Calendar No. 503

98TH CONGRESS 1st Session | SENATE | REPORT No. 98-285

# RETIREMENT EQUITY ACT OF 1983

OCTOBER 29 (legislative day, OCTOBER 24), 1983.—Ordered to be printed

Mr. DOLE, from the Committee on Finance, submitted the following

# REPORT

[To accompany H.R. 2769]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (H.R. 2769) to promote economic revitalization and facilitate expansion of economic opportunities in the Caribbean Basin region, having considered the same, reports favorably thereon with an amendment to the text and an amendment to the title and recommends that the bill as amended do pass.

The amendment to the text of the bill is shown in italic.

*House bill*.—The House bill provides for revision of trade and tax-related policy concerning the Caribbean Basin region. The Senate then added its Caribbean Basin Economic Recovery Act provisions to H.R. 2973. The House and the Senate approved amended provisions relating to the Caribbean Basin Economic Recovery Act as title II of H.R. 2973 (Public Law 98-67).

*Committee bill*.—The bill, as amended by the Committee on Finance, deletes the provisions of the House-passed bill and substitutes the provisions of the Retirement Equity Act of 1983, as amended. This Act provides for certain revisions in the treatment of individuals who participate in the paid workforce and participants' spouses who work in the home. Specifically, the Act lowers the maximum pension plan participation age to 21 and the maximum vesting age to 18, creates an exception to the ERISA prohibition against the alienation or assignment of benefits for certain court orders relating to child support, alimony or other marital rights and makes certain other pension and tax law changes.

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## I. SUMMARY

### 1. *Periods of Employee Service Taken into Account Under Pension, Profit-Sharing, and Stock Bonus Plans*

*Maximum age conditions.*—The bill reduces from 25 to 21 the maximum age a pension, profit-sharing, or stock bonus plan can generally require an employee to attain as a condition of becoming a participant in the plan. Additionally, a plan is not permitted to ignore service after age 18 for purposes of determining the vested portion of a participant's benefit.

*Break in service rules.*—The bill provides that, in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive one-year breaks in service are not required to be taken into account after a break in service if the number of consecutive one-year breaks in service equals or exceeds the greater of (1) five years or (2) the aggregate number of years of service before the consecutive breaks in service.

*Maternity and paternity leave.*—The bill provides rules relating to crediting of service for cases where an employee is absent from work because of maternity or paternity. Under the bill, certain hours of absence on account of maternity or paternity (up to 501 hours) are taken into account in determining whether a break in service has occurred under the participation and vesting rules.

### 2. *Joint and Survivor Annuity Requirements*

*Survivor annuity required.*—Under the bill, a pension, etc., plan is generally required to provide a survivor annuity for a participant's surviving spouse if the participant dies before the annuity starting date and (1) has reached the earliest retirement age under the plan and has reached an age that is within 10 years of the normal retirement age under the plan, or (2) the participant has at least ten years of service for vesting purposes and has attained age 45.

*Election.*—The bill provides that the survivor benefit is provided unless benefits in another form were elected. Under the bill, the election not to take a joint and survivor annuity is effective only if made by both the participant and the participant's spouse. The spouse who was married to the participant on the annuity starting date is entitled to the survivor benefit required by the bill unless a qualified domestic relations order provides otherwise.

*Annuity form required.*—The bill requires that all defined benefit pension plans provide benefits in the form of an annuity payable for the life of the participant. The provisions of the bill relating to joint and survivor benefits apply to any pension, etc., plan that provides a life annuity.

### 3. *Notice of Forfeitability of Benefits*

Present law requires that a plan furnish a participant with a statement of benefits under certain circumstances. The bill requires that the statement include a notice that certain benefits may be forfeitable in the event the participant dies before a particular date.

### 4. *Special Rules for Assignment in Divorce Etc., Proceedings*

In the case of certain judgments, decrees, or orders relating to child support, alimony payments, or marital property rights, pursuant to a State domestic relations law (a qualified domestic relations order), the bill clarifies that the Employee Retirement Income Security Act of 1974 does not treat such orders as an assignment or alienation of benefits under the spendthrift provisions. State law providing for the right to such payments is not preempted by Federal law.

The bill requires that a qualified domestic relations order identify the parties involved and provide specific instructions for determining the portion of plan benefits payable to an alternate payee (a spouse, former spouse, or child) under the order. The bill provides procedures to be followed by the plan administrator in determining whether a domestic relations order issued by a court is qualified. The bill requires that benefits under the order be in a form otherwise provided by the plan.

### 5. *Cash Out of Certain Accrued Benefits*

The bill permits a pension, etc., plan to cash out a separated participant's benefit without the participant's consent if the value of the benefit does not exceed $3,500. The limit under present law is $1,750.

### 6. *Effective dates*

The provisions of the bill are generally effective for plan years beginning after December 31, 1984. In the case of a plan maintained on the date of enactment pursuant to one or more collective bargaining agreements between employee representatives and one or more employers, the provisions are effective for plan years beginning on or after the earlier of (1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension agreed to after the date of enactment) or (2) January 1, 1987.

# II. EXPLANATION OF THE BILL

## A. Periods of Employee Service Taken Into Account under Pension, Profit-Sharing, and Stock Bonus Plans (Secs. 102 and 202 of the bill, secs. 410 and 411 of the Code, and secs. 202 and 203 of ERISA)

### *Present Law*

#### *In general*

If a pension, profit-sharing, or stock bonus plan qualifies under the tax law,[1] then (1) a trust under the plan is generally exempt from income tax, (2) employers are generally allowed deductions (within limits) for plan contributions for the year for which the contributions are made even though participants are not taxed on plan benefits until the benefits are distributed, (3) benefits distributed as a lump sum distribution are accorded special long-term capital gain or 10-year income averaging treatment, or may be rolled over, tax-free, to an individual retirement account (IRA) or another qualified plan, and (4) limited estate and gift tax exclusions may be available.

#### *Minimum participation, vesting, and benefit accrual requirements*

##### *In general*

Under a pension, etc., plan, benefits are provided to participants under plan formulas that determine the amount of the benefit a participant may earn, the portion of that benefit that has been earned, and the portion of the earned benefit that is vested or nonforfeitable. Accordingly, plans provide rules for determining whether an employee is a plan participant (the employee participation rules), for measuring benefits (the benefit formula), for determining the portion of the benefit that has been earned (the benefit accrual rules), and for determining the vested percentage of a participant's benefit (the vesting schedule). Even though many people consider a "vested" benefit to be "nonforfeitable" under the plan, in fact, if a joint and survivor benefit is not provided and the participant dies before payment of benefits commence, benefits may not be payable to the surviving spouse.

Under present law, a pension, etc., plan must satisfy certain minimum standards relating to the conditions under which employees may be excluded from plan participation, to the method under which plan benefits are accrued, and to the vesting schedule. The participation standards limit the permissible exclusions based on

[1] Sec. 401(a) of the Code.

the age and period of service completed by an employee.[2] The benefit accrual standards are based upon the number of years of plan participation. The vesting schedule standards are generally based upon the number of years of service with the employer that the employee has completed.

### *Participation*

Under present law,[3] a qualified pension, etc., plan generally may not require an employee to complete more than one year of service or attain an age greater than 25 as a condition of plan participation.[4]

In general, for purposes of the participation requirements, the term "year of service" generally means a consecutive 12-month period during which an employee has worked at least 1,000 hours.[5] The first 12-month period is measured from the date the employee enters service. Accordingly, an employee has fulfilled the year of service requirement if at least 1,000 hours of service are completed by the first anniversary date of employment. Later 12-month periods may be based on the plan year.

### *Vesting*

The rules for plan qualification generally require that a plan meet one of three alternative minimum vesting schedules.[6] Under these schedules, an employee's right to benefits derived from employer contributions vest to varying degrees upon completion of specified periods of service with an employer.[7]

Under one of the minimum schedules, full vesting is required upon completion of 10 years of service (no vesting is required before the end of the 10th year).[8] Under a second schedule, vesting begins at 25 percent after completion of five years of service and increases gradually to 100 percent after completion of 15 years of service.[9] Under these two vesting schedules, all years of service with the employer maintaining the plan after attainment of age 22 generally must be taken into account for purposes of determining an employee's vested percentage. The third schedule takes both age and service into account, but in any event requires 50 percent vesting after 10 years of service and an additional 10 percent vesting for each year thereafter until 100 percent vesting is attained after 15 years of service.[10] Under this schedule, all years of service with the employer (including years of service prior to age 22) must be

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[2] In addition, the Code provides minimum coverage rules for qualified pension, etc., plans. These rules are designed to require that qualified plans provide participation to a minimium percentage or a broad cross-section of employees.

[3] Sec. 410(a) of the Code.

[4] Accordingly, an employee may not generally be excluded from plan participation on the basis of length of service if the employee has completed one year of service and may not generally be excluded on the basis of age if the employee has attained age 25. An employee who has completed one year of service and who has attained age 25 may, however, be excluded from plan participation on other grounds (for example, a plan may be limited to employees within a particular job classification).

[5] Sec. 410(a)(3) of the Code.

[6] Sec. 411(a) of the Code.

[7] An employee's right to benefits derived from employee contributions is immediately nonforfeitable.

[8] Sec. 411(a)(2)(A) of the Code.

[9] Sec. 411(a)(2)(B) of the Code.

[10] Sec. 411(a)(2)(C) of the Code.

taken into account for purposes of determining an employee's vested percentage if, during those years, the employee participated in the plan.

### *Break in service rules*

In general, all years of service with the employer maintaining the plan must be taken into account for purposes of the minimum participation requirements. No credit need be provided, however, for periods during which an employee is considered to have a break in service. In some cases, an employee who returns to an employer after a break in service may lose credit for pre-break service.

A plan may provide that a 1-year break in service occurs in a 12-month measuring period in which the employee does not complete more than 500 hours of service.[11] If an employee has incurred a 1-year break in service, the plan may require a 1-year waiting period before reentry. Upon reentry, the employee's pre-break and post-break service are generally required to be aggregated, and the employee is required to receive full credit for the reentry waiting period service if any part of the employee's benefit derived from employer contributions was vested or if the number of 1-year breaks in service is less than the number of years of service completed before the break.[12] A plan may provide that an employee who completes more than 500 hours of service but fewer than 1000 hours of service has neither a 1-year break in service nor a year of service.

Break in service rules also apply under the vesting rules. The break in service rules applicable in determining the number of years of service taken into account for vesting purposes under a defined benefit plan[13] are similar to the rules applicable for purposes of determining the number of years taken into account for purposes of determining plan participation. A special break in service rule applies for purposes of the vesting rules in the case of a defined contribution plan.[14] Post-break service is not taken into account under such a plan in determining the vested percentage for employer contributions made before the break in service.[15]

### *Benefit accruals*

Present law[16] requires that a participant in a pension, etc., plan accrue (earn) the benefit provided by the plan at certain minimum rates. The accrual rules are designed to limit backloading of benefits. Under a backloaded accrual schedule, a larger portion of the benefit is earned each year in later years of service. Accordingly, under a plan with backloaded accruals, an employee who separates from service before reaching retirement age earns a disproportionately lower share of the benefit.

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[11] Sec. 410(a)(5) of the Code.
[12] Sec. 410(a)(5) of the Code.
[13] Other than certain defined benefit plans funded solely with insurance contracts.
[14] This special rule also applies for certain defined benefit plans funded solely with insurance contracts.
[15] Sec. 411(a)(6)(C) of the Code.
[16] Sec. 411(b) of the Code.

### *Maternity or paternity leave*

For purposes of the minimum participation, vesting, and benefit accrual requirements, a plan is not required to give an employee credit for periods of time during for which the employee is not compensated for maternity or paternity leave. A plan is required to credit up to 501 hours of service, which is sufficient to prevent a break in service, for paid maternity or paternity leave.

## *Reasons for Change*

The committee recognizes that the rules of present law relating to the maximum age conditions and years of service counted for vesting service tend to disadvantage women workers. In addition, the present law break in service rules make it difficult for an individual to take a leave of absence from work on account of the birth or adoption of a child without loss of credit for participation and vesting service under the employer's pension, etc., plan.

## *Explanation of the Provision*

### *Maximum age condition*

The bill would provide that a pension, etc., plan may not require, as a condition of participation, completion of more than one year of service or attainment of an age greater than 21 (whichever occurs later).[17]

Under the bill, a plan would not be permitted to ignore, for purposes of the minimum vesting requirements, an employee's years of service completed after the employee has attained age 18.

### *Break in service rules*

The bill provides that, in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive one year breaks in service are not required to be taken into account after a break in service if the number of consecutive one-year breaks in service equals or exceeds the greater of (1) five years or (2) the aggregate number of years of service before the consecutive breaks in service. As under present law, if any years of service are not required to be taken into account by reason of a period of breaks in service under this rule, then those years of service are not required to be taken into account under this rule if there is a subsequent break in service. This "rule of parity" is applicable only for participation and vesting purposes.

For example, if a nonvested participant with 3 years of service under a plan terminates employment and incurs 4 consecutive 1-year breaks in service, the plan would generally not be permitted to disregard the participant's 3 years of service for either participation or vesting purposes upon the participant's resumption of employment with the employer.

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[17] The bill would not change the special rule permitting a requirement of age 30 under a plan maintained exclusively for the benefit of employees of certain tax exempt educational organizations (sec. 410(a)(1)(B)(ii) of the Code).

This provision does not change any other rules relating to breaks in service. For example, the special rules for defined contribution plans are not affected.

### *Maternity or paternity leave*

Under the bill, for purposes of determining whether a break in service has occurred only for participation and vesting purposes, an individual is deemed to have completed hours of service during certain periods of absence from work. This rule applies to an individual who is absent from work (1) by reason of the birth of a child of the individual, (2) by reason of the adoption of a child by the individual, or (3) for purposes of caring for the child during the period immediately following the birth or adoption. During the period of absence, the individual is treated as having completed eight hours of service for each day of leave (whether or not approved) and the total number of hours of service required to be treated as completed is 501 hours.

The leave of absence to which this rule applies need not be concurrent. Thus, for example, an individual who generally works 40 hours per week could take two weeks of time off because of the birth of a child of the individual, return to work for two weeks, and then take two more weeks of time off for the same reason. Under the rule, the individual is treated as completing 160 hours of service (80 hours for each of the two periods of absence). In addition, the absence can occur prior to the birth of a child so that, for example, a woman, who is unable to work during pregnancy, would be absent from work by reason of the birth of a child. Also, in determining whether an individual is absent from work for purposes of caring for a child immediately following the child's birth, the committee intends that an individual who does not begin the absence until a short period after the child's birth may be treated as satisfying the rule.

The committee intends that an employer may require certification that the leave was taken for the reasons stated above. This certification could include, for example, a statement from a doctor that the leave was taken by reason of the birth of a child of the individual.

## *Effective Date*

The service-counting provisions are effective for plan years beginning after December 31, 1984. In the case of a plan maintained on the date of enactment pursuant to one or more collective bargaining agreements between employee representatives and one or more employers, the provisions are not effective for plan years beginning before the earlier of (1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension agreed to after the date of enactment) or (2) January 1, 1987.

With respect to the maternity or paternity leave provision, if a plan credits hours of service in accordance with the requirements of the provision for plan years beginning after the effective date of the provision for the plan (without regard to whether the plan has been amended), the plan (1) need not be amended to meet the requirements of the provision until the plan is first otherwise amended after the effective date and (2) does not fail to provide definitely determinable benefits (within the meaning of the tax qualification rules for pension plans under the Internal Revenue Code) merely because the plan provides the required credit for maternity or paternity leave not specified in the plan.

## B. Notice of Forfeitability of Benefits (secs. 106 and 206 of the bill, sec. 6057 of the Code, and sec. 105 of ERISA)

### *Present Law*

Under present law, the administrator of a pension, etc., plan is required to furnish to a plan participant a statement indicating the participant's total accrued benefits and nonforfeitable accrued benefits if the participant requests such a statement. A participant is not entitled to more than one statement during any 12-month period. In addition, present law requires a plan administrator to furnish a statement to each plan participant who (1) separates from service during a plan year, (2) is entitled to a vested deferred benefit under the plan, and (3) did not receive retirement benefits under the plan during the year. This statement must contain specified information relating to the benefit.

### *Reasons for Change*

The committee believes that a participant who receives a statement of accrued benefits as required under present law should be informed that benefits may be forfeited if the participant dies prior to a particular date so that participants may make financial arrangements for the retirement security of their spouses.

### *Explanation of Provision*

Under the bill, any statement provided to a plan participant of total accrued benefits and nonforfeitable accrued benefits or any statement provided to a separated plan participant who has a vested deferred benefit must include a notice to the participant that certain benefits may be forfeited if the participant dies before a particular date. The notice that certain benefits may be forfeited if a participant dies before a particular date need not include the amount of the benefits that are forfeitable.

### *Effective Date*

The provision of the bill requiring notice of forfeitability of benefits is effective for plan years beginning after December 31, 1984. In the case of a plan maintained on the date of enactment pursuant to one or more collective bargaining agreements between employee representatives and one or more employers, the provision is not effective for plan years beginning before the earlier of (1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension agreed to after the date of enactment) or (2) January 1, 1987.

## C. Joint and Survivor Annuity Requirements (Secs. 103 and 203 of the bill, sec. 401 of the Code, and secs. 205 and 206 of ERISA)

### *Present Law*

Under present law,[18] if the normal form of benefits under a plan is a life annuity or if a participant elects benefits in the form of a life annuity under a plan and the participant is married for the one year period ending on the date the annuity payments begin, the benefit must be paid in the form of a qualified joint and survivor annuity unless the participant elects an annuity in another form.[19] A joint and survivor annuity provides benefits for the joint lives of the participant and another individual and, after the death of either, provides a benefit for the life of the survivor. Under a qualified joint and survivor annuity, benefits are payable for the joint lives of the participant and the participant's spouse and if the spouse survives the participant, the survivor benefit to the spouse must not be less than one-half of the benefits payable during the joint lives of the couple.

In the case of a participant who is eligible to retire before the normal retirement age under the plan, and who has not retired, the participant must be eligible to elect an early survivor annuity benefit. This benefit is not required to be provided, however, unless the participant affirmatively elects benefits in this form. Thus, under present law, if the plan provides that no benefits will be paid with respect to a participant who dies while still employed but after attaining the plan's early retirement age, the plan need not provide a survivor annuity to the participant's spouse unless the participant, prior to death, had made an affirmative election with respect to the survivor annuity. Moreover, the plan need not make this survivor annuity option available until the time the employee attains the earliest retirement age under the plan or is within 10 years of normal retirement age (whichever is later).

The employee must be afforded a reasonable opportunity to elect not to receive a qualified joint and survivor benefit before benefit payments begin. This election is effective without regard to whether the participant's spouse consents to the election. A plan may provide that any election, or revocation of an election, with respect to joint and survivor benefits is not effective if the participant dies within a period of time (not in excess of two years) after making the election or revocation (except in the case of accidental death if the accident that causes death occurs after the election).

The Internal Revenue Service has issued regulations interpreting the joint and survivor annuity rules to provide that a plan need not provide a survivor annuity to a surviving spouse if the spouse was not married to the participant for at least the one year period before the date of death.[20]

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[18] Sec. 401(a)(11) of the code.

[19] For example, a participant may elect a benefit in the form of a single life annuity. If a single life annuity is elected, benefit payments generally end with the death of the participant.

[20] Treas. Reg. sec. 1.401(a)-11(d)(3).

### *Reasons for Change*

The committee recognizes that surviving spouses of participants in pension, etc., plans often rely on benefits under the plan as a source of retirement income. This reliance (and the amount of the retirement benefit) becomes increasingly significant as the participant and the spouse grow older. Frequently, the conditions of present law that must be met before these survivor benefits are paid produce inequitable results. The committee believes, therefore, that survivor benefits should be provided in those situations in which the participant has attained age 45 and completed 10 years of service with the employer.

In addition, because the committee believes that the spouse should be aware of the choices the participant is making with respect to retirement income on which the spouse may also rely, the bill requires spousal consent when a participant elects not to take a qualified joint and survivor annuity.

### *Explanation of Provision*

*In general*

Under the bill, a plan that provides benefits in the form of a life annuity must provide for the payment of benefits to a qualified participant in the form of a qualified joint and survivor annuity. As under present law, even if a benefit is vested, however, the plan may provide that, unless the special rules requiring survivor benefits under the qualified joint and survivor annuity apply, a participant or any survivor will not in fact receive the benefit if the participant dies before retirement. The qualified joint and survivor annuity requirements apply to any plan that provides for payment of benefits in the form of a life annuity without regard to whether that form is the normal form of benefit under the plan.[21] The bill defines a life annuity as an annuity with respect to which any payment is contingent upon the participant being alive at the time of the payment.

The bill provides that a participant who meets certain requirements is a qualified participant unless there has been an election not to receive a qualified joint and survivor annuity. Such a participant is qualified if the participant (1) while employed has reached the earliest retirement age under the plan and is a participant on or after the first day of the 120th month beginning before the participant attains the plan's normal retirement age, or (2) has attained the age of 45 while employed and has completed at least ten years of service for vesting purposes with the employer or employers maintaining the plan. Under the bill, the earliest retirement age is the earliest date on which, under the plan, the participant could elect to receive retirement benefits.

The bill defines a qualified joint and survivor annuity as an annuity for the life of the participant with a survivor annuity for the life of the spouse that is not less than 50 percent (and not greater than 100 percent) of the amount that is (1) payable during the joint

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[21] Thus, the bill reverses the result in *BBS Associates, Inc., v. Commissioner*, 74 T.C. 118, aff'd., ———.

lives of the participant and the spouse and (2) the actuarial equivalent of a single life annuity for the life of the participant.

A special rule is provided under the bill in the case of a participant who dies before the annuity starting date. In such a case, the bill provides that the payments made to the surviving spouse under the qualified joint and survivor annuity must equal or exceed the actuarial equivalent of certain payments. These payments are determined on the basis of the annuity to which the participant would have been entitled if (1) in the case of a participant who dies after the earliest retirement age, the participant had retired on the day before the participant's death; and (2) in the case of a participant who dies on or before the earliest retirement age, the participant (a) separated from service on the date of death, (b) survived to the earliest retirement age, (c) began receiving a qualified joint and survivor annuity, and (d) died on the day after reaching the earliest retirement age.

The bill provides that a plan may take into account in any equitable manner the increased costs resulting from providing joint and survivor annuity benefits. Consequently, a plan could reduce a participant's benefits to cover the cost of providing the joint and survivor annuity. Alternatively, the plan could subsidize all or part of the cost of such an annuity.

*Limitations on the qualified joint and survivor annuity*

The bill provides that a qualified joint and survivor annuity is not required to be provided by a plan unless the participant and spouse have been married throughout the one-year period ending on the earlier of (1) the participant's annuity starting date (the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or disability) or (2) the date of the participant's death. If a participant dies after the annuity starting date, the spouse to whom the participant was married during the one-year period ending on the annuity starting date is entitled to the survivor annuity under the plan. This rule does not apply, however, if a qualified domestic relations order (see D. below) otherwise provides for the division or payment of the participant's retirement benefits.

If a former spouse of a participant is entitled to receive a portion of the participant's benefit under a qualified domestic relations order, the qualified joint and survivor annuity requirements do not apply unless they are consistent with the order. A plan is not required to provide a qualified joint and survivor annuity to the spouse of a participant's former spouse.

Under the bill, a plan is not permitted to cash-out the survivor benefits without the surviving spouse's consent unless the value of the spouse's nonforfeitable benefit at the time of the cash-out is less than $3,500.

*Election and notice procedures*

The bill requires that each participant be provided with an opportunity to elect not to receive the qualified joint and survivor annuity (and a right to revoke such an election) during an election period. Under the bill, the election period is the period (1) beginning on the earlier of the date on which the participant attains age

42 or the earliest retirement age under the plan and (2) ending on the annuity starting date. Under the bill, an election made before the election period is treated as invalid. For example, if an individual commences participation in a plan at age 50 and the earliest retirement age under the plan is age 60, the election period with respect to such individual begins when the individual commences participation.

Under the bill, the election not to take a qualified joint and survivor annuity is effective only if it is made by the participant and the spouse of the participant in writing (witnessed by a plan representative or a notary public) and the spouse's consent acknowledges the effect of the election. The committee intends that the spouse's acknowledgment may be evidenced by a single sentence on the election form. However, the committee recognizes that certain technical terms such as "qualified joint and survivor annuity" may not be generally understood by participants and their spouses. Accordingly, the committee believes that the consent form should specify that the spouse may not continue to receive benefits under the plan upon the death of the participant if the benefit is taken in a form other than a joint and survivor benefit. Spousal consent is not required, however, if the participant establishes to the satisfaction of a plan representative that the consent required by the spouse may not be obtained because the spouse cannot be located or because of other circumstances that the Secretary may prescribe by regulations.

The consent of a spouse not to take a joint and survivor annuity is effective only with respect to the spouse who signed the consent.

The bill provides that if a plan is required to provide a qualified joint and survivor annuity, the plan is to provide to each participant a written explanation of (1) the terms and conditions of the qualified joint and survivor annuity and (2) the participant's right to make an election (and the effect of the election) not to receive a qualified joint and survivor annuity. This notice is to be provided during the period beginning on the first day of the election period and ending on the 90th day before the participant becomes a qualified participant.

As under present law, a plan does not fail to satisfy the qualified joint and survivor annuity requirements merely because the plan provides that any election or revocation of an election does not take effect if (1) the participant dies within a period not in excess of two years beginning on the date of the election or revocation and (2) the death of the participant is not due to an accident that occurred after the election or revocation.

The opportunity to elect not to receive a qualified joint and survivor annuity need not be provided until a reasonable period before the annuity starting date in the case of a plan under which benefits are not reduced by reason of the payment of benefits in the form of a qualified joint and survivor annuity. Benefits will be considered reduced if the plan requires that a premium be paid as a condition of receiving joint and survivor annuity coverage.

*Reliance*

If a plan in good faith relies on any consent received, or determination made, with respect to any election not to take a qualified joint and survivor annuity, the bill provides that any payment of benefits in accordance with the election discharges the plan's obligations to both the participant and the spouse to the extent of the payment. The committee believes that, in making these determinations, reliance upon the validity of regulations prescribed by the Secretary of the Treasury under the bill should be considered good faith reliance. The bill does not change the rules of ERISA or of the Internal Revenue Code relating to fiduciary standards.

*Defined benefit plans must provide life annuity*

Under the bill, in addition to any other form of benefit payments under the plan, a defined benefit plan is to provide for the payment of benefits in the form of an annuity payable over the life of the participant.

### *Effective Dates*

The qualified joint and survivor annuity provisions are effective for plan years beginning after December 31, 1984. In the case of a plan maintained on the date of enactment pursuant to one or more collective bargaining agreements between employee representatives and one or more employers, the provisions are not effective for plan years beginning before the earlier of (1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension agreed to after the date of enactment) or (2) January 1, 1987.

The joint and survivor annuity provisions apply to any participant (1) the annuity starting date of which did not occur before the applicable effective date for the plan and (2) who on or after that date had at least one hour of service for an employer or employers maintaining the plan.

The provision of the bill requiring defined benefit plans to offer a life annuity does not apply to any defined benefit plan in existence on October 19, 1983, if, on that date, the plan did not provide for the payment of benefits in the form of an annuity over the life of a participant.

Under the bill, a participant who has not separated from service may become a qualified participant on the effective date unless the participant has made an election not to receive a qualified joint and survivor annuity. Such an election would be effective if it meets the requirements of the bill (including the requirement of spousal consent) even though the election was made before the effective date.

## D. Assignment or Alienation of Benefits (Secs. 104 and 204 of the bill, sec. 401 of the Code, and sec. 206 of ERISA)

### *Present Law*

Generally, under present law, benefits under a pension, etc., plan are subject to prohibitions against assignment or alienation (spendthrift provisions). A plan that does not include these required spendthrift provisions is not a qualified plan under the Code, and State law permitting such an assignment or alienation is generally preempted by ERISA. Under present law,[22] certain provisions of ERISA supersede (preempt) State laws relating to pension, etc., plans.

Several cases have arisen in which courts have been required to determine whether the ERISA preemption provision applies to family support obligations (*e.g.*, alimony, separate maintenance, and child support obligations). In some of these cases, the courts have held that ERISA was not intended to preempt State domestic relations law permitting the attachment of vested benefits for the purpose of meeting these obligations.[23] Some courts have held that the ERISA preemption does not prevent application of State law permitting attachment of nonvested benefits for the purpose of meeting family support obligations.[24] There is a divergence of opinion among the courts as to whether ERISA preempts State community property laws insofar as they relate to the rights of a married couple to benefits under a pension, etc., plan.[25]

The IRS has ruled that the spendthrift provisions are not violated when a plan trustee complies with a court order requiring the distribution of benefits of a participant in pay status to the participant's spouse or children in order to meet the participant's alimony or child support obligations.[26] The IRS has not taken any position with respect to this issue in cases in which the participant's benefits are not in pay status.

### *Explanation of Provision*

*In general.*—The bill would clarify the spendthrift provisions of the Internal Revenue Code and of the Employee Retirement Income Security Act of 1974 (ERISA) by providing new rules for the treatment of certain domestic relations orders. The bill would also provide procedures to be followed by a plan administrator and an alternate payee (a child, spouse, or former spouse of a participant) with respect to domestic relations orders.

Under the bill, if a qualified domestic relations order requires the distribution of all or a part of a participant's benefits under a pension, profit-sharing, or stock bonus plan to an alternate payee, then the establishment or the acknowledgment of the alternate payee's right to the benefits is not considered an assignment or alienation of benefits under the plan and is not prohibited by ERISA. Similarly, under the bill, the payment of benefits under such an order is not considered such an assignment or alienation prohibited by ERISA. Because rights established or acknowledged by a qualified domestic relations order, and benefit payments pursuant to such an order, are specifically permitted under the bill, State law providing for these rights and payments under a quali-

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[22] Sec. 514 of ERISA.

[23] *See, e.g., American Telephone and Telegraph Co. v. Merry*, 592 F.2d 118 (2d Cir. 1979); *Cody v. Riecker*, 594 F.2d 314 (2d Cir. 1979).

[24] *See, e.g., Weir v. Weir*, 415 A.2d 638 (1980); *Kikkert v. Kikkert*, 427 A.2d 76 (1981).

[25] In *Stone v. Stone*, 633 F.2d 740 (9th Cir. 1980), the court held that ERISA was not intended to preempt community property laws and that a court order requiring a division of retirement benefits did not violate the anti-assignment provisions. In *Francis v. United Technology Corp.* 458 F.Supp. 84 (N.D. Cal. 1978), however, the court held that ERISA's preemption provision prevents the application of State community property law permitting attachment of plan benefits for family support purposes.

[26] Rev. Rul. 80–27, 1980–1 C.B. 8.

fied domestic relations order will continue to be exempt from Federal preemption under ERISA.

*Determination by plan administrator.*—Under the bill, the administrator of a plan that receives a domestic relations order would be required to determine whether the order is a qualified domestic relations order. If the administrator determines that the order is a qualified domestic relations order, the administrator is required to send a notice of benefit commencement to the alternate payee specified in the order. The notice may be sent to the last address of the alternate payee known to the plan administrator. The bill requires that the determination of the plan administrator as to the qualified status of a domestic relations order is to be made not later than a reasonable time (as determined under regulations prescribed by the Secretary of the Treasury) before benefits are to begin under the order. In addition, the administrator may determine the qualified status of a domestic relations order at other appropriate times selected by the administrator.

*Notice of benefit commencement.*—The bill provides that the notice of benefit commencement (1) is to specify the date on which payment of benefits is scheduled to begin, (2) may request that the alternate payee contact the plan administrator in writing to confirm or correct the name and address of the alternate payee, (3) may request that the alternate payee provide such information with respect to benefit entitlement as the plan could reasonably require the participant to provide, and (4) is to describe the effect of a failure by the alternate payee to timely acknowledge the notice of benefit commencement by providing the required information. Under the bill, the plan administrator may postpone the payment of benefits under the order for the period beginning with the date the notice of benefit commencement is issued, and ending with the earlier of the date the alternate payee acknowledges the notice or the one-year anniversary of the date on which the notice was issued.

Under the bill, if the alternate payee acknowledges the notice within a reasonable time before any benefits payable to the alternate payee are scheduled to be paid, the plan administrator is to pay benefits to the alternate payee in accordance with the order (taking into account any changes of name or address submitted by the alternate payee).

*Required acknowledgment not provided by alternate payee.*—Under the bill, If the alternate payee fails to make the acknowledgment within a reasonable time before payment of benefits is scheduled, the plan administrator may postpone benefit payments under the order. The bill authorizes the plan administrator to postpone benefit payments to the alternate payee under the order until a reasonable time (determined under regulations prescribed by the Secretary of the Treasury) after the required acknowledgment is received. If the acknowledgment is received by the plan administrator within one year after the notice of benefit commencement was issued, then the administrator is to pay benefits to the alternate payee pursuant to the order (including a make-up payment of benefits postponed pending receipt of the acknowledgment).

The bill provides that if the acknowledgment is not received by the plan administrator within one year after the notice of benefit commencement was issued, then the administrator is to pay benefits in accordance with the plan and without regard to the order until the alternate payee reestablishes the right to benefits under the order. Under the bill, if the alternate payee reestablishes the right to benefits after the end of the one-year postponement, then benefits payable under the order after the reestablishment are required to be paid as provided in the order except that the alternate payee would not have the right to any benefit payments made before the expiration of a reasonable time after the reestablishment.

*Nonqualified orders.*—The bill authorizes the Secretary of the Treasury to prescribe regulations establishing procedures to be followed by the plan administrator and other affected parties following a plan administrator's determination that an order received by a plan is not a qualified domestic relations order. The committee expects that these regulations will provide for procedures that are similar to the procedures provided by the bill following the issuance of a notice of benefit commencement by the plan administrator. Accordingly, the procedures could include rules providing for the postponement of benefit payments with respect to a participant identified by a nonqualifying order for up to one year to afford the alternate payee a reasonable opportunity (1) to establish that the order is a qualified order, or (2) to secure such modification of the order as may be necessary for qualification. In addition, the bill authorizes the Secretary of the Treasury to prescribe regulations under which benefits may be paid to the alternate payee or to the participant under an order that does not meet the requirements for qualified status because of technical defects.

*Qualified domestic relations order.*—Under the bill, a domestic relations order is a judgment, decree, or order (including an approval of a property settlement agreement) that (1) relates to providing child support, alimony payments, or marital property rights to a spouse, former spouse, or child of the participant, and (2) is made under a State domestic relations law (without regard to whether the State law is a community property law). The bill provides that a domestic relations order is a qualified domestic relations order if it creates or recognizes the existence of an individual's right to receive all or a portion of the balance to the credit of the participant (which may include accumulated deductible employee contributions) under a plan with respect to a participant, specifies certain required information, and is consistent with certain plan provisions.

Under the bill, an order is not a qualified domestic relations order unless it clearly specifies information identifying the affected parties and their interests. In particular, the bill requires that a qualified order clearly specify (1) the name and address of the participant and of each alternate payee, (2) the amount (or percentage) of the participant's benefits payable to the alternate payee, (3) the number of payments (or the duration of the payments) to which the order applies, and (4) each plan to which the order relates.

Under the bill, a domestic relations order generally does not qualify if it requires the plan to provide a benefit that is not otherwise provided. For example, an order that would require payment to an alternate payee of benefits forfeited by the plan participant would not be a qualified domestic relations order. Under a special rule provided by the bill, however, a qualified order could require benefits to be paid to an alternate payee at a time when benefits are not payable to the participant because the participant has not retired or separated.

The special rule provides that in the case of a participant who has attained the earliest retirement age applicable to the participant under a plan, an order will not fail to be a qualified order merely because it requires a plan to pay benefits to an alternate payee in an amount determined as if the participant had retired at that time. Accordingly, the benefit payable to the alternate payee would not reflect subsequent benefit accruals or vesting by the participant. In the case of such an order, however, the plan could require that the alternate payee make application for the benefit as a condition of benefit commencement. Payment of a benefit to an alternate payee under a pension plan pursuant to a qualified order, with respect to a participant who has not separated from service, would not adversely affect the tax qualification of the plan or of any trust forming a part of the plan.

In addition, the bill requires that, as a condition of qualified status, an order must not require the plan to make payment of benefits in a form other than the form in which benefits would otherwise be payable under the plan. For example, in the case of a plan that provides for the payment of benefits solely in the form of a total distribution, an order providing for the payment of benefits to the alternate payee in a form other than a total distribution would not be a qualified domestic relations order. On the other hand, if the order provided for the payment of benefits in a single sum to the alternate payee, and the order otherwise complied with the requirements for qualification, the order would be a qualified domestic relations order even though the plan could be required to pay benefits in a single sum to the alternate payee and in a single sum to the participant.

Of course, an order that conflicts with a previously issued qualified order is not a qualified order under the bill so long as any conflicting provision of the previous order remains in effect. Under the bill, if a plan provides that benefits payable under a qualified domestic relations order are to be paid in a particular form, then benefits under the plan may be paid in that form or in any other form provided by the plan.

*Reliance.*—The bill provides that if a plan relies in good faith on a determination that an order is a qualified domestic relations order and on a determination of the requirements of the order, then any payment of benefits in accordance with the order is to discharge the plan's obligations to both the participant and the alternate payee, to the extent of the payment. In making these determinations, reliance upon validity of the provisions of regulations prescribed by the Secretary of the Treasury under the bill will be considered good faith reliance. The bill does not change the rules of ERISA or of the Internal Revenue Code relating to fiduciary standards.

*Effect of certain orders on participant's benefits.*—In the case of a qualified domestic relations order that requires the payment of a specific dollar amount of benefits to an alternate payee, compliance with the order may have the effect of limiting the participant's choice of optional benefit forms that would otherwise be available under the plan. For example, before considering the effect of a qualified domestic relations order, a participant might be able to choose among benefit forms that would provide monthly benefits of $75, $100, and $120. If a qualified domestic relations order requires the payment of monthly benefits of $100 to an alternate payee then, under the bill, the participant could not choose the form of benefit that would result in a $75 monthly benefit.

*Effect of certain plan amendments.*—An order may cease to be a qualified order because benefits in excess of the benefits accrued as of the date the order is issued may be reduced as a result of a subsequent plan amendment. For example, if an order specifies the payment of benefits in an optional annuity form that is eliminated by a plan amendment that is applicable to benefits accrued after the amendment is effective, the order would cease to be a qualified order when the amendment is effective and modification of the order would generally be necessary to attain qualified status.

Similarly, benefits otherwise payable under an order may be reduced by an amendment that reduces benefits to be accrued after the amendment is effective. The bill continues prior law under which the accrued benefit of a participant is generally not to be decreased by a plan amendment.[27] Thus, no statutory change was required in order to assure that a qualified domestic relations order cannot be defeated with respect to benefits accrued as of the time the order is issued.

*Treatment under tax qualification rules.*—Under ERISA, and the Internal Revenue Code, the rights of an alternate payee under a qualified domestic relations order are generally the same as the rights of a beneficiary (and not a participant) of a participant under a plan. For purposes of determining the tax qualified status of a pension, etc., plan or the tax exempt status of a trust forming a part of such a plan, the existence of a qualified domestic relations order is generally disregarded. For example, benefits payable under such an order will be considered benefits payable to the participant under the overall limitations on benefits and contributions applicable to tax qualified plans,[28] contributions or benefits provided for a participant will be determined without any reduction because of such an order, and the determination as to whether nonretirement benefits under a plan are incidental to nonretirement benefits will be made as if the benefit payable to the alternate payee were payable to the participant.

*Tax treatment of divorce, etc., distributions.*—The bill provides rules for determining the tax treatment of benefits subject to a qualified domestic relations order. Under the bill, net employee contributions (together with other amounts treated as the participant's investment in the contract providing benefits) would be ap-

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[27] A plan amendment that has the effect of eliminating or reducing a subsidy, or an early retirement benefit, or eliminating an optional form of benefit payable with respect to benefits accrued before the plan amendment, or that otherwise has the effect of reducing the value of benefits accrued before the plan amendment would violate the prohibition of sec. 411(d)(6) of the Internal Revenue Code against the reduction of accrued benefits by plan amendments (unless the amendment meets the special requirements of section 412(c)(8) of the Code or sec. 4281 of ERISA) (Rev. Rul. 81-12, 1981-1 C.B. 228).

[28] Sec. 415 of the Internal Revenue Code.

portioned between the participant and the alternate payee under regulations prescribed by the Secretary of the Treasury. The apportionment is to be made pro rata, on the basis of the present value of all benefits of the participant under the plan and the present value of all benefits of the alternate payee under the plan (as alternate payee with respect to the participant under a qualified domestic relations order).

The bill provides that the interest of the alternate payee is not taken into account in determining whether a distribution to the participant is a lump sum distribution. Under the bill, benefits distributed to an alternate payee under a qualified domestic relations order can be rolled over, tax free, to an individual retirement account or to an individual retirement annuity. The usual income tax rules would apply to benefits not rolled over. Accordingly, the special rules for lump sum distributions from qualified pension, etc., plans would not apply to benefits distributed to an alternate payee.

*Effective dates*

The provisions of the bill relating to assignments in divorce, etc., proceedings generally apply after December 31, 1984. Under the bill, the plan administrator may choose to treat a domestic relations order that was issued on or before that date as if it were a qualified domestic relations order even though the order does not satisfy the requirements for qualification.

In the case of a plan that is maintained on the date of enactment as a collectively bargained plan, the provisions of the bill relating to assignments in divorce, etc., do not apply to plan years beginning before the earlier of (1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment), or (2) January 1, 1987. For this purpose, any plan amendment made pursuant to a collective bargaining agreement relating to a plan that amends the plan solely to conform to any requirement of the bill is not to be treated as a termination of the collective bargaining agreement.

The provisions of the bill relating to the tax treatment of benefits payable under a qualified domestic relations order apply for taxable years ending after December 31, 1984.

### E. Cash Out Of Certain Accrued Benefits (Secs. 105 and 205 of the bill, sec. 411 of the Code, and sec. 204 of ERISA)

*Present Law*

Under present law,[29] in the case of an employee whose plan participation terminates, a pension, etc., plan may involuntarily "cash out" the benefit (*i.e.*, pay out the balance to the credit of a plan participant without the participant's consent) if the present value of the benefit does not exceed $1,750. If a benefit is cashed-out under this rule and the participant subsequently returns to employment covered by the plan, then service taken into account in computing benefits payable under the plan after the return need

[29] Sec. 411(a)(7)(B) of the Code.

not include service with respect to which benefits were cashed out unless the employee "buys back" the benefit.

Generally, a cash-out distribution from a qualified pension, etc., plan can be rolled over, tax free, to an IRA or to another qualified plan.

### *Reasons for Change*

The committee believes that the limit on involuntary cash-outs should be raised to $3,500 in recognition of the effects of inflation on the value of small benefits payable under a pension, etc., plan.

### *Explanation of Provision*

The bill would increase the limit on cash-outs without the participant's consent to $3,500 from $1,750.

### *Effective Date*

The cash-out provision is effective for plan years beginning after December 31, 1984. In the case of a plan maintained on the date of enactment pursuant to one or more collective bargaining agreements between employee representatives and one or more employers, the provision is not effective for plan years beginning before the earlier of (1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension agreed to after the date of enactment) or (2) January 1, 1987.

## III. BUDGET EFFECTS AND VOTE OF THE COMMITTEE

### *Budget Effects*

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the budget effects of H.R. 2769, as reported.

The revenue provisions of the bill involving statutory changes are estimated to reduce budget receipts by a negligible amount in fiscal year 1984, $36 million in fiscal year 1985, and $75 million in fiscal year 1986. Thus, the total revenue lost during the first three fiscal years, 1984 through 1986, equals $111 million.

The table below provides detailed estimates for the tax provisions of the bill for fiscal years 1984-1988.

ESTIMATED REVENUE EFFECTS OF TAX PROVISIONS OF H.R. 2769, AS REPORTED BY THE SENATE FINANCE COMMITTEE, FISCAL YEARS 1984–88

[Millions of dollars]

| Provision | 1984 | 1985 | 1986 | 1987 | 1988 |
|---|---|---|---|---|---|
| 1. Lower minimum participation age in pension plans to 21 years | ([2]) | −36 | −59 | −75 | −82 |
| 2. Years of service after age 18 counted for vesting under pension plans | ([2]) | ([2]) | ([1]) | ([1]) | ([1]) |
| 3. Rule of parity applied only if break in service exceeds 5 years | ([2]) | ([2]) | ([2]) | ([2]) | ([2]) |
| 4. Maternity or paternity leave not treated as break in service | ([2]) | ([2]) | ([3]) | ([3]) | ([3]) |
| 5. Joint and survivor annuity requirements for retirement plans | ([2]) | ([3]) | ([1]) | ([1]) | ([1]) |
| 6. Defined benefit plans must provide life annuity | ([2]) | ([2]) | ([2]) | ([2]) | ([2]) |
| 7. Assignment of benefits under retirement plans in divorce proceedings | ([2]) | ([2]) | ([3]) | ([3]) | ([3]) |
| 8. Involuntary cashout raised from $1,750 to $3,500 | ([4]) | ([4]) | ([4]) | ([4]) | ([4]) |
| Total, tax provisions [5] | ([2]) | −36 | −75 | −91 | −98 |

[1] Loss of less than $10 million.
[2] Negligible loss.
[3] Loss of less than $5 million.
[4] Negligible gain.
[5] For the purpose of arriving at totals, estimates appearing as footnotes are assigned the following values: Negligible equals zero; loss of less than $5 million equals −$3 million; loss of less than $10 million equals −$5 million.

The Treasury Department agrees with this statement.

*Vote of the Committee*

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote of the committee on the motion to report the bill. H.R. 2769, as amended, was ordered favorably reported by a roll call vote of 18 yeas, 0 nays, and 1 "present."

## IV. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

### Regulatory Impact

Pursuant to paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of H.R. 2769, as reported.

*Numbers of individuals and businesses who would be regulated*

The bill does not involve new or expanded regulation of individuals or businesses.

*Economic impact of regulation on individuals, consumers, and business*

The bill provides modifications to the treatment of pension plan rules as they affect spouses, and lowers the maximum plan participation age to 21 and the maximum vesting age to 18.

*Impact on personal privacy*

The bill generally does not relate to the personal privacy of individuals. The bill does create an exception to the ERISA prohibition against the alienation or assignment of benefits for certain court orders relating to child support, alimony or other material property rights.

*Determination of the amount of paperwork*

The bill will involve some additional paperwork for taxpayers, but the bill generally involves modifications of existing required recordkeeping relating to pension plans.

### Other Matters

*Consultation with Congressional Budget Office on budget estimates*

In accordance with section 403 of the Budget Act, the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates of the tax provisions of the bill (as shown in Part III of this report) and agrees with the methodology used and the committee's budget estimates. The Director submitted the following statement.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., October 28, 1983.*

Hon. ROBERT DOLE,
*Chairman, Committee on Finance,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In accordance with Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2769, The Retirement Equity Act of 1983, as ordered reported by the Committee on Finance. The bill contains provisions designed to ensure equitable pension treatment both for women who work outside the home and for women who are not employed in the paid work force.

The bill does not provide for any new or increased budget authority, nor does it create any new tax expenditures.

CBO has reviewed and concurs with estimates of the bill's revenue impact prepared by the staff of the Joint Committee on Taxation, H.R. 2769 would decrease fiscal year revenues by a negligible amount in 1984, $36 million in 1985, $75 million in 1986, $91 million in 1987, and $98 million in 1988.

Sincerely,

RUDOLPH G. PENNER.

### *New budget authority*

In compliance with section 308(a)(1) of the Budget Act, and after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by the bill involve no new budget authority.

### *Tax expenditures*

In compliance with section 308(a)(2) of the Budget Act with respect to tax expenditures, and after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by the bill as amended will involve increased tax expenditures of the amounts of revenue losses for fiscal years 1984-88 shown in the table above (in Part III) of this report.

## V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of Rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the provisions of H.R. 2769, as reported by the committee).

O