor annuity percentage for the plan's qualified joint and survivor annuity is 50 percent, and

“(iii) each participant may elect (subject to the requirements of subsection (a)) an annuity for the life of the participant with a survivor annuity for the life of the spouse which is equal to 100 percent of the amount of the annuity which is payable during the joint lives of the participant and spouse and which is the actuarial equivalent of a single annuity for the life of the participant.”.

(2) AMENDMENT OF 1986 CODE.—Subsection (g) of section 417 of the 1986 Code is amended by adding at the end the following:

“(3) ALTERNATIVE METHOD OF COMPLIANCE.—Notwithstanding paragraph (2), the applicable percentage is any percentage greater than or equal to 66½ percent but not more than 75 percent if—

“(A) the plan is a defined contribution plan maintained for its employees by an employer which is either exempt from tax under section 501(a) or aggregated under subsection (b), (c), (m), or (o) of section 414 with an organization that is exempt from tax under section 501(a),

“(B) the survivor annuity percentage for the plan's qualified joint and survivor annuity is 50 percent, and

“(C) each participant may elect (subject to the requirements of subsection (a)) an annu-

ity for the life of the participant with a survivor annuity for the life of the spouse which is equal to 100 percent of the amount of the annuity which is payable during the joint lives of the participant and spouse and which is the actuarial equivalent of a single annuity for the life of the participant.”.

**SEC. 15. EFFECTIVE DATE.**

Except as otherwise provided in this Act, the amendments made by this Act shall take effect as if included in the provisions of the 2006 Act to which the amendments relate.

**SA 3892.** Mr. REID (for Mr. LAUTENBERG) proposed an amendment to the bill H.R. 3432, to establish the Commission on the Abolition of the Transatlantic Slave Trade; as follows:

On page 15, strike lines 3 through 5.

**NOTICE OF HEARING**

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources. The hearing will be held on Thursday, January 24, 2008, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to receive testimony on Reform of the Mining Law of 1872.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by e-mail to [Gina\\_Weinstock@energy.senate.gov](mailto:Gina_Weinstock@energy.senate.gov).

For further information, please contact Patty Beneke at (202) 224-5451, Angela Becker-Dippman at (202) 224-5269 or Gina Weinstock at (202) 224-5684.

**AUTHORITY FOR COMMITTEES TO MEET**

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WYDEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, December 19, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building, for the purpose of conducting a hearing.

The primary focus of the hearing will be on the Federal Motor Carrier Safety Administration's, FMCSA, interim final rule, IFR, governing truck driver HOS. This IFR is in response to a July 2007 U.S. Court of Appeals decision vacating key aspects of the FMCSA's 2005 HOS rule. The Subcommittee will receive testimony on the IFR and related truck driver fatigue and truck safety matters from the FMCSA, truck safety advocates and the motor carrier industry. Subcommittee Chairman Frank R. Lautenberg will preside.