County Historical Society, National Capital Democratic Club and the Cathlamet Commercial Club.

Mrs. Hansen was formerly manager of the Wahkiakum County Abstract Co. and G. Henry Hanigan Insurance Co. in Cathlamet. She also served as office assistant in the Wahkiakum County Engineer's Office.

Rep. Hansen is well known as a creative writer. She is the author of the prize-winning Northwest historical juvenile novel, "Singing Paddles," published by Sutton House, Henry Holt Co. and Binfords and Mort. She also has written a historical play, "Birnie's Retreat," which has been performed by local casts in Cathlamet and will be presented through the American Revolution Bicentennial celebrations in 1976.

She is a graduate of the University of Washington, working to earn her way through the university.

Mrs. Hansen's maternal ancestors founded Groton, Mass., in 1634 and her paternal ancestors helped Daniel Boone settle Kentucky.

Her family moved to Washington Territory in 1877, settling first in Tumwater before moving to Cathlamet in 1882. Her father, former Wahkiakum County sheriff, was a Spanish American War veteran with the Second Oregon Volunteers. Her mother, a teacher, was Wahkiakum County school superintendent and was named Washington State Mother of the Year in 1960.

Mrs. Hansen's husband, Henry A. Hansen, is a retired logger and a native of Cathlamet. They have one son, David, and a new granddaughter. Mrs. Hansen's brother, Dr. James Butler, is on the faculty of the Department of Drama at the University of Southern California after serving several years as chairman of the department. He is author of several books on the history of drama.

## THE DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2705, with the understanding that there will be no further action on this bill today.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 2705) to provide for the disposition of abandoned money orders and traveler's checks.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the bill.

Mr. JAVITS. Mr. President, is there any unanimous-consent request pending?

The PRESIDING OFFICER. There is no unanimous-consent request pending.

## ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR MANSFIELD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the distinguished senior Senator from Delaware (Mr. ROTH) has been recognized, the distinguished majority leader be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW AND FOR CONSIDERATION OF S. 2705

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the distinguished majority leader has been recognized, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes, and that thereafter the Senate proceed to the consideration of S. 2705, a bill to provide for the disposition of abandoned money orders and traveler's checks.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at the hour of 12 noon.

After the two leaders or their designees have been recognized under the standing order, the distinguished junior Senator from Delaware (Mr. BIDEN) will be recognized for not to exceed 15 minutes.

The distinguished senior Senator from Delaware (Mr. ROTH) will then be recognized for not to exceed 15 minutes.

Following the recognition of the senior Senator from Delaware, the distinguished majority leader (Mr. MANSFIELD) will be recognized for not to exceed 15 minutes.

There will then be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes.

Upon the conclusion of the transaction of routine morning business, the Senate will resume the consideration of S. 2705, a bill to provide for the disposition of abandoned money orders and traveler's checks. Yea-and-nay votes are expected to occur thereon.

## ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:57 p.m. the Senate adjourned until tomorrow, Wednesday, February 27, 1974, at 12 o'clock noon.

# HOUSE OF REPRESENTATIVES—*Tuesday, February 26, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Be not conformed to this world, but be ye transformed by the renewing of your mind, that ye may prove what is that good, and acceptable, and perfect will of God.*—Romans 12: 2.

O God and Father of Mankind, in whose will is our peace, in whose love is our life, and in whose service is our joy, send us forth into the demanding duties of these decisive days determined to be loyal to the royal within ourselves and ready to respond wholeheartedly to the call "to be true for there are those who trust us, to be pure for there are those who care, to be strong for there is much to suffer, and to be brave for there is much to dare."

In these critical times when our decisions mean so much to our Nation, save us from thinking too highly of ourselves and help us to live soberly, thinking clearly, speaking carefully, and acting courageously.

Keep us ever mindful of the grand traditions wherein we stand and the great cloud of witnesses which daily surround us in this historic Chamber. Give to us now an unwavering faith in the power of our presence, in the future of our freedom, and in Thy providential care which protects us and provides for us always and all the way.

In the spirit of Him who is the Lord of Life we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2394. An act to authorize the acquisition of certain lands for addition to Rocky Mountain National Park in the State of Colorado, and for other purposes; and

S. Con. Res. 70. Concurrent resolution relating to supply of wheat for domestic consumption during the remainder of the 1973–74 marketing year.

The message also announced that the Vice President, pursuant to Public Law

86-420, appointed Mr. MANSFIELD, Mr. HUMPHREY, Mr. MONTOYA, Mr. CHILES, Mr. NUNN, Mr. BIDEN, Mr. HUDDLESTON, Mr. AIKEN, Mr. JAVITS, Mr. PERCY, Mr. FANNIN, and Mr. DOMENICI to the Mexico-United States Interparliamentary Conference to be held at Washington, D.C., May 13 to 18, 1974.

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## CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 41]

| | | |
|---|---|---|
| Andrews, N.C. | Gubser | Price, Tex. |
| Badillo | Hébert | Quie |
| Blackburn | Heckler, Mass. | Reid |
| Blatnik | Heinz | Roberts |
| Brasco | Hogan | Rooney, N.Y. |
| Brown, Calif. | Holifield | Rostenkowski |
| Carey, N.Y. | Howard | Ryan |
| Carney, Ohio | Jones, Tenn. | Seiberling |
| Chamberlain | Kluczynski | Shipley |
| Chisholm | Litton | Shoup |
| Clark | McEwen | Stephens |
| Clausen, Don H. | Maraziti | Stubblefield |
| | Meeds | Sullivan |
| Clawson, Del | Mills | Teague |
| Clay | Mink | Vander Jagt |
| Conyers | Minshall, Ohio | Vander Veen |
| Crane | Mosher | Veysey |
| Davis, Ga. | Moss | Ware |
| Diggs | Murphy, N.Y. | Wiggins |
| Drinan | Nichols | Wilson, Charles, Tex. |
| Eshleman | Peyser | |
| Fraser | Pike | Wright |
| Frelinghuysen | Powell, Ohio | |
| Gray | Preyer | |

The SPEAKER. On this rollcall 363 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

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## CONFERENCE REPORT ON S. 386, AMENDING THE URBAN MASS TRANSPORTATION ACT OF 1964

Mr. PATMAN submitted the following conference report and statement on the bill (S. 386) to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93-813)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 386) to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Emergency Urban Mass Transportation Assistance Act of 1974".

### TITLE I—EMERGENCY COMMUTER RELIEF

#### FINDINGS

SEC. 101. The Congress finds—

(1) that over 70 per centum of the Nation's population lives in urban areas;

(2) that transportation is the lifeblood of an urbanized society and the health and welfare of that society depends upon the provision of efficient economical and convenient transportation within and between its urban areas;

(3) that for many years the mass transportation industry satisfied the transportation needs of the urban areas of the country capably and profitably;

(4) that in recent years the maintenance of even minimal mass transportation service in urban areas has become so financially burdensome as to threaten the continuation of this essential public service;

(5) that the termination of such service or the continued increase in its cost to the user is undesirable, and may have a particularly serious adverse effect upon the welfare of a substantial number of lower income persons;

(6) that some urban areas are now engaged in developing preliminary plans for, or are actually carrying out, comprehensive projects to revitalize their mass transportation operations; and

(7) that immediate substantial Federal assistance is needed to enable many mass transportation systems to continue to provide vital service.

#### URBAN MASS TRANSIT PROGRAM; ASSISTANCE TO MEET OPERATING EXPENSES

SEC. 102. (a) The Urban Mass Transportation Act of 1964 is amended by striking out section 5 and inserting in lieu thereof the following new section:

"URBAN MASS TRANSIT PROGRAM

"SEC. 5. (a) As used in this section—

"(1) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of facilities and equipment for use in mass transportation, including designing, engineering, locating, surveying, mapping, acquisition of rights-of-way, relocation assistance, and acquisition and replacement of housing sites;

"(2) the term 'Governor' means the Governor, or his designate, of any one of the fifty States or of Puerto Rico, and the Mayor of the District of Columbia; and

"(3) the term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in the case of any such area, encompass the entire urbanized area within the State as designated by the Bureau of the Census.

"(b) (1) Upon the enactment of the Emergency Urban Mass Transportation Assistance Act of 1974, the Secretary under regulations appropriate thereto shall apportion the sums authorized by subsection (c) for apportionment in the fiscal years 1974 and 1975 to urbanized areas in various States on the basis of a formula under which each urbanized area or part thereof will be entitled to receive an amount equal to the sum of—

"(A) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all the urbanized areas in all the States as shown by the latest available Federal census;

"(B) one-fourth of such total amount multiplied by the ratio which the total number of revenue passengers carried by mass transportation systems in such urbanized area or part thereof bears to the total number of such passengers carried by mass transportation systems in all the urbanized areas in all the States; and

"(C) one-fourth of such total amount multiplied by the ratio which the total mass transportation vehicle miles traveled in such urbanized area or part thereof bears to the total mass transportation vehicle miles traveled in all the urbanized areas in all the States.

"(2) In any urbanized area in which at least 75 per centum of the population is served by a public transit authority or by a local public body providing transit services, a designated recipient of the urbanized area shall receive the funds apportioned under paragraph (1). The Secretary, after consultation with the transit authority or the local public body providing such services, and with other State and local public bodies providing financial support to the transit authority or public body, shall designate such recipient.

"(3) Where a recipient is not designated under paragraph (2), funds apportioned for use in any urbanized area shall be made available to the Governor of the State in which such area or part thereof is located for use in such area or part thereof, for expenditure on project development or distribution to a public transit authority or local public body providing transit services in accordance with subsection (l) and in cooperation with appropriate local officials, including the chief elected officials of general units of local government within such urbanized area or part thereof.

"(c) (1) Sums apportioned to the designated recipient of any urbanized area or to the Governor under subsection (b) shall be available for obligation by the recipient or the Governor for a period of two years after the close of the fiscal year for which such sums are apportioned, and any amounts so apportioned remaining unobligated at the end of such period shall lapse and shall be returned to the Treasury for deposit as miscellaneous receipts.

"(2) To finance grants under this section the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregated not to exceed $800,000,000.

"(d) (1) The Secretary may approve as a project under this section, on such terms and conditions as he may prescribe, (A) the acquisition, construction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service, and (B) the payment of operating expenses to improve or to continue such service.

"(2) The Secretary shall issue such regulations as he deems necessary to administer this subsection and subsection (e), including regulations regarding maintenance of effort by States, local governments, and local public bodies, the appropriate definition of operating expenses, and requirements for improving the efficiency of transit services.

"(e) The Federal share payable on account of any project financed with funds made available under this section shall not exceed 80 per centum of the cost of the project. The remainder of the cost of the project shall be provided from sources other than Federal funds. Federal funds available for expenditure for mass transportation projects under this section shall be supplementary to and not in substitution for the average amount of State and local government funds and other revenues expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made available; but nothing in this sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary) toward the non-Federal share of the cost of the project for purposes of the preceding sentence.

"(f)(1) As soon as practicable after the apportionment pursuant to subsection (b) has been made for any fiscal year, any applicant desiring to avail himself of the benefits of this section shall submit to the Secretary for his approval a program, or programs, of proposed projects for the utilization of the funds authorized. The Secretary shall act upon programs submitted to him as soon as practicable, and he may approve a program in whole or in part.

"(2) An applicant for assistance under this section (other than a Governor) shall submit the program or programs to the Governor of the State affected, concurrently with submission to the Secretary. If within 30 days thereafter the Governor submits comments to the Secretary, the Secretary shall consider such comments before taking final action on the program or programs.

"(g)(1) The Governor or the designated recipient of the urbanized area shall submit to the Secretary for his approval such surveys, plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and estimates as soon as practicable after they are submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto.

"(2) In approving the plans, specifications, and estimates for any proposed project under this section, the Secretary shall assure that possible adverse economic, social, and environmental effects relating to the proposed project have been fully considered in developing the project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe, and efficient transportation, public services, and conservation of environment and natural resources, and the costs of eliminating or minimizing any such adverse effects, including—

"(A) air, noise, and water pollution;

"(B) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion, and the availability of public facilities and services;

"(C) adverse employment effects, and tax and property value losses;

"(D) injurious displacement of people, businesses, and farms; and

"(E) disruption of desirable community and regional growth.

"(h) Upon submission for approval of a proposed project under this section, the Governor or the designated recipient of the urbanized area shall certify to the Secretary that he or it has conducted public hearings (or has afforded the opportunity for such hearings) and that these hearings included (or were scheduled to include) consideration of the economic and social effects of such project, its impact on the environment, including requirements under the Clean Air Act, the Federal Water Pollution Control Act, and other applicable Federal environmental statutes, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Such certification shall be accompanied by (1) a report which indicates the consideration given to the economic, social, environmental, and other effects of the proposed project, including, for construction projects, the effects of its location or design, and the consideration given to the various alternatives which were raised during the hearing or which were otherwise considered, and (2) upon the Secretary's request, a copy of the transcript of the hearings.

"(i)(1) The Secretary may discharge any of his responsibilities under this section with respect to a project under this section upon the request of any Governor or designated recipient of the urbanized area by accepting a certification by the Governor or his designee, or by the designated recipient of the urbanized area, if he finds that such project will be carried out in accordance with State laws, regulations, directives, and standards establishing requirements at least equivalent to those contained in, or issued pursuant to, this section.

"(2) The Secretary shall make a final inspection or review of each such project upon its completion and shall require an adequate report of its estimated and actual cost, as well as such other information as he determines to be necessary.

"(3) The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this subsection.

"(4) Acceptance by the Secretary of a certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do so.

"(5) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d) et seq.), title VIII of the Act of April 11, 1968 (Public Law 90-284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(j)(1) As soon as practicable after the plans, specifications, and estimates for a specific project under this section have been approved, the Secretary shall enter into a formal project agreement with the Governor or designated recipient of the urbanized area. Such project agreement shall make provision for non-Federal funds required for the State's or designated recipient's pro rata share of the cost of the project.

"(2) The Secretary may rely upon representations made by the applicant with respect to the arrangements or agreements made by the Governor or the designated recipient where a part of the project involved is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

"(k)(1) The Secretary may in his discretion, from time to time as the work progresses, make payments to the applicants for costs of construction incurred by him or it on a project. Such payments shall at no time exceed the Federal share of the costs of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project. Such payments may also be made in the case of any such materials not in the vicinity of such construction if the Secretary determines that because of required fabrication at an offsite location the materials cannot be stockpiled in such vicinity.

"(2) After completion of a project in accordance with the plans and specifications, and approval of the final voucher by the Secretary, an applicant shall be entitled to payment out of the sums apportioned to him of the unpaid balance of the Federal share payable on account of such project.

"(3) No payment shall be made under this section except for a project covered by a project agreement.

"(4) In making payments pursuant to this section, the Secretary shall be bound by the limitations with respect to the permissible amounts of such payments contained in subsection (e).

"(5) Such payments shall be made to such official or officials or depository as may be designated by the Governor or designated recipient of the urbanized area and authorized under the laws of the State to receive public funds of the State.

"(l) The Secretary shall not approve any project under this section unless he finds that such project is needed to carry out a program, meeting criteria established by him, for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area, and is necessary for the sound, economic, and desirable development of such area. A project under this section may not be undertaken unless the responsible public officials of the urbanized area in which the project is located have been consulted and, except for projects solely to pay operating expenses, their views considered with respect to the corridor, location, and design of the project.

"(m) The Secretary shall not approve any project under this section unless the applicant agrees and gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours for transportation utilizing or involving the facilities and equipment of the project financed with assistance under this section will not exceed one-half of the rates generally applicable to other persons, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise.

"(n)(1) The provisions of section 13(c) and section 3(e)(4) shall apply in carrying out mass transportation projects under this section.

"(2) The provision of assistance under this section shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable."

(b) Section 4(a) of such Act is amended by striking out "Except as specified in section 5, no" and inserting in lieu thereof "No".

INCREASE IN BASIC ASSISTANCE AUTHORITY

SEC. 103. (a) The third sentence of section 4(c) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out all that follows "which amount may be increased"; and

(2) by inserting in lieu thereof "to not to exceed an aggregate of $310,000,000 prior to July 1, 1972, not to exceed an aggregate of $1,000,000,000 prior to July 1, 1973, not to exceed an aggregate of $2,000,000,000 prior to July 1, 1974, not to exceed an aggregate of $3,000,000,000 prior to July 1, 1975, not to exceed an aggregate of $4,500,000,000 prior to July 1, 1976, not to exceed an aggregate of $5,500,000,000 prior to July 1, 1977, and not to exceed an aggregate of $6,100,000,000 thereafter."

(b) The first sentence of section 4(c) of such Act is amended by inserting immediately before the period at the end thereof the following: "to the extent that such amounts are or were appropriated to finance such grants and loans and have not been reserved or made available for any other purpose."

(c) The fourth sentence of section 4(c) of such Act is amended by inserting after "Act" the following: "(to the extent that such amounts are or were appropriated to finance the grants and loans described in the first sentence of this subsection and have not been reserved or made available for any other purpose)".

PROHIBITION AGAINST CHARGING OF EXTRA FARES ON ASSISTED TRANSIT FACILITIES

SEC. 104. Section 5 of the Urban Mass Transportation Act of 1964 (as added by section 102(a) of this Act) is amended by adding at the end thereof the following new subsection:

"(o) No financial assistance shall be provided under this section to any designated recipient or Governor unless the applicant agrees and gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged for transportation utilizing or involving the facilities and equipment financed with such assistance will be uniform (subject to any reasonable charges which may be made for transfers), and will not vary on the basis of length of route or distance traveled except in accordance with a zone system or other uniform system which is in effect throughout the area served by such facilities and equipment, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise."

ELIGIBILITY OF QUASI-PUBLIC DEVELOPMENT CORPORATIONS

SEC. 105. (a) The first sentence of section 3(a) of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" after "financing", and by inserting before the period at the end thereof the following: ", and (2) the establishment and organization of public or quasi-public transit corridor development corporations or entities".

(b) The second sentence of section 3(a) of such Act is amended to read as follows: "Eligible facilities and equipment may include personal property including buses and other rolling stock and real property including land (but not public highways), within the entire zone affected by the construction and operation of transit improvements, including station sites, needed for an efficient and coordinated mass transportation system which is compatible with socially, economically, and environmentally sound patterns of land use."

COORDINATION OF URBAN MASS TRANSIT PROGRAMS WITH MODEL CITIES PROGRAMS

SEC. 106. Section 103(a) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) any program which includes a transportation component as a project or activity to be undertaken meets the requirements of section 3(e) of the Urban Mass Transportation Act of 1964;".

PROCUREMENT

SEC. 107. The fifth sentence of section 3(a) of the Urban Mass Transportation Act of 1964 is amended by inserting before the period at the end thereof the following: ", nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications".

STUDY OF RURAL TRANSPORTATION NEEDS

SEC. 108. The Secretary of Transportation shall conduct a full and complete study and investigation of the public transportation needs of rural and other nonurban areas in the United States, giving particular attention to the needs of cities, towns, and other political subdivisions (outside urban areas) having a population of 50,000 or less, and of any changes in the Federal law which would be required in order to meet such needs. The Secretary shall report his findings and recommendations to the Congress within one year after the date of the enactment of this Act.

INVESTIGATION OF SAFETY HAZARDS IN URBAN MASS TRANSPORTATION SYSTEMS

SEC. 109. The Secretary of Transportation shall investigate unsafe conditions in any facility, equipment, or manner of operation financed under this Act which creates a serious hazard of death or injury for the purpose of determining its nature and extent and the means which might best be employed to eliminate or correct it. If the Secretary determines that such facility, equipment, or manner of operation is unsafe, he shall require the State or local public body or agency to submit to the Secretary a plan for correcting the unsafe facility, equipment, or manner of operation, and the Secretary may withhold further financial assistance to the applicant until such plan is approved or implemented.

FARES FOR ELDERLY AND HANDICAPPED PERSONS

SEC. 110. Nothing contained in this title shall require the charging of fares to elderly and handicapped persons.

TITLE II—FARE-FREE MASS TRANSPORTATION DEMONSTRATIONS

SEC. 201. The Secretary of Transportation (hereinafter referred to as the "Secretary") shall enter into such contracts or other arrangements as may be necessary for research and the development, establishment, and operation of demonstration projects to determine the feasibility of fare-free urban mass transportation systems.

SEC. 202. Federal grants or payments for the purpose of assisting such projects shall cover not to exceed 80 per centum of the cost of the project involved, including operating costs and the amortization of capital costs for any fiscal year for which such contract or other arrangement is in effect.

SEC. 203. The Secretary shall select cities or metropolitan areas for such projects in accordance with the following:

(1) to the extent practicable, such cities or metropolitan areas shall have a failing or nonexistent or marginally profitable transit system, a decaying central city, automobile-caused air pollution problems, and an immobile central city population;

(2) several projects should be selected from cities or metropolitan areas of differing sizes and populations;

(3) a high level of innovative service must be provided including the provision of crosstown and other transportation service to the extent necessary for central city residents and others to reach employment, shopping, and recreation; and

(4) to the extent practicable, projects utilizing different modes of mass transportation shall be approved.

SEC. 204. The Secretary shall study fare-free systems assisted pursuant to this title, and other financially assisted urban mass transportation systems providing reduced fares for the purpose of determining the following:

(1) the effects of such systems on (i) vehicle traffic and attendant air pollution, congestion, and noise, (ii) the mobility of urban residents, and (iii) the economic viability of central city business;

(2) the mode of mass transportation that can best meet the desired objectives;

(3) the extent to which frivolous ridership increases as a result of reduced fare or fare-free systems;

(4) the extent to which the need for urban highways might be reduced as a result of reduced fare or fare-free systems; and

(5) the best means of financing reduced fare or fare-free transportation on a continuing basis.

SEC. 205. The Secretary shall make annual reports to the Congress on the information gathered pursuant to section 204 of this title and shall make a final report of his findings, including any recommendations he might have to implement such findings, not later than June 30, 1975.

SEC. 206. In carrying out the provisions of this title, the Secretary shall provide advisory participation by interested State and local government authorities, mass transportation systems management personnel, employee representatives, mass transportation riders, and any other persons that he may deem necessary or appropriate.

SEC. 207. There is hereby authorized to be appropriated not to exceed $20,000,000 for each of the fiscal years ending on June 30, 1974, and June 30, 1975, respectively, to carry out the provisions of this title.

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

WRIGHT PATMAN,
JOSEPH G. MINISH,
TOM GETTYS,
JIM HANLEY,
FRANK J. BRASCO,
EDWARD I. KOCH,
WILLIAM COTTER,
ANDREW YOUNG,
JOHN J. MOAKLEY,
GARRY BROWN,
WILLIAM B. WIDNALL,
LAWRENCE G. WILLIAMS,
STEWART B. MCKINNEY,
*Managers on the Part of the House.*

JOHN SPARKMAN,
WILLIAM PROXMIRE,
HARRISON WILLIAMS,
JOHN TOWER,
EDWARD BROOKE,
*Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 386) the Emergency Urban Mass Transportation Assistance Act of 1974, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House struck out all of the Senate bill after the enacting clause and inserted a substitute amendment.

The Committee of Conference has agreed to a substitute for both the Senate bill and the House amendment. Except for clarifying, clerical, and conforming changes, the differences are noted below:

DRAFT OF JOINT STATEMENT OF MANAGERS ON CONFERENCE REPORT TO ACCOMPANY S. 386, THE EMERGENCY URBAN MASS TRANSPORTATION ASSISTANCE ACT OF 1974

*Statement of findings*

The short title of the House amendment was cited as the "Urban Mass Transportation Assistance Act of 1974". The Senate short title of the bill was cited as the "Emergency Commuter Relief Act". The conference report cites the bill as the "Emergency Urban Mass Transportation Assistance Act".

The House amendment contained no Congressional statement of findings. The Senate bill contained seven statements of findings which outlined the importance and necessity of quality urban mass transportation for the United States. The conference report contains the Senate findings.

*Operating assistance*

The House amendment contained a provision providing that operating assistance grants would be on a formula basis to reflect equally (1) the population of the area served by the mass transit system in relation to the total population of the U.S.A., (2) the number of revenue passengers carried by a mass transportation system in relation to the total number of passengers of mass transportation systems throughout the country, and (3) revenue vehicle miles travelled by an urban mass transit system in relation to the total number of revenue vehicle miles travelled by mass transit systems throughout the country. Operating assistance grants would be 100 percent Federal grants. The House amendment also provided that no assistance shall be provided under this provision unless the rates charged the elderly and handicapped during nonpeak hours of transportation will not exceed one-half of the rates generally applicable to other persons.

The Senate bill provided the Secretary with discretionary contract authority to allocate funds under the bill in the form of either grants or loans. However, the Secretary could not allocate more than 12½ percent of the total authorization to any one state except that 15 percent of the aggregate amount of grant funds may be used by the Secretary without regard to this limitation for grants in states where more than two-thirds of maximum amounts of funds permitted under this provision has been obligated. The Senate bill provided a grant ratio of two-thirds Federal and one-third local contribution, and prohibited financial assistance unless the applicant has submitted to the Secretary a comprehensive mass transportation plan including reasonable fare structure and the assurance that the system is providing efficient operations in accordance with regulation promulgated by the Secretary. The Senate bill provided that any grant shall not exceed twice the amount of financial assistance provided by the State or local source. The Senate bill required the submission by the applicant of an annual report describing the implementation of its mass transportation service improvement plan.

The conference report contains generally the House formula based on three factors of population, revenue passengers, and vehicle miles. The funds would be distributed according to a formula to the urbanized areas of each State. The conference report would allocate the funds under a formula based upon three factors weighted as follows: 50 percent of the population of the area served by the mass transportation system, 25 percent of the total number of revenue passengers carried by the system, and 25 percent of the total revenue vehicle miles travelled by the system. The population, passengers, and miles of each eligible recipient would be weighted against the total population, passengers, and miles of all designated recipients and the funds distributed accordingly.

The Federal share for such grants would not exceed 80 percent of the cost of the project with the remaining funds to be provided by the applicant. State or local tax revenues which are used for the operation of mass transportation service in the area involved may be credited toward the non-Federal share of the cost of the project. To be eligible for grants under this provision, the recipient must continue to maintain State and local operating and capital funds, and the transit system must maintain other revenues such as advertising, concessions, and property leases. This maintenance of effort provisions is to be a two-year average of the total of State and local funds used to finance operating costs, and State and local funds used to finance the local share of Federal capital grant funds.

The conferees agreed that every effort would be made to hold hearings as soon as possible on the Administration's mass transit proposals. Included in these hearings would be consideration of whether the contributions of local government to operating deficits should become part of the distribution formula. The conferees discussed the measurement of local taxes as a factor in the distribution formula, but because of insufficient information and the emergency situation that now exists in mass transit, a decision was deferred. The conferees agreed that the legislation was short term and that the issue of local taxing effort would be thoroughly explored in subsequent hearings.

The conference report provides that the $800 million will be in the form of contract authority to be used for either operating assistance or capital grants at the option of local authorities. These funds may be made available immediately for obligation during fiscal years 1974 and 1975. These funds would come solely from general treasury revenue funds and would in no part come from the highway trust fund.

The grants under this provision would be made to designated recipients in urbanized areas in which at least 75 percent of the population is served by a public transit authority, or by a local public body providing transit services. These designated recipients shall be chosen by the Secretary of Transportation after consultation with the appropriate State and local public bodies. Where such a recipient is not in existence, the funds apportioned for the urbanized area shall be available to the Governor of the State for distribution to these areas. Mass transportation systems receiving assistance under this provision must charge half fares to the elderly and the handicapped during non-peak hours. In the case of areas served by privately owned bus operators, the applicant will be the governor or designated recipient as who shall include only those elements of population, ridership and vehicle miles it intends to seek financial assistance for. The governor or designated recipient may add criteria to condition the pass through of the funds to the private body, but it is intended that the private operator should receive its proportionate share.

The Governor or the designated recipient of the urbanized area shall submit to the Secretary for his approval such surveys, plans, specifications, and estimates for each proposed project as the Secretary may require. In addition, the Governor or the designated recipient must certify to the Secretary that he has conducted public hearings or afforded the opportunity for such hearings.

The conferees recognize that in order to minimize the deficits now being incurred, all possible efficiencies of operation should be encouraged. There is also a need to improve the operating systems and eliminate inefficiencies in them. The conferees desire that no part of this conference report shall be construed to limit or alter the responsibility of each recipient of assistance from initiating and implementing all necessary and desirable efficiencies.

Reallocation of Capital Grant Funds

The House amendment provided for the establishment of a new schedule for the disbursement of the existing $6.1 billion in capital grant funds already authorized to be appropriated to liquidate contracts: $310 million for fiscal year 1972; $1 billion for fiscal year 1973; $2 billion for fiscal year 1974; $3 billion for fiscal year 1975; $4.5 billion for fiscal year 1976; and $5.5 billion for fiscal year 1977, and not to exceed $6.1 billion thereafter. The Senate bill contains no similar provision and the conference report retains the House provision.

The House amendment contained a provision that capital grant contracts shall not be reserved or made available for any other purpose than is otherwise stated in section 4(c) of the Urban Mass Transportation Act. The Senate bill contained no similar provision. The conference report retains the House provision.

Prohibition Against Charging Extra Fares on Assisted Transit Facilities

The House amendment contained a provision prohibiting financial assistance under the Urban Mass Transportation Act to any mass transit system charging fares that vary on the basis of length of route or distance travelled except in accordance with a zone system or other uniform system which is in effect throughout the area served by such mass transit facility and equipment. The Senate bill contained no similar provision. The conference report retains the House provision with an amendment limiting this prohibition to those assisted under section 102 of this Act.

Eligibility of Quasi-Public Development Corporations

The House amendment contained a provision making eligible for capital grants quasi-public transit corridor corporations and would expand the definition of facilities eligible for such grants to include station sites and transit corridors. The Senate bill contained no similar provision. The conference report contains the House provision.

Coordination of Urban Mass Transportation Programs With Model City Programs

The House amendment contained a provision requiring that model city transit programs must comply with the labor provisions of the Urban Mass Transportation Act. The Senate bill contained no similar provision. The conference report retains the House provision.

Sole Source Procurements

The House amendment contained a provision prohibiting except in unusual circumstances, sole source procurements utilizing exclusionary or discriminatory specifications. The Senate bill contained no similar provision. The conference report contains the House provision with an amendment that strikes out the reference to sole source procurements, but would retain the prohibition on exclusionary or discriminatory specifications.

Limitation of Mass Transit Funding Related to Pupil Transportation

The House amendment contained a provision prohibiting financial assistance to any eligible mass transit agency involved directly or indirectly in transporting school children or school personnel in competition to or supplemental service concurrently provided by public transportation companies except that it would not apply with respect to a mass transit system that was so engaged at any time during the 12-month period immediately prior to the date of enactment of this provision. The Senate bill contained no similar provision and none is contained in the conference report.

Study of Rural Transportation Needs

The House amendment contained a provision directing the Secretary of Transportation to conduct a full and complete study and investigation of the public transportation needs of rural, and other nonurban areas of the United States giving particular attention to those communities having a population of 50,000 or less. The Senate bill contained no similar provision. The conference report retains the House provision.

Investigation of Safety Hazards

The House amendment contained a provision directing the Secretary of Transportation to conduct investigations into unsafe conditions in any facility, equipment, or operation financed under the Act which creates serious safety hazards and would direct the Secretary to require mass transit systems to submit a plan for correcting any unsafe conditions and directs him to withhold further financial assistance until such plan is approved or implemented. The Senate bill contained no similar provision. The conference report retains the House provision.

Elimination of Assistance in the Form of Project Loans

The House amendment contained a provision that eliminated assistance in the form of loans under the capital grant program. The Senate bill contained no similar provision and none is contained in the conference report.

Fares for Elderly and Handicapped

The House amendment contained a clarification with regard to the fares for elderly and handicapped persons. The clarification specified that fares for such persons may be lower than one-half the regular fare. The

Senate bill contained no similar provision. The conference report contains the House provision.

Demonstration Projects for Free Fares

The Senate bill contained provisions authorizing the Secretary of DOT to enter into contracts or other arrangements for research, development, establishment, and operation of demonstration projects to determine feasibility of free fare urban mass transit systems. Federal grants for such payments shall cover not to exceed 80 percent of the cost of the project. This provision authorizes not to exceed $20 million for fiscal year 1974 and $20 million for fiscal year 1975.

WRIGHT PATMAN,
JOSEPH G. MINISH,
TOM GETTYS,
JIM HANLEY,
FRANK J. BRASCO,
EDWARD I. KOCH,
WILLIAM COTTER,
ANDREW YOUNG,
JOHN J. MOAKLEY,
GARRY BROWN,
WILLIAM B. WIDNALL,
LAWRENCE G. WILLIAMS,
STEWART B. MCKINNEY,
*Managers on the Part of the House.*
JOHN SPARKMAN,
WILLIAM PROXMIRE,
HARRISON WILLIAMS,
JOHN TOWER,
EDWARD BROOKE,
*Managers on the Part of the Senate.*

## CONGRESSIONAL PAY RAISE

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I was greatly disappointed last week when the House Post Office and Civil Service Committee failed to muster a quorum to reach a decision one way or another on the resolution to disapprove the President's recommended pay raise for Members of Congress. I feel this matter should be brought to the house floor for a vote and certainly hope the discharge petition will receive the required number of signatures.

I do not feel that Members of Congress are entitled to any additional compensation until we begin exhibiting a sense of fiscal integrity to stem the tide of inflation and bring a measure of relief for the hard pressed American taxpayers.

The pocketbooks of the American people cannot afford a pay raise for Members of Congress that will amount to over $5 million a year in additional funds by 1976.

Mr. Speaker, I urge my colleagues to sign the discharge petition and bring this pay raise recommendation to the House floor for a vote. Those who favor the increased pay should be willing to go on record with their yea vote and those of us who oppose the pay raise will be very willing to express our opposition with a loud and resounding "no."

## MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS NIXON POLICY MEANS MORE INCREASES IN FOOD AND FUEL PRICES

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, it is all very well for President Nixon to say the energy crisis is over. He does not have to wait in gas lines.

I am sure that his pronouncement was small comfort to everyone lined up out there in Washington's 20-degree cold this morning, waiting to get gas.

President Nixon made it clear at last night's press conference that he intends to let prices ration fuel. That means the lines will get shorter because people will not be able to afford gasoline.

The President said that two-thirds of the inflation we suffered last year was caused by fuel and food prices. What does he propose to do about it?

First, he attacks Congress for trying to pass legislation aimed at holding fuel prices to reasonable levels. On the food front, the Secretary of Agriculture is still worrying about foreign markets while people here at home are paying more for less in the supermarkets.

Americans are faced with a bread and meat shortage; yet, the administration expects us to outbid other countries for the food that our Nation produces.

Congress is trying to meet its responsibilities by passing a law to deal with the energy crisis, to prevent profiteering and to hold down inflationary pressures. Now President Nixon says he will veto it. For a nation already beset with inflation, rising unemployment and impending recession, it is regretable that the President seems content.

## CONGRESSIONAL PAY RAISES

(Mr. BURLISON of Missouri asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BURLISON of Missouri. Mr. Speaker, apparently this is the week that the Congress is making a determination on whether there will be a pay raise for legislative, executive, and judicial officials of the Government. This procedure, under the law, was supposed to have arisen 1 year ago, but was delayed by the President. It seems the President continues to succeed in placing the Congress in the very worst light by forcing the matter at this time.

Salaries in the above-mentioned categories were last increased in January 1969. Federal civil service employees have been increased 36.5 percent since that time. The cost of living index—Consumer Price Index—has increased 28.4 percent. Increases for salaries and wages in the private sector have been 28 percent for the same period. Social security benefits have been increased 70 percent.

So we see that a strong case can be made for increasing the salaries even more than the 7.5 percent that is being proposed. In fact, equity would seem to dictate it. At the same time, I have consistently voted and stood against congressional pay increases since I have been in the Congress—since 1969—in view of the battle against inflation which must be waged by our Government and the need to set an example in the realm of fiscal responsibility.

Not only am I publicly announcing my opposition to the pay raise, I intend to sign the discharge petition to force a vote on this issue on the House floor.

## THE SHORTAGE OF FUEL AND FERTILIZER

(Mr. MATHIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MATHIS of Georgia. Mr. Speaker, it sometimes amazes me that after Congress focuses attention on the severity of certain problems, the Department of Agriculture is quick to acknowledge that a problem does exist even though they have repeatedly stated that no such problem exists.

Such a case is the extreme shortage of fuel and fertilizer for the 1974 crop year. At the present time my bill to impose an embargo on exports of fertilizer until the domestic supply is adequate has 60 cosponsors and apparently the Department is paying attention.

The press release from the Department of Agriculture dated yesterday states that nitrogen fertilizer is short in 29 States and tight in 15. It also states that phosphate and potash supplies were reported up somewhat from 2 weeks ago but phosphate was still short in 30 States and potash in 24.

I challenge Secretary Butz to reappraise the Department's estimates on total yields for the 1974 crop and to realistically approach this problem rather than painting rosy pictures to the American consumers.

## PENDING ACTION ON PAY INCREASES

(Mr. GROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, I have pending before the Committee on Rules House Resolution 900 for the purpose of discharging the Committee on Post Office and Civil Service from further consideration of House Resolution 807, disapproving a pay raise for Members of Congress, the Federal Judiciary, and the elite corps in the executive branch of Government.

Those Members desiring to vote on the resolution disapproving the proposed pay increases for those whom I have enumerated should contact the members of the Committee on Rules or write letters today to every member of that committee urging that House Resolution 900 be brought to the House floor for immediate consideration.

## IN OPPOSITION TO THE PROPOSED PAY INCREASES

(Mr. MAYNE asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. MAYNE. Mr. Speaker, I certainly wish to commend my colleague, the gentleman from Iowa (Mr. GROSS) for the statement he has made. I support him in his effort to block this untimely and unwise congressional pay increase, and I want the gentleman to know that I have already written the chairman and all members of the Committee on Rules last Friday urging that his resolution, H.R. 900, and a similar resolution, H.R. 911, filed by me on Thursday to block the salary hike, be taken up immediately by that committee.

Mr. Speaker, I appeal to all Members to join Mr. GROSS in this fight. A pay increase at this time would seriously undermine the national effort to curb inflation. Allowing the recommendation of the Presidential commission to go into effect automatically while we look the other way will further reduce public confidence in the Congress which has already hit an all-time low. The Nation is watching to see if a Congress, which has been asking everyone else to tighten belts and make sacrifices, will now turn its back on economy when its own pocketbook is involved. If Congress accepts such an increase for itself, it will be at the mercy of every pressure group which lobbies for higher profits, higher wages, and more Government spending to benefit its own special interest. Clearly, we should not abdicate our own personal responsibility to do what we can to hold the line on spending and check inflationary pressures.

Mr. Speaker, it is particularly important that no pay increase should be put into effect in the manner in which this one is proposed, going automatically into effect through the guise of a commissions' recommendation. At the very least, every Member should stand up and be counted on this very important issue.

Mr. SCHERLE. Mr. Speaker, will the gentleman yield?

Mr. MAYNE. I am happy to yield to the gentleman from Iowa.

Mr. SCHERLE. Mr. Speaker, I do not know if my colleague, the gentleman from Iowa, is aware of the Senate's recent action on this legislation.

It is my understanding that the other body has exempted Members of Congress from the increase. However, in committee they authorized an increase pay boost for members of the Judiciary and for fat bureaucrats throughout the Nation.

Mr. MAYNE. Mr. Speaker, I know not what if any action the Senate may finally take, but I very strongly feel that we in the House should ourselves act responsibly by moving promptly and decisively to block our pay increase while there is yet time. We should not rely upon what the Senate may or may not do.

We can do this by persuading the Rules Committee to approve the resolutions which the gentleman from Iowa (Mr. GROSS) and I have introduced.

## AN END TO PRICE FIXING

(Mr. YOUNG of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. YOUNG of South Carolina. Mr. Speaker, the great strength of our political system is its realism. Our forefathers gave us a structure that does not ignore the flawed nature of man, but builds from it a wonderful array of checks and balances.

Showing similar wisdom, we here should give up our attempt to ignore the nature of economic man. Trying to rewrite the law of supply and demand is an effort doomed to failure. A resource, a service, or a manufactured item is worth whatever others are willing to pay for it to the one who possesses it. When government tells the seller he may not receive the worth of what he is selling, he discontinues his trade in that item. If the item had any economic usefulness to start with, its removal from the marketplace has repercussions that none of us view as desirable.

It forces those who had depended upon that item to do without, and it encourages those who have possession to hoard—waiting for the end of controls, or the beginnings of a black market.

In my own district we have already seen the shortages—in textiles, fertilizer, steel, and farm equipment. We in the Congress must allow our fixing of wages and prices to stop before our production channels are so hopelessly distorted that the free market and consumer choice become historical curiosities.

Mr. Speaker, I would also like to join with my colleague, the gentleman from Iowa, concerning the pay raise for the House.

We ran for this office on a fixed salary of $42,500. This was a contract, as far as I am concerned. This is a very bad way for us to operate, for we are not facing up to the facts. We should either vote up or down on a pay raise.

Mr. Speaker, I object to the way in which this is being done.

## PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## H.R. 2, EMPLOYEE BENEFIT SECURITY ACT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 896 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 896

*Resolved,* That upon the adoption of this resolution it shall be in order to move, clause 7 of rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2) to revise the Welfare and Pension Plans Disclosure Act. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order, in lieu of the committee amendment now printed in the bill H.R. 2, as one amendment in the nature of a substitute for the bill H.R. 2 the text of the bill H.R. 12906 as title I of said substitute and the text of the bill H.R. 12855 as title II of said substitute. Said substitute shall be read as an original bill for the purpose of amendment under the five-minute rule by parts instead of by sections, and title II of said substitute shall be considered as having been read for amendment. No amendments shall be in order to title II of said substitute except amendments offered by direction of the Committee on Ways and Means, which amendments shall be in order, any rule of the House to the contrary notwithstanding and which shall not be subject to amendment, and germane amendments to subsections 2001(a)(1)(A), 2001(a)(2), 2001(b) and 2001(a)(3) of title II relating to the maximum dollar amount or maximum percentage deductible for contributions on behalf of self-employed individuals and shareholder-employees. At the conclusion of the consideration of H.R. 2 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 896 provides for a modified open rule with 4 hours of general debate, 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, on H.R. 2, a bill to revise the Welfare and Pension Plans Disclosure Act.

House Resolution 896 provides that it shall be in order to consider without the intervention of any point of order, in lieu of the committee amendment now printed in the bill H.R. 2, as one amendment in the nature of a substitute for the bill H.R. 2, the text of the bill H.R. 12906 as title I of the substitute and the text of the bill H.R. 12855 as title II of the substitute.

House Resolution 896 provides the substitute shall be read as an original bill for the purpose of amendment under the 5-minute rule by parts instead of by sections, and title II of the substitute shall be considered as having been read for amendment.

House Resolution 896 also provides that no amendments shall be in order to title II of the substitute except: First, amendments offered by direction of the Committee on Ways and Means, which shall be in order, any rule of the Rules of the House of Representatives to the contrary notwithstanding and which shall not be subject to amendment: and second, germane amendments to subsections 2001(a)(1)(A), 2001(a)(2), 2001(b) and 2001(e)(3) of title II relating to the maximum dollar amount or maximum percentage deductible for contributions on behalf of self-employed individuals and shareholder-employees, commonly known as the "Keogh plan."

Both titles I and II of the substitute include similar provisions dealing with participation and coverage, vesting and funding of individual private pension rights. The substitute requires companies having pension plans to extend coverage to all employees who have reached the age of 25, with at least 1 year of service to the company. It also requires the adoption of one of three minimum vesting standards: First, graduated vesting beginning with at least 25 percent after 5 years, increasing to 100 percent after 15 years; second, 100 percent after 10 years; or third, 50 percent when years of service and age of employee total 45 and 10 percent per year over the next 5 years.

In addition to the above provisions, title II increases the tax deduction allowed for retirement plans for self-employed persons from the present 10 percent of earnings up to $2,500 to 15 percent of earnings up to $7,500. Title II also permits individuals not covered by qualified or Government pension plans to take a deduction of up to 20 percent of their earned income, not to exceed $1,500.

Mr. Speaker, I urge the adoption of House Resolution 896 in order that we may discuss and debate H.R. 2.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule, House Resolution 896, that will, if adopted, make in order consideration of the Employee Benefit Security Act, or the bill that is more commonly referred to, I think, in popular parlance, as pension reform, is a most unusual rule, and therefore I think requires some comment from both sides of the aisle.

Mr. Speaker, we are confronted with a very unusual situation, and one, in all candor, with which I am not completely happy.

What happened is that the Committee on Rules met in the 1st session of this 93d Congress on the 24th of October of 1973 to consider legislation that had been referred out of the House Committee on Education and Labor on the subject of pension reform. At that time we were confronted with the fact that the Committee on Ways and Means, which also claims jurisdiction in this area, had not completed work on a bill of its own. In an effort—and understandably so, I think—to accommodate that committee and to make it possible for them to present their ideas as well before the Committee on Rules, we deferred any final consideration of the matter.

We next met on the 30th of October, 1973, for the same purpose, and at that time again we found that there had been an inability on the part of these two very important committees of the House, the Committee on Education and Labor and the Committee on Ways and Means, to reconcile their conflicting approaches to this particular matter.

So again our hearings were continued over until the 2d session of this 93d Congress when we met again on the 29th of January of 1974. Again the Committee of Rules found itself confronted with a situation where, even though, as I recall it, both the acting chairman of the Committee on Ways and Means and the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT) appeared before our committee, there was no clear agreement or consensus as to the manner in which this bill should be handled in all of its phases here on the floor of the House. It was therefore not until the 19th of February of 1974 that these gentlemen again came before the Committee on Rules and presented what we have essentially before us today in House Resolution 896.

What it does, in essence, is to make in order the consideration of not just one bill, but actually two pension reform bills, one, as I explained before, worked out in the Committee on Education and Labor, and the other one eminating from the Committee on Ways and Means.

In all frankness, Mr. Speaker, I would have much preferred the opportunity this afternoon and in the time that we spend on this very important subject matter, a simple rule which would have provided for the consideration of a single pension reform bill, under the circumstances that would have permitted proper amendments from anyone offering them here on the floor of the House.

Mr. Speaker, House Resolution 896 is an unusual rule because this is an unusual situation, and, I might add, a situation with which I am not entirely happy. For what this rule really does is to make in order the consideration of not one but two pension reform bills—one from the Education and Labor Committee and the other from the Ways and Means Committee. I would have much preferred bringing out a simple rule providing for the consideration of just one pension bill, and our Rules Committee made every effort to bring these two committees together for the purpose of drafting a consolidated bill. But even the powerful Rules Committee was not able to pull off this miracle of compromise and reconciliation, and so we are faced today with the difficult task of considering two separate, yet overlapping, pension bills simultaneously.

I think this is especially unfortunate because this means that we are superimposing on the already complex issue of pension reform a most complex parliamentary situation, and as debate on the rule and the bill proceeds, the truth of this understatement will become self-evident. It is most regrettable that so much of our energy and attention will be focused today on the procedural aspects of the proceedings to the detriment of the substantive aspects of these pension reform bills.

The rule now before us provides for 4 hours of general debate on H.R. 2, to be equally divided between the Ways and Means and Education and Labor Committees, and it also makes in order as a substitute for H.R. 2, two bills: H.R. 12906, a revised version of H.R. 2 as reported from Education and Labor, which shall be considered title I of the substitute; and H.R. 12885, as reported from Ways and Means, which shall be considered as title II of the substitute. While title I, the Education and Labor bill, will be open for amendment under the 5-minute rule, title II, the Ways and Means bill, will be considered under what is essentially a closed rule, with the exception that the H.R. 10 or "Keogh" portion of the bill may be amended, and committee amendments will also be in order.

This perhaps wouldn't be too difficult and confusing if titles I and II were supplementary yet complementary to each other. But the fact is that both titles contain provisions on participation, vesting and funding, and while these provisions are essentially identical now, they may not still be so following the amendment process. In addition, while title I puts the overall administration of these matters in the hands of the Department of Labor, title II puts them with the Department of the Treasury. In other words, if we adopt this substitute as it has been presented to us, we will have a dual administrative setup, as some have described it, a "hydraheaded monster." I think I am safe in observing that it is probably this difference which is primarily responsible for the fact that we are considering two bills rather than one bill today.

Recognizing the confusion and costs involved in such a dual system, it is my understanding that two attempts will be made to place this under either Labor or Treasury. I have been informed that my colleague from Illinois (Mr. ERLENBORN) will ask that the previous question on this rule be defeated so that he may offer a revised rule which would permit a final vote, following the amendment process, on placing the administration under either Labor or Treasury.

I have also been informed that my colleague from Texas (Mr. ARCHER) will be attempting a similar feat by offering an amendment to title I to eliminate the role of the Labor Department in administering participation, vesting, and funding, with respect to qualified plans, thus placing this solely with the Department of Treasury. There is no difference over the jurisdiction the Department of Labor would have with respect to the reporting, disclosure, and fiduciary standards provisions contained in title I.

These are the basic procedural questions confronting this body today, though they obviously touch upon very important substantive questions. Other important amendments which will be offered at the appropriate time include a substitute "termination insurance" proposal authored by Congressman ERLENBORN, and an attempt to either reduce or eliminate the increased deduction for the self-employed. I will not go into these further at this time since I am sure they will be adequately covered during general debate. But I would urge my colleagues, in conclusion, to follow these proceedings very closely or it will be very easy to get lost in the parliamentary maze which stretches before us.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, some 5 or 6 years ago the General Subcommittee on Labor of the Committee on Education and Labor began consideration and extensive hearings in the area of private pension reform. We have spent considerable of our time over the ensuing years on this.

At the outset I want to say I am pleased to come here in the well today in substantial agreement with the chairman of the subcommittee, the gentleman from Pennsylvania, JOHN DENT. As we are all aware the gentleman from Pennsylvania (Mr. DENT) and I do not always agree, but this is one case where we are in very substantial agreement. There is only one element in the bill I would like to see amended and improved.

A few years ago the gentleman from Pennsylvania (Mr. DENT) saw the wisdom of acquiring staff that could be devoted entirely to the consideration of private pension reform, so we began a task force under the auspices of the General Subcommittee on Labor, acquired expert staff, and over the past 2 years with the task force have traveled extensively in gathering statements and evidence from those who are interested in the field of private pension reform, including employers and employees and labor organizations and people who operate private pension plans, and the members of the subcommittee have devoted substantial time to this effort.

Finally in the fall of last year we were able to reach, as I say, very substantial agreement. Almost all of the elements of the bill as it is reported—disclosure and fiduciary relationships and vesting and funding—with the one exception of termination insurance, we agreed upon.

The bill was reported from the subcommittee and the full committee with virtually no opposition. I am pleased that we were able to do this in a way that was very responsible and responsive to the needs of the workers of America for the protection that they so desperately need, to see that they do get the pensions that they have been promised, that the funds will be there, that they have vested rights and it cannot be taken away from them.

Last October we were ready to come to the floor of this House with pension legislation. Almost concurrently with the reporting from the Committee on Education and Labor of this private pension reform bill, interest was shown by the Committee on Ways and Means on the same subject. This is not surprising. The same scenario was true in the other body, in the Congress, preceding this. The Committee on Labor and Public Welfare reported the bill and the Committee on Finance in the other body expressed interest, and in this Congress when they did pass a bill both committees exercised jurisdiction over the bill; so it was not surprising that the Committee on Ways and Means of the House would have an interest in this bill.

It was announced by the acting chairman of the Committee on Ways and Means at that time that they would devote a week to marking up the bill and they began with the Senate-passed bill.

I think in the intervening time from last October until the present time, the Committee on Ways and Means has devoted an exceptional amount of time to studying the provisions of this legislation and making judgments as to what the provisions ought to be.

Now we have before us in title II of the bill under consideration that which will be offered by the Committee on Ways and Means as the result of their efforts. By and large they have agreed with the judgments made by the Committee on Education and Labor.

The one problem that we were faced with, was the question of who should have jurisdiction, which committee and, therefore, which Department of Government would have jurisdiction for administration.

The Committee on Rules suggested to the acting chairman of the Committee on Ways and Means and the chairman of our subcommittee, the gentleman from Pennsylvania (Mr. DENT) that they resolve their differences.

It was very easy for these gentlemen to resolve their differences as to reporting and fiduciary and tax provisions, the former going to the Committee on Education and Labor, the tax provisions to the Committee on Ways and Means.

In the area of participation, vesting and funding, the two chairmen were unable to agree as to which should have jurisdiction, so they went to the Committee on Rules and asked that both bills be considered in full.

The SPEAKER. The time of the gentleman has expired.

(At the request of Mr. ANDERSON of Illinois, and by unanimous consent Mr. ERLENBORN was allowed to proceed for an additional 5 minutes.)

Mr. ERLENBORN. Mr. Speaker, they asked the Committee on Rules that both bills be considered in full, Education and Labor as title I and Ways and Means as title II. After perfecting title I and title II to the extent it can be perfected, then adopt both the Education and Labor reported bill and the Ways and Means bill as one bill.

The problem is that in title I we have one set of laws relating to participation, vesting, and funding to be administered by the Department of Labor, and in title II we have another set of laws in exactly the same area; participation, vesting, and funding to be administered by the Treasury Department.

I think the House would be made to look foolish if we passed legislation of this sort in the same bill, adopting two sets of laws in the same area, providing two different Departments of Government with concurrent jurisdiction for administration and forcing those who are administering private pension plans to go to two different governmental agencies on the same questions.

No doubt we all know how bureaucrats can look at laws and regulations and have differing interpretations; no doubt these plan administrators will get two different interpretations, one from the set of bureaucrats on the Department of Labor and another set of interpretations from the Treasury Department.

It would be virtually impossible to satisfy both at the same time since both have jurisdiction in the same area. For this reason, Mr. Speaker, though I am supporting the rule, I am asking that the previous question on the rule be voted down.

If that is done, I will offer an amendment to the rule that will provide that upon perfecting both title I and title II, a separate vote shall be taken on the question as to whether we shall have jurisdiction in the Labor Department or in the Treasury Department.

The language of the amendment is that upon perfecting title II, a separate vote should be taken on part 1 of title II. Part 1, as the Members will recall, is participation, vesting and funding in the Ways and Means provision.

The language goes on to say that if part 1 of title II is adopted, parts 2 and 3 of title I will be considered as stricken because they are the same area of participation, vesting, and funding. So that on this one vote the Members will have a clear choice as to Labor Department or Treasury Department, and the House will not be put into the position of having to pass a bill that has jurisdiction in both in the same bill.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate the gentleman yielding to me. I wish to commend him for the statement he has made, and to ask a question.

Mr. Speaker, is it clear that at some point during the consideration under this rule, if the previous question is not voted down, a vote can be obtained on striking section 1 of title II?

Mr. ERLENBORN. No, I will answer the gentleman by saying that under this rule, if it is not amended, no separate vote could be taken on part 1 of title II, so we would be locked in to either rejecting all of title II, the entire ways and means provision, or accepting all of title II.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate the gentleman's response to the question, and I am grateful for his clarification.

Mr. Speaker, I concur fully with the gentleman that it makes absolutely no sense to see this House try to take a bill to the other body in which we have conflicting, overlapping dominant jurisdiction on those issues.

Mr. Speaker, I support the gentleman's position. I hope we can have a separate vote on that issue, Labor versus Treasury.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman from Wisconsin for his contribution.

Mr. SISK. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. First, Mr. Speaker, let me say that this is a very difficult rule, and some sections are rather strange. However, it must be said in all honesty that the Committee on Rules was faced with making a Solomon's decision, and it had to be made prior to floor action, a question of jurisdiction that would have completely buried the contents and the intent of this legislation.

There is no such thing as a conflict in the provisions on vesting and funding between the Labor provisions and the Ways and Means provisions. They are identical in their concept, their provision and in criteria.

For instance, under the title coming from the Labor Committee, we have a 10-year vesting. The Ways and Means bill has a 10-year vesting. Under the Labor bill, we have a graduated 15-year vesting; 5 years, 75 percent; 10 years, 50 percent; 15 years, 100 percent of vesting. The identical provisions are in the bill coming from the Ways and Means Committee.

The third rule of vesting is a rule of 45, including age and service, which is identical to the provisions of the other bill.

The provisions of both bills require funding the normal cost, amortization of past service costs over 30 years (40 years, multiemployer plans) is identical to the language in the Ullman bill.

Now, the reason that we had to agree that it was proper for both bills to contain these provisions is that in our bill it is a question of setting minimum standards for contracting bodies to agree to come to some vesting period that is a minimum vesting period for the labor negotiations.

In the Ullman bill it is there for the purpose of establishing tax treatment for the plans that are approved as they are today by the IRS. However, we do not in any way spell out any provisions of vesting that are superior or better than the minimum standards that we set, nor are we asking that there be any such restrictions.

Now, the reason that the IRS has asked that it have funding and vesting provisions in its portion of the bill is because if a contract is made where there is a different type of vesting, they still have the responsibility, and they have to then determine whether that additional or different type of vesting and funding can be treated in the same manner as the minimum requirements that are contained in both bills.

Mr. Speaker, we cannot interfere with the provisions of the act that deal with tax treatment. We do not do it in this section, nor do we do it in the so-called section of the bill dealing with private or individual pensions for self-employed persons. And yet they have to set standards. Up until this point, participation in or qualification of a plan was based upon certain minimum standards issued by the IRS.

The labor section of the bill has always contained the qualifying standards set by the IRS, but when we spelled out specific minimum requirements, then they had to either change their qualifications to some other base or accept our minimum standards.

So there is no conflict there. On top of all of it, the most important part is that these two agencies are involved in this area for different purposes but with the same criteria. These committees have provided identical statutory standards and have required the two agencies to issue joint regulations. In other words, there will be no conflict of regulations, and only in that particular instance could there be the kind of a situation that had been conjured up before the House by my worthy colleague, the minority Member.

Mr. Speaker, I wish to say to the Members that I consider the patience of the Committee on Rules with regard to this difficult problem to be an outstanding development in legislative enactment. I believe that the committee's decision was a decision worthy of Solomon, and I want to compliment the gentleman from Illinois (Mr. ERLENBORN) who is my ranking member. Throughout all of these years of discussion and debate we have disagreed about many of the features of the act, and we have come together on many of them, but there has never been a point where we have not worked together. Although there are still some areas in which we differ and although we may differ in context as to what we want to put into the legislation, at no point is there any argument as to the justice of his proposal or the justice of our opposition to his proposal.

Therefore, Mr. Speaker, I wish to say that this is the only way by which I know we can get this legislation before the House, legislation which is so essential to the welfare of hundreds of thousands of American workers.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, I wish to commend the gentleman and to join with him in saying that this is a responsible rule. It is a responsible legislative procedure. It has been worked out in great detail with expert staff members, both on the Committee on Labor side and the Committee on Ways and Means side.

This proposed legislation recognizes the basic responsibility of the Internal Revenue Service and the Treasury Department in administering the qualified plans, which involve some $4 billion of tax revenue, and at the same time recognizing the responsibility of the Labor Department.

We have adopted a procedure under which uniform regulations can be accomplished. It is workable, responsible, and sound, and I commend the gentleman in the well.

Mr. DENT. I thank the gentleman.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Speaker, I also would like to commend all members of both committees and the staffs of the Committee on Ways and Means and the Committee on Education and Labor who have worked many long hours in putting together this package of pension reform legislation.

I must also say I agree with my colleague from Illinois (Mr. ERLENBORN) that there is great danger in any bill that sets up dual administration between two Federal agencies no matter how carefully designed that dual administration is. Even if the regulations are the same, the interpretation of the regulations will often be different between those two organizations. As a result, you could very well have an employer taken to court by the Department of Labor for failing to comply with its interpretation while that same employer has been given a clean bill of health by the Department of the Treasury under its interpretation of the same rules.

I disagree, however, with my colleague from Illinois in his procedural method of attempting to cure this problem. It is not necessary to vote down the previous question in order to offer an amendment that would provide the only means of truly consolidating the administration of pension plans under this new law and the existing law. Even if the gentleman from Illinois is successful in his effort, we will be left with a continuing dichotomy in the administration of these bills, because even if all administration under this new law is put into the Department of Labor, the Treasury Department still has a responsibility under the existing law, which is left intact, to regulate vesting, funding and participation in the implementation of the nondiscriminatory features that it must apply. So even if the gentleman is successful in voting down the previous question and is successful in his effort to do what he calls consolidate, he will still end up with a conflict where employers must go both to the Department of Labor and the Department of the Treasury for the determination of how their plans are to be administered.

I think we have a vital obligation to workers and small businessmen in this country to see that their dollars are spent on benefits and not on administrative redtape. We have testimony from a number of experts in the pension field that with respect to small employers dual administration will double their administrative costs and in some instances run it up to over 50 percent of the total cost of their pension programs.

I say to you that we will look ridiculous if we do this. But it is not necessary to change the rule. The Committee on Rules has done, in my opinion, an excellent job in putting together a difficult package. If we vote for the previous question and accept the rule they have given us, I will offer an amendment to accomplish the only way to consolidate the administration of funding, vesting, and participation requirements under this bill, and that is to put it under the Department of the Treasury.

I hope you will vote for the previous question, and I hope you will vote for the amendment which I will offer as the only means of consolidating the administration, which I think is so vital in order to continue to attract more plans and prevent existing plans from being terminated as a result of higher administrative costs.

Mr. ICHORD. Will the gentleman yield?

Mr. ARCHER. I am glad to yield to my friend from Missouri.

Mr. ICHORD. What will your amendment leave under the Department of

Labor and what will it leave under the Department of the Treasury?

Mr. ARCHER. The Department of Labor would be left with the responsibility to administer rules for disclosure fiduciary responsibility and termination insurance as well as all requirements for nonqualified plans.

Mr. SISK. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 53, not voting 47, as follows:

[Roll No. 42]

YEAS—331

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
Bafalis
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Camp
Carey, N.Y.
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dennis
Dent
Devine
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frenzel
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hawkins
Hébert
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Holifield
Holt
Holtzman
Hosmer
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Koch
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Matsunaga
Mazzoli
Melcher
Metcalfe
Mezvinsky
Milford
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Stephens
Stokes
Stratton
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—53

Abdnor
Alexander
Arends
Armstrong
Ashbrook
Baker
Bauman
Beard
Brown, Mich.
Broyhill, N.C.
Burgener
Butler
Collier
Collins, Tex.
Conable
Conlan
Davis, Wis.
Dellenback
Derwinski
Dickinson
du Pont
Erlenborn
Evins, Tenn.
Findley
Frey
Froehlich
Fuqua
Gross
Harrington
Hogan
Horton
Huber
Landgrebe
Martin, N.C.
Mathis, Ga.
Mayne
Michel
O'Brien
Quie
Rhodes
Robinson, Va.
Robison, N.Y.
Ruth
Satterfield
Scherle
Steiger, Ariz.
Steiger, Wis.
Treen
Wyatt
Wydler
Young, Fla.
Young, Ill.
Young, S.C.

NOT VOTING—47

Andrews, N.C.
Badillo
Blackburn
Brasco
Brooks
Brown, Calif.
Carney, Ohio
Clausen, Don H.
Clawson, Del
Clay
Conyers
Crane
Eshleman
Frelinghuysen
Gray
Hays
Heckler, Mass.
Howard
Jones, Tenn.
Kluczynski
Kuykendall
McEwen
Mathias, Calif.
Meeds
Mills
Minshall, Ohio
Moss
Murphy, N.Y.
Powell, Ohio
Preyer
Price, Tex.
Quillen
Reid
Roberts
Rooney, N.Y.
Rostenkowski
Shoup
Stubblefield
Stuckey
Sullivan
Symington
Vander Jagt
Vander Veen
Veysey
Ware
Wolff
Wright

So the previous question was ordered.

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Symington.

Mr. Rooney of New York with Mr. Powell of Ohio.

Mr. Howard with Mr. Brown of California.

Mr. Hays with Mr. Price of Texas.

Mr. Brasco with Mr. Mills.

Mr. Jones of Tennessee with Mr. Shoup.

Mr. Roberts with Mr. Quillen.

Mr. Reid with Mr. Blackburn.

Mrs. Sullivan with Mr. Frelinghuysen.

Mr. Wolff with Mrs. Heckler of Massachusetts.

Mr. Murphy of New York with Mr. Vander Veen.

Mr. Moss with Mr. Kuykendall.

Mr. Carney of Ohio with Mr. Del Clawson.

Mr. Badillo with Mr. Minshall of Ohio.

Mr. Andrews of North Carolina with Mr. Don H. Clausen.

Mr. Stubblefield with Mr. Mathias of California.

Mr. Stuckey with Mr. Crane.

Mr. Wright with Mr. McEwen.

Mr. Brooks with Mr. Eshleman.

Mr. Clay with Mr. Gray.

Mr. Kluczynski with Mr. Vander Jagt.

Mr. Conyers with Mr. Meeds.

Mr. Preyer with Mr. Ware.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

RECORDED VOTE

Mr. ERLENBORN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 373, noes 7, not voting 51, as follows:

[Roll No. 43]

AYES—373

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashley
Aspin
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Devine
Dickinson
Diggs
Donohue
Dorn
Downing
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Koch
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.

| | | |
|---|---|---|
| Long, Md. | Peyser | Steed |
| Lott | Pickle | Steele |
| Lujan | Pike | Steelman |
| McClory | Poage | Steiger, Ariz. |
| McCloskey | Podell | Steiger, Wis. |
| McCollister | Price, Ill. | Stephens |
| McCormack | Pritchard | Stokes |
| McDade | Quie | Stratton |
| McFall | Quillen | Stuckey |
| McKay | Railsback | Studds |
| McKinney | Randall | Symms |
| McSpadden | Rangel | Talcott |
| Macdonald | Rarick | Taylor, Mo. |
| Madden | Rees | Taylor, N.C. |
| Madigan | Regula | Thompson, N.J. |
| Mahon | Rhodes | Thomson, Wis. |
| Mailliard | Riegle | Thone |
| Mallary | Rinaldo | Thornton |
| Mann | Robinson, Va. | Tiernan |
| Maraziti | Robison, N.Y. | Towell, Nev. |
| Martin, Nebr. | Rodino | Treen |
| Martin, N.C. | Roe | Udall |
| Mathias, Calif. | Rogers | Ullman |
| Mathis, Ga. | Roncalio, Wyo. | Van Deerlin |
| Matsunaga | Roncallo, N.Y. | Vanik |
| Mayne | Rooney, Pa. | Vigorito |
| Mazzoli | Rose | Waggonner |
| Melcher | Rosenthal | Waldie |
| Metcalfe | Roush | Walsh |
| Mezvinsky | Rousselot | Wampler |
| Michel | Roy | Whalen |
| Milford | Roybal | White |
| Miller | Runnels | Whitehurst |
| Minish | Ruppe | Whitten |
| Mink | Ruth | Widnall |
| Mitchell, Md. | Ryan | Wiggins |
| Mitchell, N.Y. | St Germain | Williams |
| Mizell | Sandman | Wilson, Bob |
| Moakley | Sarasin | Wilson, Charles H., Calif. |
| Mollohan | Sarbanes | Wilson, Charles, Tex. |
| Montgomery | Satterfield | Winn |
| Moorhead, Calif. | Scherle | Wolff |
| Moorhead, Pa. | Schneebeli | Wyatt |
| Morgan | Schroeder | Wydler |
| Mosher | Sebelius | Wylie |
| Murphy, Ill. | Seiberling | Wyman |
| Murtha | Shipley | Yates |
| Myers | Shriver | Yatron |
| Natcher | Shuster | Young, Alaska |
| Nedzi | Sikes | Young, Fla. |
| Nichols | Sisk | Young, Ga. |
| Nix | Skubitz | Young, Ill. |
| Obey | Slack | Young, S.C. |
| O'Brien | Smith, Iowa | Young, Tex. |
| O'Neill | Smith, N.Y. | Zablocki |
| Owens | Snyder | Zion |
| Parris | Spence | Zwach |
| Passman | Staggers | |
| Patman | Stanton, J. William | |
| Pepper | Stanton, James V. | |
| Perkins | Stark | |
| Pettis | | |

NOES—7

| | | |
|---|---|---|
| Ashbrook | Drinan | Reuss |
| Collins, Tex. | Harrington | |
| Derwinski | Landgrebe | |

NOT VOTING—51

| | | |
|---|---|---|
| Andrews, N.C. | Gilman | Preyer |
| Badillo | Gubser | Price, Tex. |
| Blackburn | Gude | Reid |
| Blatnik | Heckler, Mass. | Roberts |
| Brasco | Howard | Rooney, N.Y. |
| Brown, Calif. | Jones, Tenn. | Rostenkowski |
| Carney, Ohio | Kluczynski | Shoup |
| Clausen, Don H. | Kuykendall | Stubblefield |
| Clawson, Del | McEwen | Sullivan |
| Clay | Meeds | Symington |
| Conyers | Mills | Teague |
| Crane | Minshall, Ohio | Vander Jagt |
| Dingell | Moss | Vander Veen |
| Eshleman | Murphy, N.Y. | Veysey |
| Ford | Nelsen | Ware |
| Frelinghuysen | O'Hara | Wright |
| Froehlich | Patten | |
| | Powell, Ohio | |

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Brown of California.

Mrs. Sullivan with Mrs. Heckler of Massachusetts.

Mr. Rostenkowski with Mr. Ford.

Mr. Kluczynski with Mr. Vander Jagt.

Mr. Brasco with Mr. Minshall of Ohio.

Mr. Carney of Ohio with Mr. Gubser.

Mr. Dingell with Mr. Price of Texas.

Mr. Howard with Mr. Shoup.

Mr. Jones of Tennessee with Mr. Crane.

Mr. Stubblefield with Mr. Nelsen.

Mr. Wright with Mr. Del Clawson.

Mr. Patten with Mr. Frelinghuysen.

Mr. O'Hara with Mr. Gude.

Mr. Murphy of New York with Mr. Don H. Clausen.

Mr. Blatnik with Mr. Eshleman.

Mr. Andrews of North Carolina with Mr. Froehlich.

Mr. Badillo with Mr. Conyers.

Mr. Clay with Mr. Reid.

Mr. Meeds with Mr. Blackburn.

Mr. Moss with Mr. Gilman.

Mr. Vander Veen with Mr. Kuykendall.

Mr. Teague with Mr. McEwen.

Mr. Symington with Mr. Powell of Ohio.

Mr. Roberts with Mr. Ware.

Mr. Mills with Mr. Preyer.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DENT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill—H.R. 2—to revise the Welfare and Pension Plans Disclosure Act.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Pursuant to the rule, general debate will continue for not to exceed 4 hours, 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

Under the rule, the gentleman from Pennsylvania (Mr. DENT) will be recognized for 1 hour, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 1 hour, controlling the time for general debate for the Committee on Education and Labor.

The Chair now recognizes the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. PERKINS), the chairman of the full Committee on Education and Labor.

Mr. PERKINS. Mr. Chairman, I would be derelict in my responsibility if I did not take this opportunity to compliment the distinguished chairman of the General Subcommittee on Labor, the gentleman from Pennsylvania (Mr. DENT), on the untiring efforts and the extraordinary skill that made this legislation possible. The gentleman has done a marvelous job. In addition, he worked out with the acting chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), a bill that coordinates the substantive and standard setting provisions of H.R. 2 with applicable provisions of the Internal Revenue Code. American working men and women owe a great debt to both these gentlemen for their great achievement. That fact will become evident as this debate continues.

Mr. Chairman, America's private pension plans, which had their beginnings almost a hundred years ago, have grown to enormous importance.

Roughly 36,000,000 workers are currently participating in some pension or retirement plan. The number of participants has roughly doubled in each decade since 1940. The combined resources of existing pension plans are estimated to be in excess of $150,000,000,000. They are increasing at a rate in excess of $10 billion annually.

Our private pension plans have served the needs of many workers very well. But the system is subject to one very simple defect. Too many people pay money into private pension plans year after year expecting eventually to receive retirement income, and they end up getting nothing.

And that, Mr. Chairman, is what this bill is all about. It is unfair and inequitable, and almost invariably tragic as well, for workers to defer income from wages or salary in anticipation of retirement benefits which they will never get.

The workers who fail to get expected pension benefits have reason to feel cheated just as they feel cheated if, having worked a week or a month, their employer refuses to pay them.

In America today the loss of pension benefits, the frustration of workers' reasonable expectation, occurs in wholesale fashion.

It happens because of breaches of faith and self-dealing on the part of fund trustees and administrators; because of bad investments on the part of managers of pension plans; and because of inadequate funding.

It happens because plants close and companies go out of business, because companies are purchased or are merged. It happens because these things occur under circumstances which leave the workers involved without any rights and without any recourse.

Those of us in the Congress who represent districts where there are many mineworkers know very well the hardship and anguish caused by the failure of the United Mine Workers welfare and retirement plan to provide benefits that many miners and their beneficiaries had expected.

I have dozens of letters in my files from the years 1971 and 1972—letters seeking my assistance because of denials on account of rigid, arbitrary, and unreasonable eligibility standards.

The recent settlement of two class action suits against the welfare and retirement fund confirmed what many of us had believed for some time—that the eligibility requirements of that plan was being administered in an arbitrary and capricious fashion.

U.S. District Judge Gerhard Gesell had even earlier upheld charges of mismanagement brought against the miners' pension fund and had forced the trustees to step down.

The experience of miners with the UMW pension fund is not unique, however. Many Members of Congress have written the committee citing cases of this kind. The gentleman from Texas (Mr. BROOKS) called my attention in January of this year to a case. One of his constituents had been cut off from the retirement benefits he had been receiving from his former employer. That company had recently been purchased by another company which felt no obligation in his behalf, and apparently had no legal obligation to do otherwise.

Daily newspapers regularly call our attention to tragic cases where benefits are lost and the solvency of pension funds destroyed by plant closings. The Newark, N.J., Star Ledger, on Thursday, January 31 of this year, reported on the expected closing of a brewery which in turn threatened the solvency of the entire New Jersey brewery employee welfare plan.

Just a week later, the New York Daily News of Wednesday, February 6, reported a case where the manager of a bankrupt Brooklyn laundry had used the employee retirement fund as collateral for a personal loan. The workers not only did not get paychecks and severance pay but they lost their pension rights as well.

That, Mr. Chairman, is what this bill is all about. It is a bill designed to provide improved Federal standards to make America's private pension system work.

Our committee in both the 92d and in this Congress has had a special task force which has been conducting a professional study of vesting, funding, portability, beneficiary insurance, fiduciary responsibility, disclosure and other aspects relating to the effectuation of private welfare pension plans. The bill, H.R. 2, which we are considering today, is the product of that task force and of the full Committee on Education and Labor.

The substitute which will be offered to H.R. 2 is of important significance. It brings together in one consolidated and coordinated piece of legislation, the combined efforts of the House Committee on Education and Labor and the House Committee on Ways and Means. These committees have considered the regulations and standards being proposed in the substitute. Substantive differences have been worked out and agreed upon.

Regulations of private pension plans by the Secretary of Labor will for the first time be coordinated with the administration of the Internal Revenue Code by the Secretary of Labor. This coordination should greatly serve the interests of working men and women.

I am proud to say that substantively the substitute does not depart greatly from the committee reported H.R. 2, which as the Members of the House will recall, was so widely endorsed by both American business and labor unions.

This accomplishment has not been easy, Mr. Chairman. The subject of welfare and pension plan reform is a very complex and difficult one. In spite of the acknowledged need documented in public documents as early as the President's Cabinet Committee Report of 1965 and in the studies of the House and Senate Committees, it is not a simple subject on which to legislate. It has not been easy to draft a law which protects individual pension rights and, at the same time, recognizes the voluntary nature of pension plans.

Each regulation has to be weighed against the burdens and pressures it imposes on the system. Each requirement has to be weighed against the cost increase which might result.

In addition to the weighing and balancing of substantive issues and costs, it has been necessary to consider the appropriate mechanisms through which Federal policy is to be administered. Difficult decisions of this kind have occupied us in recent weeks in the negotiations between the House Committee on Education and Labor and the House Committee on Ways and Means.

The successful result of those negotiations and that effort at coordination of the two committees has resulted in a substitute which I think merits the support of every Member of this body.

It is a modest bill. It does not purport to solve every problem. Further study and deliberation by our own committee and by other committees of the Congress will be necessary.

We do hope that we have provided relief for the worst inequities. Basically, our effort is designed to protect the long-service employee participating in and contributing to a pension plan who would otherwise lose it. We seek to reduce the adverse pension effects of plant closings and bankruptcy on such people.

We seek to eliminate or substantially reduce unduly restrictive qualification requirements. We seek to reduce the probability of self-serving actions by pension fund administrators and trustees, to reduce the likelihood that such funds will go broke, and we seek to provide insurance against the possibility that they may.

The main features of title I of the bill are as follows:

FIDUCIARY RESPONSIBILITY AND DISCLOSURE

The committee bill replaces the generalized reporting requirements of existing law with disclosure and reporting requirements of a much more specific nature, which will give participants and beneficiaries a much better chance to protect themselves.

Similarly, since trustees and managers of plans have not always been above manipulating or investing funds for their own gain rather than in the interest of the beneficiary, fiduciary standards are established which will provide additional safeguards against mismanagement. Anyone exercising power or control, management or disposition with respect to money or other assets of an employee benefit fund would be required to act in a manner consistent with the fiduciary principles developed in the evolution of the law of trusts. The bill would impose on fiduciaries the same duty in his dealings with the assets of a fund as a prudent man would exercise in the same or similar circumstances and under like conditions.

He would be required to act consistent with the principles applicable to the administration of trusts and for the exclusive purposes enumerated in the benefit plan.

Any doubts as to his culpability and vulnerability in courts are removed.

PARTICIPATION AND VESTING

Many, if not most, workers covered by private pension plans have no right to anything until the very day they are eligible to retire. If for any reason a worker's employment is terminated before he is eligible to retire—regardless of his length of service, regardless of his contribution and the contribution made in his behalf—it is very likely that that worker will never receive any benefits at all.

Another way of describing his situation is to say that he has no vested rights. Vesting has not occurred.

This bill provides minimum vesting standards. It helps a worker participant to achieve a nonforfeitable claim to benefits which have been earned by him and which have accrued to him. Even though his job is terminated, once he has a vested claim, he will be eligible for the same retirement benefits.

Vesting after a reasonable period of service is, I think, at the heart of the problem of the pension system. The bill requires the adoption of one of three alternatives—

First, full vesting after 10 years of covered service;

Second, a graded vesting standard under which the employee must be at least 25 percent vested in his accrued benefit after 5 years of covered service, with a gradual increase in this percentage in subsequent years so as to be 100 percent vested after 15 years; and

Third, a "rule of 45" under which an employee after 5 or more years of covered service must be at least 50 percent vested when the sum of his age and years of covered service total 45, with 10 percent additional vesting for each year thereafter.

No longer will it be possible for a person to pay into a plan for many, if not most, of the years of his working life—only to be denied any retirement benefits because he had to leave his job before he reached retirement age, or before he had accumulated the required number of years of service.

FUNDING

The most vigorous vesting standards would be meaningless, however, and provide only empty promises in the absence of assets sufficient to pay the claims against them. There must be money to pay the vested benefits to the workers when they are due.

Perhaps the best-known case of a funding failure occurred in the 1963 shutdown of the Studebaker operation in South Bend, Ind. Some 4,500 workers lost 85 percent of their vested benefits because the plan had insufficient assets to pay the liabilities.

A recent Government study shows that in 1972, some 19,000 workers lost vested benefits because of the termination of insufficiently funded plans.

Funding refers to the accumulation of sufficient assets in a pension fund to assure the availability of money for payments of benefits due to the pensioners as obligations arise. The bill requires actuarily sound funding designed to lessen the risk to the beneficiaries by requiring every plan to be funded in a way which will amortize unfunded liabilities.

Annual contributions to pension funds must be sufficient to equal current service costs and to amortize past service costs over no more than 30 years—40 years for existing plans. Funds must be adjusted and losses experienced must be amortized.

TERMINATION INSURANCE

Unexpected financial or other difficulties, embezzlement, mismanagement, and simple honest mistakes can lead to premature termination of underfunded plans. Termination insurance will provide a backup for the funding requirements and safeguard workers who might otherwise be deprived of benefits or retirement credit.

It must be anticipated that some plans will fail—just as some banks fail. The purpose of the bill is to keep such failures to a minimum. Even after the bill has reached its full effect, some plans will inevitably terminate and fail because of economic downturns, business failures, and other unfortunate happenings.

For this reason, the bill establishes a termination insurance similar in operation to the Federal Deposit Insurance Corporation which will require a contribution from pension benefit plans which in turn will be paid out to those which are terminated.

Mr. Chairman, I have previously mentioned the unfairness and inequity caused by the failure of our private pension plans to insure the payment of expected retirement benefits. Fairness and equity are reason enough for us to favorably consider the bill before the House today. But there are additional reasons of a broader economic and social nature that support favorable action.

Only if private pension plans are effectively regulated will they be responsive to the need of workers for adequate retirement income. Only if they are effectively regulated can we expect extended coverage of more and more of our workers. Only through adequate regulation and minimum Federal standards, can we reduce pressure on the Social Security System and reduce the enormous costs of public welfare.

Because of the failure of the private pension system many retirees have come to be totally dependent on social security. As all of us know, social security was originally intended to provide only supplemental retirement income. Many of the older American citizens presently being helped by welfare assistance could have lived out their retirement years in dignity and independence but for a failure of their private pension plans.

Mr. Chairman, we cannot afford not to reform the pension system. There is every justification for us to do so today.

Mr. DENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. BRADEMAS. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. DENT. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 2, the Employee Benefit Security Act of 1974.

Mr. Chairman, at the outset, I would like to congratulate my colleagues on the Committees on Education and Labor and on Ways and Means who worked with such dedication and energy for passage of this comprehensive pension reform legislation.

This bill is not only one of the most complicated measures to be considered by the House; it also falls within the jurisdiction of two separate House committees. And that we are able to vote on it this week is in large measure due to the close cooperation and hard work of the members of those committees.

Mr. Chairman, I would like to pay special tribute to the distinguished chairman of the General Subcommittee on Labor, the Honorable JOHN DENT, who has performed yeoman service to this country in having worked so long and hard on this legislation. As a former member of Mr. DENT's subcommittee, I have worked closely with him on pension reform legislation, and I can, therefore, speak from experience when I say there is no Member of the House more committed to the passage of meaningful pension legislation than JOHN DENT.

I want also to commend the ranking minority member of the General Subcommittee on Labor, the gentleman from Illinois (Mr. ERLENBORN); the chairman of the Education and Labor Committee, the gentleman from Kentucky (Mr. PERKINS); and the ranking minority member of the committee, the gentleman from Minnesota (Mr. QUIE), for their cooperation and tireless support of this legislation.

In addition, Mr. Chairman, I want to commend the chairman of the Ways and Means Committee, the Honorable WILBUR MILLS; the gentleman from Oregon (Mr. ULLMAN); and the gentleman from Pennsylvania (Mr. SCHNEEBELI), the ranking minority member of the committee, for their efforts which have been so instrumental in achieving bipartisan House support for this bill.

Mr. Chairman, this is, indeed, an important day for the millions of men and women who have worked for comprehensive Federal legislation to protect their retirement benefits.

Although private pension systems have served the needs of many workers, they have failed countless others. The promise of pension benefits upon retirement has been an illusion for too many American working men and women.

The critical need for comprehensive pension reform legislation has been carefully documented by Mr. DENT's Labor Subcommittee. The record of his subcommittee includes testimony taken at hearings here in Washington and in other cities, including South Bend, Ind., from witnesses who have been the victims of broken pension promises.

Mr. Chairman, although this is not a perfect bill, it does provide a good beginning by establishing certain minimum standards to protect the retirement benefits of the more than 30 million Americans who are covered by private pension plans.

The bill will not solve all the problems of private pension plans nor does it propose to establish an ideal plan for all workers. Rather, it seeks to set up standards to which all pension plans must conform to assure that all workers will receive the benefits they have earned.

Mr. Chairman, I would like to address myself to a particular section of the bill which is of special importance to me and to the workers of the Third District of Indiana—the section which provides for plan termination insurance.

One of the principal reasons that many workers have failed to receive their pension benefits is that, because of shutdowns or some other reason, pension plans have terminated without sufficient assets to meet the vested benefits of plan participants.

Mr. Chairman, although there are countless examples of pension plan failures, the classic example grew out of the Christmas Eve shutdown of the Studebaker plant in my hometown of South Bend in 1963, when many thousands of workers lost their jobs and received only a fraction of the pension benefits they thought they had earned. Indeed, some workers received no pension at all.

Although the Studebaker plan was a liberal one which called for the systematic funding of liabilities, when the plan terminated, there were not enough assets available to pay all claims.

The Studebaker plan covered a total of 11,000 workers. Of these 11,000, some 3,600 had already retired or had reached the age of 60, and the fund had sufficient assets to continue to pay their pensions. But 4,000 other workers between the ages of 40 to 60 were left with only 15 percent of their vested benefits while another 2,900 under the age of 40, some with vested benefits, were left with nothing at all.

As a result of the shutdown, workers with as much as 40 years seniority were left with next to nothing and were far too old to start receiving new pension credits from another employer.

Mr. Chairman, although Studebaker is perhaps the most dramatic example of the effect of plant closings on workers' retirement benefits, it is by no means unique.

Last summer, the Departments of Treasury and Labor released a joint study which indicated that during 1972 alone more than 15,000 pension plan participants lost retirement benefits because their pension plans terminated without sufficient assets to meet all plan obligations. These losses amounted to more than $40 million in anticipated retirement incomes. And several thousand of these victims of pension plan terminations actually lost their entire earned pensions.

Mr. Chairman, the legislation we are debating today will meet the problems of involuntary plan terminations represented by the Studebaker shutdown: First, by providing for minimum funding standards to assure that pension plans are accumulating sufficient assets to meet their obligations; and second, by providing for plan termination insurance to guarantee payment of all vested benefits in the event the plan has to terminate with insufficient assets to meet its obligations.

Mr. Chairman, the lesson of the Studebaker shutdown over 10 years ago in South Bend and the collapse of its pension fund has taught us a critical lesson.

Perhaps if such insurance had been available then, thousands of workers, pensions would have been saved.

Mr. Chairman, enactment of comprehensive pension reform legislation is long overdue. The bill we are debating today is a good one, and I urge all my colleagues to give it their full support.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Indiana.

Mr. MADDEN. I thank the gentleman for yielding.

I wish to commend Congressman DENT, chairman of the subcommittee, for the outstanding work that he and his committee have accomplished, in bringing this legislation before the Committee on Rules and also today before the House.

This bill will protect millions of families and individual workers from losing their pension or retirement benefits. Over the years, when employers, corporations, or industries closed operations, moved to new locations, failed under bankruptcy or fired employees, they escaped their obligation to carry out their pension or retirement contracts.

This bill would protect working men and women from being arbitrarily deprived of the comfortable and dignified retirements toward which they have worked so hard. The Private Pension Tax Reform Act is another landmark which will stand beside the National Labor Relations Act and the Fair Labor Standards Act which now protect the worker during his active career.

Pension safeguards are becoming increasingly important as the private plans grow and increasing numbers of Americans come to depend upon them as major sources of retirement income. An estimated 25 to 30 million Americans are covered today, and their number is expected to reach 42 million by 1980. Pension plan assets now exceed $150 billion and are expected to be $225 billion by 1980. Such funds have become a major source of investment capital.

Yet there is still no law governing the management of such funds or assuring that workers will receive the pensions they have been promised, even though workers may have been contributing toward them for many years.

Most employees—one estimate puts it as high as two-thirds—have no vested right to their pensions and may forfeit all benefits if they leave their firms or lose their jobs, no matter how long they have worked for a company. Employees may lose their pensions because of the failure of a firm—as with the Studebaker plant at South Bend, Ind.—or a merger of companies, or arbitrary termination of a plan by a company. Another hazard is insufficient funding, whether through accident or intention, which jeopardizes a pension plan's solvency and its ability to pay pension benefits as they come due.

The bill before the House would seek to remedy shortcomings and to encourage more companies to establish such plans by preserving tax advantages. Under this bill, a company offering a pension plan would be required to extend coverage to every employee who has reached 25 and completed 1 year of service. Vested rights would be conveyed in increments under any of three methods; most employees would have 100-percent vesting after 15 years' service. Adequate funding would be required for current and prior liabilities. Strict fiduciary standards would be established for persons who manage pension funds. An insurance program against plan termination would be created. The Labor Department and the Internal Revenue Service would enforce appropriate provisions of the bill.

Other sections of the bill would apply to persons not covered by pension plans.

Mr. DENT. Mr. Chairman, we have before us today, H.R. 2, the Employee Benefit Security Act of 1974. This landmark legislation represents the culmination of over 10 years of work on the part of our committee and, if I may be allowed a small measure of pride, ranks as a milestone in my legislative career. No more important piece of legislation will be before us this year. With the protections afforded to participants in this bill, we will extend for the first time minimum Federal performance standards for the singlemost important source of retirement security aside from social security. Those whose efforts fuel our economy will enjoy a Federal guarantee of:

First. Minimum vesting standards—Partial retirement benefits will be earned even by those who serve less than full careers with employers;

Currently, the vast majority of those covered by private pension plans can have no protection against forfeiture of their accrued benefits, in the event they leave coverage before attaining retirement age or fulfilling stringent minimum service requirements extending in some cases to as long as 30 years.

Second. Minimum funding standards—Defined benefits will be required to be funded currently as they accrue and past service credits will be amortized over reasonably short periods of time. These new requirements will help prevent the accrual of benefits without concurrent payments into the plan to pay those benefits when they come due.

Third. Termination insurance—Defined benefit plans will be covered by insurance to protect participants against the loss of benefits on account of plan terminations prior to completion of the funding cycle.

This provision will provide a backup guarantee to every pension plan that, regardless of the economic fortunes of the companies sponsoring the plan, its obligations will be met.

Fourth. Fiduciary standards — All plans will be subject to new Federal trust standards which will delineate the rights and responsibilities of those who are covered by and those who deal with pension plans.

These standards, embodying existing trust concepts, will prevent abuses of the special responsibilities borne by those dealing with plans.

Fifth. Disclosure and reporting—All plans will be required to provide each participant with certain limited information, publish comprehensive financial and actuarial data and provide special reports on the occurrence of certain critical events. The availability of this information will enable both participants and the Secretary of Labor to monitor the plans' operations.

H.R. 2 was reported from our committee by a unanimous vote last session, but in the intervening period of time, events have overtaken that bill and Mr. ULLMAN and I are offering today an amendment in the nature of a substitute for H.R. 2, comprising H.R. 12906, as approved by the Committee on Education and Labor, and H.R. 12855, as reported by the Committee on Ways and Means.

H.R. 12906 contains all of the constituent provisions of H.R. 2, modified slightly to accommodate the broader scope of this substitute. As I view H.R. 12906, all of the purposes of H.R. 2 are served by its provisions but unlike H.R. 2, it does not stand on its own. It is a part of a larger measure which utilizes the jurisdictional resources of our committee, as well as the Committee on Ways and Means, to establish a protective framework of enormous strength. We have blended the civil contractual guarantees contained in H.R. 2 with the enforcement mechanisms of both the Labor and Treasury Departments. I view this substitute as a strengthened version of H.R. 2 and take pride in the work of both Mr. ULLMAN's and my own committee.

Others have expressed the view that the "overlap" between the bills—parts II and III of H.R. 12906 and subtitle A of H.R. 12855 contain comparable provisions—is a destructive rather than constructive approach. My only rebuttal to them is to point to the comprehensive scope of the bill and ask which of these two committees alone could accomplish what has been done through a joint effort.

First. Could Ways and Means have provided civil contractual remedies through the Internal Revenue Code?

Second. Without the vesting and funding standards in the Labor bill could we accomplish preemption of State laws in this field?

Third. Could we hope to coordinate the competing interests of Federal revenue and participants and plan contractual requirement?

My answer is that only through the method chosen by our two committees could we accomplish what is needed by the participants in pension plans. We have recognized the serious risks involved with the joint jurisdiction created as between the Labor and Treasury Departments. The substitute provides that in the area of the "overlap" both agencies will be required to issue joint regulations precluding them from developing inconsistent administrative practices. Beyond that, the statutory provisions are all but identical, save for technical variations. Whatever potential problems might exist have been more than adequately dealt with.

I commend to my colleagues the extensive explanatory material published in yesterday's CONGRESSIONAL RECORD dealing with the provisions of H.R. 12906. That material explains in great detail the committee's purposes and policy in approving that bill and directing that it be offered as part of a substitute for H.R. 2.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I thank my colleague for yielding. It has been my pleasure to serve with him for the last 6 years. I appreciate his very meticulous analysis of this legislation.

In my particular district, where we have the greatest concentration of United States Steel and spin-off industries, we find a crying need for this legislation. We have example after example where pension benefits have been denied to employees after years of service and high contributions of deferred wages into various pension plans.

Our hearings have proved the need for this bill; workers know and feel the need for this legislation; and all of us know in good conscience that the time has come to provide pension protection for all Americans.

Mr. Chairman, I rise in support of the committee substitute for H.R. 2.

I. INTRODUCTION

Growth of private pension plans.

In order to fully appreciate the need for this legislation, it is necessary to review the growth of the private pension system to date. The following statistics most vividly demonstrate the great expansion since 1940:

*Employees covered (In millions)*

| | |
|---|---|
| 1940 | 4 |
| 1950 | 9.8 |
| 1960 | 21 |
| 1970 | 30 |
| 1980 (estimated) | 42 |

Additionally the value of the assets of these pension plans have increased from $2.4 billion in 1940 to $150 billion in 1970, and are expected to increase to $250 billion by 1980.

Whereas, in 1950, 450,000 beneficiaries received $370 million in benefits, in 1970 the figures were 4.7 million beneficiaries and $7.4 billion in pension payments.

Current Federal law pertaining to pension plans.

There are only three Federal laws which can be considered as having some regulatory effect on such plans. These are:

Section 302 of the Labor-Management Relations Act (1947) provided fundamental guidelines for the establishment and operation of pension funds administered jointly by an employer and a union.

This was not intended to, nor does it, provide standards for the preservation of vested benefits, funding adequacy, security of investment, or fiduciary conduct.

The Welfare and Pension Plan Disclosure Act of 1958 was enacted for the purpose of protecting the interest of welfare and pension plan participants and beneficiaries through disclosure of information with respect to such plans by requiring the plan administrator to file with the Secretary of Labor and to make available to participants and beneficiaries the annual report of the plan.

This law was amended in 1962 to make theft, embezzlement, bribery, and kickbacks Federal offenses if they occurred in connection with welfare and pension plans. The amendments also required bonding of plan officials and provided limited investigatory and regulatory power to the Secretary of Labor.

Experience since 1962 has demonstrated the weakness of this law in its limited disclosure standards and the absence of fiduciary standards. The main shortcoming of this law is its reliance on the individual employee to police the management of the plan.

The Internal Revenue Code provides certain tax deduction benefits for employers for contributions made to a plan as well as tax exemption for the investment earnings on such plans. To be eligible for such "qualified status" the plan must: first, be for the exclusive benefit of the participants; second, exist for the purpose of distributing the corpus or income to the participants; third, be established in such a manner as to make it impossible for the employer to use or divert funds before satisfying the plan's liabilities; and fourth, not discriminate in favor of officers, stockholders, or highly compensated or supervisory employees.

Since the primary function of this law is to produce revenue and prevent tax evasion, enforcement consists in the Internal Revenue Service's grant or disallowance of "qualified status" to a pension plan. Accordingly, there is only a very limited protection for the rights of the participants and beneficiaries of a plan.

II. PURPOSE OF THIS LEGISLATION

Very succinctly the purpose of this legislation is to require:

That plan administrators will adhere to certain fiduciary standards when handling the affairs of the plan;

That the plan administrator will provide in a meaningful manner the necessary information as to the current status of the plan on an annual basis;

That employees be included in pension plans at or near the inception of their employment;

That employees will earn nonforfeitable rights in the plan after a short period of employment;

That the employer make contributions to the plan to cover the vested rights acquired by the employees; and

That, in the event of plan termination, sufficient assets will be available to meet the plan's obligations to its participants and beneficiaries.

III. ANALYSIS OF THIS LEGISLATION

To go into further detail the following are the significant provisions of this legislation:

Fiduciary responsibility and disclosure.

This part of the proposed legislation would cover all private employee benefit plans under commerce clause jurisdiction except:

Plans of Federal, State, and local government.

Plans established and maintained solely for the purpose of complying with workmen's compensation or unemployment compensation disability insurance laws.

Plans established and maintained outside the United States for the benefit of non-U.S. citizens.

Certain church plans.

Unfunded deferred compensation plans for top executives.

Plans subject to this part would be required to conform to the fiduciary and disclosure standards no later than 6 months after passage.

With respect to fiduciary standards, anyone who exercises any power of control, management, or disposition with regard to a fund's assets or who has the authority to do so or who has the authority or responsibility in the plan's administration must act "solely in the interest of the participants and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims."

A fiduciary would be required, with certain exceptions, to diversify investments so as to minimize losses.

A fiduciary would be prohibited from dealing with such fund for his own account, acting on behalf of any party adverse to the interests of the plan or its participants, receiving any personal consideration from any party dealing with the fund in connection with any transaction involving the fund, transferring property to any party in interest for less than adequate consideration, and permitting the acquisition of property from any party in interest for more than adequate consideration.

The administrator of a pension or welfare plan would be required to publish a description of the plan setting forth the identity of the administrator, the benefit schedule, the plan's vesting provisions, and the procedure to be followed in presenting a claim as well as for appealing claims that were denied.

The administrator would also be required to publish an annual report setting forth in detail substantial financial information as to the assets of the plan, the benefits paid, number of employees, receipts and disbursements, known party-in-interest transactions, loans in default, et cetera, as well as an audit and opinion of independent qualified public accountant and an actuarial statement.

Upon request, the administrator would be required to furnish a participant information as to his or her rights and the amount of any nonforfeitable benefit.

The Secretary of Labor would have authority to investigate any plan and would have authority to bring any legal action to enjoin any act or practice which appears to him to violate the law. Participants and beneficiaries would also have the right to institute such proceedings.

Vesting.

Vesting refers to the nonforfeitable right or interest which an employee participant acquires in the pension fund. The benefit credits may vest in an employee immediately, although in most cases participants do not become eligible for vesting of benefits until a stipulated age or period of service, or a combination of both, is attained.

At present, only one of every three employees participating in employer-financed plans has a 50 percent or greater vested right to his accrued retirement benefits. Moreover, 58 percent of covered employees between the ages of 50 and 60 and 54 percent of covered employees 60 years of age or over do not have a qualified vested right to even 50 percent of their accrued retirement benefits. Extreme cases have occurred in which employees have lost retirement rights at advanced ages as a result of being discharged shortly before they would have been eligible to retire.

Title I, part 2 of the proposed legislation would require minimum vesting standards for all private pension benefit plans including profit-sharing plans which provide benefits after retirement except—

Federal, State, and local plans;

Certain church or fraternal society or association plans;

Plans established or maintained outside the United States for workers who are non-U.S. citizens;

Executive deferred compensation plans;

Secondary plans providing class year vesting; and

Keogh plans.

Plans subject to this part would be required to include in the plan an employee after 1 year's service or age 25 whichever occurred later, except for a plan which provided that after 3 years of service or age 25, whichever is later.

Every plan subject to this part would be required to adopt one of the following vesting rules:

One hundred percent vesting after 10 years of service; 25 percent vested after 5 years of covered service with an annual increase of 5 percent for the following 5 years of covered service, leading to 100 percent vesting after 15 years; and 50 percent vested when age plus covered service equals 45, with an annual increase for 10 percent until 100 percent vesting is reached.

A plan would be allowed to provide for vesting of benefits after a lesser period of time and in a greater amount than required by any of the above three rules, and a plan could change its vesting rules at any time provided that the vested benefits not be delayed or reduced for participants in the plan at the time of the change.

With certain exceptions, such as service prior to age 25, an employee's entire service with the employer contributing to or maintaining the plan shall be considered in computing the employee's period of covered service.

Plans in existence on January 1, 1974, shall conform to the vesting requirements of this part with respect to plan years commencing after December 31, 1975, except that in the case of multiemployer plans subject to collective bargaining such conformity shall occur between December 31, 1976, and December 31, 1980, depending when the bargaining agreement terminates within such period.

Plans adopted subsequent to enactment must conform to the vesting requirements at the commencement of the first plan year.

In view of the fact that requiring plans in existence on December 31, 1973 to conform to one of the three vesting rules provided by this legislation, might subject the plan to substantial additional costs to provide for the increased vesting, which might lead to reduced benefits or possibly plan termination, a transitional rule is provided by title II of the legislation whereby such a plan would have reduced vesting requirements for the first 5 years it is subject to this part of the legislation. This would allow a plan to provide at least 50 percent of the required vesting pursuant to the vesting rule applicable to the plan for the first year with the percentage increasing 10 percent per year so that the vesting rule would be complied with by the end of the sixth year.

Funding.

Funding refers to the accumulation of sufficient assets in a pension plan to assure the availability of funds for payments of benefits due to the employees as such obligations arise.

Pension plans which are qualified under the Internal Revenue Code must meet certain minimum funding requirements by irrevocably setting aside funds in trust or through the purchase of insurance contracts. Contributions to such plans must generally be at least large enough to pay the normal pension costs plus the interest on unfunded accrued liabilities which generally are attributable to the past service of the covered employees. This minimum funding requirement is not adequate, however, as it is designed only to prevent the unfunded liabilities from growing larger and does not require any payment to reduce the amount of the outstanding unfunded liabilities which may be substantial. Without mandatory funding of past service liabilities, a pension plan may never be able to meet its pension obligations to its employees.

Title I, part 3 of the proposed legislation would apply to all pension benefit plans subject to the vesting provisions except for profit-sharing and other individual account plans not providing for employer contributions. It would require each plan to provide a minimum level of contributions equal to the normal cost of the plan for the year—which it currently must make pursuant to Internal Revenue Service requirements—plus an amount—for plans in existence on January 1, 1974—to amortize in equal amounts the unfunded liabilities over a 40-year period. In the case of plans which come into existence after January 1, 1974, the period would be 30 years except in the case of a multiemployer plan it would be 40 years.

Where subsequent amendments to the plan result in increases in the unfunded liabilities, such increase is to be amortized by equal annual payments over 30 years—40 years in the case of a multiemployer plan.

In view of the fact that assets of the fund may appreciate or depreciate in value over the life of the plan, any appreciation in value or depreciation in value must be amortized over a 15-year period.

There is also provided by the legislation an alternative method of funding which is to be used if it brings a higher level of funding in any year than would the basic funding standard.

Plan termination insurance.

A study of pension plan terminations for the year 1972 prepared by the Departments of Labor and Treasury disclosed that following:

There were 1,227 plans terminated involving 42,000 claimants; 19,500 claimants in 546 plans lost benefits; the claimants which losses represented eight-one-hundreths of 1 percent of all workers covered by private pension plans; 8,500 of the claimants with losses where either retired, eligible for retirement or fully vested; the total present value of the lost benefits amounted to $48.7 million for all claimants and $34.4 million for those retired, eligible for retirement or whose rights were fully vested; plans that were at least 5 years old at time of termination accounted for most claimants with losses; and half of the claimants with losses were in plans of unprofitable employers.

These statistics indicate that while compared to the total number of employees covered by private pension plans those who experienced losses represented a very minor percentage, the fact remains that there were 8,500 persons who experienced losses who were either removed from the labor force by retirement or ready to retire or whose benefits were fully vested. Obviously their loss was very substantial and may well have had a catastrophic effect on their well-being.

While the vesting and funding provisions which are required by this legislation should go a long way to minimize the possibility of loss from future plan terminations, still and all, as long as a plan contains unfunded accrued liabilities, there is the distinct possibility that termination of a plan with such unfunded liabilities will result in a loss of vested benefits to participants and beneficiaries of the plan.

Accordingly, title I, part 4 of the proposed legislation provides a method to protect participants and beneficiaries from loss of benefits in the event the plan terminates. It establishes a Pension Benefit Guaranty Corporation with the Department of Labor, with the Board of Directors consisting of the Secretary of Labor and two officers or employees of the Department of Labor. The purpose of the Corporation is to:

Encourage the continuation and maintenance of voluntary private pension plans to the benefit of their participants;

Provide for the timely and uninterrupted payment of pension benefits to the participants and beneficiaries under all insured plans; and

Minimize over the long run the premiums charged by the Corporation.

All plans covered under the funding provisions of the bill and which cover more than 25 participants—where at least 10 have obtained nonforfeitable benefits—at all times during any period of 5 consecutive plan years, and with assets equal to at least 10 percent of the present value of insured benefits are covered and required to pay premiums.

The Corporation is required to establish two separate funds, the single employer primary trust fund for single employer plans and the multiemployer trust fund for multiemployer plans.

The Corporation shall proscribe separate premium schedules for each trust fund and is authorized to revise any premium schedule whenever it determines such revision is necessary, but such revision may only take place if Congress approves.

The Corporation is authorized to pay participants and beneficiaries in the event a plan terminates according to a formula which is intended to protect the participants and beneficiaries from a loss of benefits as a result of inadequate assets to meet the vested liabilities of the plan.

Obviously the purpose of plan termination insurance is to protect the participants and beneficiaries from any loss of benefits, and where the employer contributing to the plan which terminates is insolvent, there is no claim against the employer for the amount of funds expended by the Corporation. But where the employer is solvent, the Corporation is authorized to recover any funds expended up to 50 percent of the net worth of the employer.

Such a procedure is necessary to prevent a solvent employer from terminating a plan and transferring the amount of the unfunded vested liabilities to the Corporation. Absent this procedure the solvent employer would be able to renege on his agreement to contribute to the plan with impunity.

The premiums charged by the Corporation and benefits paid out by the Corporation shall apply to plans subject to the part of the legislation for plan years commencing after June 1, 1974, except that in the case of a multiemployer plan, it shall apply during the period December 31, 1976 and December 31, 1980, depending on the date which the collective-bargaining agreement relating to the plan expires.

IV. CONCLUSION

The need for this legislation is abundantly clear. If we are to provide financial security for the increasing percentage of the work-force which will be attaining retirement age in the years to come, it is incumbent on the Congress to pass this legislation at this time.

Mr. Chairman I include the following statement from the steelworkers legislative appeal:

H.R. 2—PRIVATE PENSION REFORM

THE CASE FOR PLAN TERMINATION INSURANCE ADMINISTERED BY A PUBLIC CORPORATION

One of the essential protections for pension beneficiaries is in Part 4 of H.R. 2 which provides for public insurance of pension plans against the risk of termination. Currently, no such insurance program is available in the private sector. Furthermore, no such reinsurance system is feasible unless it is a mandatory one.

Private insurance is based upon the principle of voluntarism and screening out of high risk cases. Neither of these principles can assure an adequate program of reinsurance for the private pension plan system. The basic weakness in the system—namely, termination of some plans—requires a mandatory social insurance program.

Congressman Erlenborn, who has voiced objection to even the concept of a reinsurance program on the basis that it is not needed, attempted in the Labor Committee to convert the public corporation concept in H.R. 2 into a quasi-public (quasi-private) corporation controlled by private sector groups. He probably will make similar attempts when the bill reaches the floor. Since the pension reinsurance system can function only under government mandate, it is inconsistent to put its control in private interest hands. Therefore, we oppose any such attempts.

A number of arguments have been made against a social insurance system administered by a government corporation chaired by the Secretary of Labor.

*1. Allegation: Premium Rates Would Be Higher*

It is charged that the Secretary of Labor would direct the insurance corporation to liquidate immediately the investment assets of terminated plans. Since plans may more likely terminate in periods of economic downturns, the value of such assets may be depressed. Immediate dumping would, therefore, result in a low return thereby putting a greater strain upon the trust account and the premium contributions thereto.

Response

H.R. 2 provides the Secretary with the option of retaining such assets in order to minimize increased premiums. There is no assurance that the judgment of a private board of directors on this matter would be any more sound than that of the government corporation. Furthermore, pension plans may terminate irrespective of economic conditions; in some cases terminations are caused more by reasons unique to the particular plant or industry. Hence, the general market conditions would not affect the liquidation of the assets of the particular terminated plan.

Furthermore, during a downturn, there may be no indication of its duration. Hence, the reinsurance corporation, whether publicly or privately directed, will have to make its decision to liquidate dependent upon its own resources to meet the worker benefit payments of the terminated plan.

*2. Allegation: The reinsurance trust account should be operated like the FDIC and NLRB*

The charge is made that private representatives should be named to the corporation in order to keep it consistent with other types of government entities.

Response

The Federal Deposit Insurance Corporation is a public corporation, not a quasi-public corporation as contemplated by the Erlenborn amendment. Its Board of Directors does not represent specific self-interest groups. Membership based upon interest groups would create a conflict-of-interest situation which would be injurious to pension beneficiaries.

Reference to NLRB commissioners is also irrelevant because the NLRB is a quasi-judicial body established to apply and interpret the NLRA. In performing that function, it was deemed necessary and fair that both management and labor interests be represented in the decision process of what is essentially an adversary situation. Reinsuring pension plans is not an adversary proceeding.

The AFL-CIO is not advocating that labor representatives be selected as actuarial experts for membership on a multilateral board. It is sufficient that the workers' interest be recognized by placing the responsibility for the administration of termination insurance in the hands of the Secretary of Labor.

*3. Allegation: The public corporation would be unable to attract qualified personnel*

Response

The social security system has not been plagued by such a problem in attracting qualified personnel, and there is no reason to suspect that the situation will be different for the pension insurance corporation.

Furthermore, qualified actuaries and other needed experts will best and most objectively be able to administer the reinsurance system in the public interest from a civil service stature. They would not be able to do so as an adjunct of the private insurance or banking industry as would be the orientation of the employees of a quasi-public corporation.

*4. Allegation: Pension fund investment portfolios would be unduly regulated by a public corporation*

Probably the primary objection to a public corporation administering the reinsurance system is the fear or anticipation of government regulation. It is alleged that government officials would question the character of some investments both as to their reliability and rate of return. Pension trustees would be hampered by such public oversight.

Response

The bill does have sections governing the investment policies of plan trustees relative to "prudent man" judgements and conflict-of-interest transactions. There are also prohibitions on the amount of stock to be held by the sponsoring employer's corporation. In addition, regulations regarding actuarial standards would limit many actuarial assumptions now being made by plan trustees. All these restrictions and government regulations pertaining to them are in other sections of the bill to be administered by the IRS and Department of Labor.

It would be inconsistent to allow the plan termination insurance program to be administered without relationship to these regulations. But this is what the advocates of the quasi-public corporation really want. They fear that the public corporation, in assessing the premiums, would evaluate the pension plan assets.

Yet objective evaluation is the very goal which we seek for both the beneficiaries of the pension plans and for solvent employers who must continue to pay premiums to cover terminated plan liabilities. We think that since this insurance system is more properly a social one, its administration is also more properly public so that the public interest can be served.

If bank deposits can be not only reinsured but also their reinvestment and use by banks be regulated by government regulations, surely so too can the pension deposits of workers be reinsured and their investments regulated.

*5. Allegation: Secretary of Labor would have an undue influence in the stock market*

This argument is just the opposite of the Allegation No. 1. It alleges that the Secretary could withhold liquidation to serve other government purposes, such as the control of prices.

Response

While such a purpose may actually be positive at times, the effectiveness of such control is unrealistic. The Secretary of Labor is under the duty of investing the assets of the insurance corporation in a manner calculated to best promote its purposes; that is, to make good on all vested liabilities of pension plans at the least possible cost to the solvent plans paying premiums.

The purposes of the corporation would not be promoted by rapid liquidation of any security since any such action—regardless of timing with respect to the business cycle—would reduce the amount realized. Similarly, taking an action unrelated to the purpose of the corporation would, of course, not be promoting its interests, and would in fact be in violation of the law. To allege that the Secretary will engage in these practices is to allege that he will be guilty of impeachable offenses.

The market power of the insurance corporation will be miniscule in relation to the assets of pension funds, insurance companies, savings and loan associations, mutual funds, banks, and trusts. Over a period of years the assets of the corporation might, almost, accumulate to 1/10 of one per cent of the total market. Even at that improbably high figure, the maximum market impact of any action of the corporation would be miniscule. Many hundreds of other investing agencies would individually have a far greater influence in the market.

When the Federal Reserve Board changes the rediscount rate up or down, the immediate impact on the stock market is measured in the tens of billions of dollars. A pessimistic or optimistic forcast of crops by the Department of Agriculture, price index announcements by the BLS, offering of new securities by the Treasury, estimates of the federal deficit, all have influence on markets in comparison with which the power of the pension insurance corporation would be puny indeed.

CONCLUSION

Administration of plan termination insurance is a public responsibility. H.R. 2 rightfully places that responsibility in the Department of Labor. We urge the rejection of any amendments to convert the reinsurance corporation into a quasi-public corporation controlled by private interest groups.

Support H.R. 2 with no amendments.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. PETTIS).

Mr. PETTIS. Mr. Chairman, I would like to ask the chairman of the committee a brief question.

As I understand it, Mr. Chairman, church plans under the provisions of this bill are exempt from the new participation, vesting and funding provisions of the bill.

Are they also exempt from the fiduciary and reporting registration provisions of the bill

Mr. DENT. The fiduciary and reporting provisions are in part 1 of subtitle B of title I. They, of course, cover all of the fiduciary and reporting provisions, and since church plans are exempt from the provisions of that part, it is clear that church plans are not subject to these new fiduciary and reporting provisions.

Mr. PETTIS. I thank the gentleman.

Mr. ERLENBORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I mentioned earlier in the debate on the rule, our subcommittee has been for 5 or 6 years spending a good deal of its time in this area of private pension reform. Over this period of time there has been a good deal that we have seen in newspaper accounts, press releases by Members of Congress, and so forth, as to the horror stories that exist in the field of private pensions.

Very frankly, many of these horror stories were greatly exaggerated. Some, for instance, coming from the efforts of the Committee on Labor and Public Welfare in the other body suggested that only 1 out of every 10 plan participants now participating in private pensions would ever get any benefits whatsoever

We can look to actual studies of the question of who is going to get pensions and who is not.

There was a study that was commissioned by the Department of the Treasury and the Department of Commerce that showed in the neighborhood of 66 percent of present plan participants would draw benefits from the plan in which they are now participating. Another 20 percent would terminate without vested rights, yet young enough to acquire vested rights in another plan; so somewhere in the neighborhood of 86 percent would ultimately get some benefit from the private pension system.

Although I question the horror stories, there is no question that as a result of extensive studies by our subcommittee there are problems existing in the private pension system. Plans do have difficulties. There are some that do not have any sort of decent vesting standards. There are some that have no decent funding standards; so there is certainly an area, a reasonable area within which legislation is necessary and can do a job to protect the working men and women of this country.

I think the legislation that is brought before us today addresses those very real problems. It does not necessarily address itself to the kind of horror stories that we have heard, and I think rightfully so.

I think we have done a good workmanlike job in fashioning legislation in this area.

I will confine my comments to H.R. 2, as reported by the Committee on Education and Labor. Time will be made available for members of the Committee on Ways and Means to discuss the part of the bill reported by them.

In H.R. 2, the first and very noncontroversial part of the bill has to do with disclosure, reporting, and fiduciary standards. At the present time the Department of Labor under the Welfare and Pension Plan Disclosure Act does have jurisdiction in the area of reporting and these reports are available to the public; so a certain amount of disclosure is available.

Building upon this present jurisdiction of the Labor Department, we expand the requirement for those operating private pension plans to make available information in the form of reports to the Department of Labor.

In addition, we are providing that in meaningful layman's language those who are participants in private pension plans be given information as to what their plan provides, what kind of benefits they can rightfully expect.

As a matter of fact, if people do have this sort of meaningful information made available to them, I think some of the unwarranted expectations that gave rise to the horror stories that people were not getting what they anticipated will be a thing of the past, because many of them are based on what people anticipated getting that they never were entitled to, because they did not honestly know what was in their pension plan; they did not honestly know what their rights would be.

In addition, we at the present time have no national fiduciary standards that would be applicable to those who stand in the fiduciary relationship to the plan and plan participants. In this first part of our bill, we do provide a set of national fiduciary standards.

Getting on to the more relevant and important parts of the bill, we have in this legislation before us minimum vesting standards. In the initial stages of considering this legislation, there were many different suggestions. Some said that we ought to have straight years of participation as a vesting standard, and it was suggested 10 years would be a reasonable length of time.

The gentleman from Pennsylvania (Mr. DENT) in his original legislation provided such a minimum vesting rule. There were others, noticeably in the other body, who suggested that graded vesting would be a better way of doing it; that is, to start with some percentage in the beginning and over a period of time be graded into 100 percent pension rights.

So, it was proposed in the other body a graded vesting return of 8 to 15 years, starting with 30 percent vesting at the end of 8 years with 10 percent each additional year until at the end of 15 years a person would be 100 percent vested.

I think it is important to point out at this point how people can misconstrue this. I know that when they look at vesting and we talk about 10 percent, 30 percent, 50 percent, they believe we mean that percentage of the final pension. But, it is important to note that that is not what is meant. If a person is 50 percent vested, that means that he is credited with one-half of the time that he has accumulated as a participant in the plan.

For instance, if the man is 50 percent vested at the end of 10 years participation, it means he gets credit for 5 years and he builds his pension credits on the basis of that. So, there has been, I think, a misunderstanding as to what vesting really is.

One additional rule for vesting that was proposed by the administration is the rule of 50. The rule of 50, briefly, is this: When a person's age plus his years of participation added up to 50, he is 50 percent vested. That is, he gets credit for half the time he has participated in the plan. Each additional year thereafter, he would get an additional 10 percent until 5 years after the rule of 50's full application, he would be 100 percent vested.

In our consideration, it became apparent, I think, to the gentleman from Pennsylvania (Mr. DENT) and to me, that there was no magic as to any one of these types of vesting. It really was very difficult to accept the argument that all plans—150,000 or 200,000, however many there might be existing in the United States—ought to have straight years as a vesting standard or ought to have graded vesting, or ought to have an age-weight vesting—that is, a rule of 50 or some like rule.

So, we agreed before reporting the bill that we would make available to the plans that are existing and to any that may form after the passage of this law an option as to the type of vesting they might like; either straight years, in which case it would be 10 years, and the number could be fewer but a minimum of 10 years; or graded vesting, and we reported out 8- to 15-year rule which has since been modified to 5- to 15-year rule; or age-weight vesting, and we adopted a modified rule of 45.

So that now, under this bill, we have three options for vesting. A plan can tailor its vesting standards within the proscriptions as to minimum standards in a way that will best satisfy its needs and the needs of the participant in that particular plan.

We give them these options instead of trying by law to put them all into the same mold, which may be all right for some, but not good for others.

Mr. Chairman, as to funding, it became apparent, under our present regulations relative to funding of pension plans at the Federal level, which is wholly within the Department of Treasury and the Internal Revenue Code, that so far the Federal Government has been worried primarily about overfunding. The Treasury Department is worried about the impact on the Treasury or putting in too much money in any one year.

So that is really all the Government has been worried about up to the present time. What we now are worried about is the protection of the worker, for minimum funding standards. That is what we will provide for in the bill before us.

So each employer who is holding out a promise to his employees that the operation of this fund will provide a pension in the future will be required to amortize the unfunded portion of his liabilities in that fund over a reasonable length of time. There are different standards for differing types of unfunded liabilities, but generally speaking, a 30-year amortization is provided. As to multiple employer pension plans, a 40-year amortization is provided. This means that there will be a better chance that the funds will be in the pension trust at the time the employee seeks to get his pension or at the time the trust may terminate because of the employer's inability to continue in business or for whatever reason the plan may terminate.

It has been my argument that this application of minimum funding standards for the first time in Federal legislation will help to eliminate the need for the other provision which is in part 4 of title I, and that is termination insurance.

Lastly, Mr. Chairman, I would like to talk about termination insurance. This is the only portion of the bill upon which I have disagreement with the gentleman from Pennsylvania.

Termination insurance holds out the hope that everyone who participates in a pension plan will get the full pension that is offered to him or that has been promised to him. It has some hazards, however.

The only way that one can make termination insurance something other than a dumping ground for the obligations of the employer is to put some sort of obligation on the employer. At the present time the legal foundation of pension plans is that the employer sets up a pension trust and promises to make periodic contributions into that trust. If there are sufficient assets, the employee will get the pension that has been described; if there are not, he does not get it; he gets something less. But the employer up until the present time generally has not made a promise to pay the pension, only to make periodic contributions.

In this way the employer has no obligation under the law for the total amount of the promised pension benefits. It is because of this device that we have been able to build the large private pension system that exists today. I can say very confidently that if the law had required the employer to guarantee the payment of the pension 15 or 20 years ago when that system began to grow, it would not have grown in the proportions that it has up until the present time.

With termination insurance we are now going to change the basic legal obligation of the employer, because under the concept of employer liability we are saying to the employer, in essence, as follows: "You no longer make a promise to only make periodic contributions, based upon the actuary's computation of what your obligation is; under this law if there is not sufficient money in that pension trust, for whatever reason whatsoever, your assets will be liable toward the payment of the pensions to make up the difference between what is in the pension trust and the total of the pensions that have been earned at the time of termination."

For whatever reason, if there are insufficient assets, the employer will be liable.

That means, if the pension trust assets fall in value because of poor judgment on the part of the trustees, the employer will have to make up the difference, or if we have a recession or a depression and the assets, which are generally invested in marketable securities, such as stocks and bonds and so forth, reduce in value while the pension promises remain at a stable level, there is going to be that big gap between the assets and the promises, and the employer's assets will be liable for that difference. We will have in effect made the employer an insurer of the value of the trust assets.

If the trust does not produce the funds necessary, then the employer will be personally liable.

As I say, it is difficult to envision termination insurance without some employer liability, because without that another difficulty arises; that is, the employer looking at this new insurance corporation which guarantees the payment of pensions could say, "Why should I continue to make these contributions to the pension trust, because if I terminate my plan today, the insurance company will make payment?" So we have this real dilemma upon the horns of which I find myself impaled.

I do not think insurance will work without employer liability and I do not think insurance with employer liability will be good for working men and women.

Why do I say this? I say it because of this reason: If you are a good business manager and are managing a business that has no private pension system today and this is enacted into law and you know you will have your assets liable to the payment of pensions, you will be very unlikely to decide to choose a defined benefit pension system for your employees. You will have other options. You could go to money purchase, or you could go to profit sharing. But I submit that the working men and women of this country will be ill served if we discourage the defined benefit pension system. I say that because it is only this system that guarantees people when they retire that they will have a certain set income month by month whether they live for 5 years or 50 years after their retirement.

If we force the employers to choose instead the money purchase plan, which is a savings account, or the profit-sharing plan, we will make it impossible for those who will retire to have this security in their retirement years.

However, I wish we would wait for a few years and see how these first faltering steps we have taken into the private pension regulation field work. But barring that, the least we can do is to change the pension termination insurance concept that is in the bill.

One of the difficulties I perceive is that the provision in H.R. 2 will set up this pension termination insurance wholly within the Department of Labor. The Secretary of Labor and two of his employees will constitute the board. You understand in the future when pension plans terminate the assets will be assumed by the insurance company. That means after several terminations of substantial plans the Secretary of Labor will have large blocks of private securities in his control for investment purposes. So what would a political appointee do in determining how he would invest or reinvest these private assets? I submit we ought not to wait to find out the answer by giving authority to the Secretary of Labor to do this. I submit that it would be better to have representatives of organized labor and of the business community and representatives of the public generally form a board to operate the pension termination insurance and to make these determinations as to the investment of private funds and private securities in the private market free from political influences. I will offer an amendment for that purpose.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I thank my colleague for yielding to me, and I join with and commend my colleague for his remarks at the beginning of his statement. I think they were very clear and concise, and I think will be informative to the Members who are listening.

However, Mr. Chairman, I am diametrically opposed to the observations made by the gentleman from Illinois regarding termination insurance.

Do I understand my friend and colleague, the gentleman from Illinois (Mr. ERLENBORN) correctly when the gentleman says that he advocates that we do nothing with termination insurance for the next 2 or 3 years?

Mr. ERLENBORN. Mr. Chairman, I will answer the gentleman from Pennsylvania by saying that if I were left the right to make that decision my choice would not be to enact termination insurance at this time. This is based on the fact that recent studies show that only 8/100ths of 1 percent of plan participants are subject to losing anything as a result of plan termination, and those who do have lost on an average no more than $2,500 total—not annual income, but $2,500 total. This shows the scope of the problem as being relatively small. And if it is relatively small before we have any Federal regulation of private pension plans, and before we have had minimum funding standards, I submit that we can anticipate that it will shrink and become even smaller.

To solve this relatively small problem by putting in the employer liability provision in the pension, the insurance provision, will precipitate termination of plans so that they can avoid this liability. It will discourage the improvement of plans because as soon as you grant an increase in pension benefits you increase the unfunded liabilities in the pension trust, therefore increasing the employer's personal liability, and it will therefore discourage present employers from improving the pensions that they presently operate.

Mr. GAYDOS. Mr. Chairman, if the gentleman will yield further, I again congratulate the gentleman for a very clear presentation of his position, but may I inquire of the gentleman from Illinois as to what his remedy, if any, would be regarding those who find themselves, particularly under existing situations and a potential unemployment problem, further the effects of a conglomerate closing of a pension plan, or where economic conditions dictate that steel plants close?

Mr. ERLENBORN. I am happy the gentleman from Pennsylvania asked that question because there are other provisions in the bill that meet these difficulties.

First of all, I have already mentioned the minimum funding standards that will help assure the money will be there when the plan terminates. Second, there are provisions in the bill that specifically prohibit diluting of the assets of a plan that becomes merged with another plan because of a business merger. And, third, there is a provision for equitable distribution of funds upon plan termination.

This became quite apparent to us as being a necessity when viewing some of the difficulties that were brought before our committee. For instance, in our hearings in Washington we were advised, of what one paper pulp mill experienced. They had a pension trust that was overfunded; it had $1 million more in assets than were needed to pay the pensions. There was a strike, and the result of that strike was to increase the pensions by about 50 to 80 percent over what they had been before. Immediately that plan became underfunded by over half a million dollars. At this point the company was forced to go out of business. Those who were already retired and those who were eligible for early retirement got much, much more than they would have before the benefits were increased. Those who were not eligible for early retirement or who were unvested were wiped out, got nothing at all.

In other words, this shows the inequity when we increase pension benefits and we allow those benefits to go into effect immediately in determining the priority in the distribution of assets to the retired and those eligible for early retirement. We can just by one simple amendment to the plan wipe out the rights of those who do not fall in the higher classification of priority. In this bill we are providing a schedule of priorities for distribution of assets on termination.

We say you must go back to the benefits in effect 5 years prior to termination to make that distribution of assets, so that a recent plan improvement will not work to the detriment of the employees. These provisions, if they had been the law at the time of the Studebaker plan termination, would have made sure that many, many people would have gotten at least a good portion of their pension.

One of the problems in Studebaker case was that the employee organization, the union, continued to negotiate plan improvements, larger pensions, knowing the company was in difficulty. When the company folded, only a few got the higher pensions, and they got everything they were entitled to. Those who were not high in the list of priorities were wiped out.

This, I submit to the Members, was the fault not only of the company, but it was the fault of the employee union as well that they did not look out for the rights of all of the employees. What they did was to see that some got much more than they should have at the expense of other employees.

Mr. GAYDOS. Mr. Chairman, will my colleague, the gentleman from Illinois, yield further?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentleman for yielding.

Let me try another question. Is the gentleman saying that should we exclude from the provisions of this legislation any type of reinsurance, that the funding and vesting as projected in the language of this legislation would take care of my steelworker after this legislation is passed. Particularly, if any economic condition forces him to leave? Is that not the problem?

Mr. ERLENBORN. I would tell the gentleman that it would take some time for the funding standards to protect them, but the schedule of priorities of distribution of assets on termination would take effect immediately, so there would be some help. I would further answer the gentleman in this fashion: I do not think it is practical to expect that this House will reject termination insurance. I know the pressures that have been put on by the Steelworkers and the United Auto Workers, and I know that, even though other elements of organized labor do not favor termination insurance, there is sufficient pressure, sufficient lobbying that has taken place, to guarantee, in my opinion, that there probably will be termination insurance in this bill when it passes. What I am going to offer is not to strike termination insurance from the bill, so the gentleman need not worry about making that point.

What I am going to offer is to see that the termination insurance that is in this bill will be more workable than it is at the present time.

One of the difficulties is that there is an optional account in the termination insurance as proposed by the gentleman from Pennsylvania (Mr. DENT) in the bill. The optional account would allow the employers, upon the payment of a higher premium, to escape employer liability totally.

In my opinion, if we do have this type of optional account, those employers who are anticipating terminating their plans will pay the higher premium and then will dump all of their liability on the insurance corporation, free and clear of any rights of the employees to look to the employer. I think that would be unfortunate.

What I will propose is a modified employer liability that would see that the employer in that optional account could not do this and then turn around the next day and start another pension plan. In the bill before us today, the employer could dump his liabilities, terminating the plan, have the insurance corporation pick up those liabilities, and then turn around the very next day and start a new pension plan. How fair is that to the other employers who, through their insurance payments, are picking up the liabilities of this employer who has dumped? How fair is that to the employees who are the beneficiaries of the other plans, who are going to have their pensions reduced because the employer is forced to pay insurance premiums into a pension trust that has picked up the obligations of an employer who is so unscrupulous as to dump his obligations on the insurance company? I think we can improve this insurance to have modified employer liability that will not interfere with the employers' ability to get financing to keep their businesses going in hard times, and it will prohibit this employer from dumping his liabilities and then starting another pension plan right away.

The package of amendments that I intend to offer when we reach part 4 of title I will accomplish that, as well as taking investment decisions out of the political arena. I would hope that the gentleman would support that package of amendments.

Mr. GAYDOS. Will my friend, the gentleman from Illinois, yield further?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Unless my memory fails me, I think that I had begun my questions, to which the gentleman has so kindly responded, based upon his observations that he wished there were no insurance provisions. If the gentleman has changed, as he has so concisely stated, I agree with him. We agree it is necessary to have reinsurance in the bill and it should be there.

Mr. ERLENBORN. I would repeat to the gentleman I do not think it is necessary but I think, as I said, very practically it is going to be in the bill, the pressures are there, and if it is going to be in the bill let us see that it is drawn in a way that will not allow unscrupulous employers to dump their liabilities on other employers and employees who are participants in the insurance trust.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield further?

Mr. ERLENBORN. I am sorry, I do not feel I can yield further to the gentleman because if I use up all the time Members on this side of the aisle will not be able to join in the debate.

Mr. Chairman, I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I yield to the gentleman from New York (Mr. BIAGGI) such time as he may consume.

Mr. BIAGGI. Mr. Chairman, I thank the chairman of the committee for yielding.

Mr. Chairman, I rise in support of this bill. I am privileged to be associated with the gentleman from Pennsylvania, the chairman of the subcommittee (Mr. DENT), who is without parallel in his advocacy of the workingman's plight. He has over the past 5 years during my time in the Congress been the spearhead of this activity and he has managed to overcome all the obstacles to the point where we see fruition or almost fruition on this day.

Also I congratulate the gentleman from Oregon (Mr. ULLMAN), of the Ways and Means Committee, my colleague who has worked so compatibly with the gentleman from Pennsylvania (Mr. DENT).

I would also like to observe that my colleague, the gentleman from Illinois (Mr. ERLENBORN), makes his position very clear for the most part and he agrees with the committee.

But I am a little perplexed. We have come a long way in this endeavor. We are talking about the working man, the man who like so many of us looks forward to a little more security with pension systems, and who works and who has hopes to retire one day, like all of us, being free and clear of financial problems, and then one day the bad news comes. He is no longer in business. He is unemployed. The firm with which he has given so much of his life is no longer in existence.

My friend and colleague, the gentleman from Illinois (Mr. ERLENBORN), says it is not a horror, it is a problem. Well, perhaps the gentleman comes from an area where the people are more affluent, but in my district I have listened to my people who have been subjected to this type of treatment. I have known many of them for years. They were straight standing and bright and proud of their achievements and contributions. That is they were until the bad news came. Then I saw the husband and wife who were long in years come to my office and seek assistance in this very tragic illustration of injustice. They were no longer straight standing and bright. They were crestfallen and burdened with a sense of insecurity that logically follows as a consequence of such drastic action.

I have often talked with them. I was frustrated because I recognized the desperation of their plight and the justice of their complaint, but I also knew there was no recourse and I said: "We are working on it in Congress and hopefully one day we will provide resolution."

That day has come. That day is here. Resolution can be provided whether we talk of it in terms of problem or horror. That is of no moment or consequence. To be academic it is a problem. To be realistic and personal it is a horror.

It is a mark of the end of living for many. It is the mark of a new course of life that is burdened every day with a sense of fear and insecurity that comes in advanced years, of uncertain futures, uncertain income, where industries disappear from our economic sphere, where opportunities no longer exist.

So we have dealt with this problem. The chairman has been with it as a matter of principle all of his adult life.

I guess most of us were. I was exposed to the privilege of joining in the legislative process as a member of that subcommittee and a cosponsor of the bill. I am grateful to be here and say that one day we helped produce what in my judgment is the Magna Charta of pensions to the working people of our country. If it is nothing but a single first step, an imperfect first step, it is a very significant first step.

I would be happy to vote for this bill. I regret that it does not contain within it the element I wanted incorporated in it. Hopefully, one day we will perhaps with more experience; but as far as the absence of termination in which my colleague, the gentleman from Illinois (Mr. ERLENBORN) said that a survey indicates only a small amount, a small number of people would be affected, if it would be one it is wrong. I know it is more than one.

I suggest that it runs in the numbers of thousands and tens of thousands, the potential even being greater, because we have witnessed in the last decade a new phenomenon in the business world, the advent of the conglomerate, that went about just sucking the very guts out of local industry and in the process wreaking havoc on the working man. Unless that is stayed, or conversely, unless we are provided with the protection that we have been provided in this bill, the working man continues to be exposed to pressures.

Title I establishes the baseline requirement for fair handling of a worker's money, a must if pensions are to be fair and honest. the rules on disclosure of all information relating to pension funds are very, very strict. This is the only way abuse can be detected and corrected. Without information there is no protection. In this bill we are making sure there is going to be access to all relevant information.

Second, equally important, are the rules on fiduciary responsibility. We are all familiar with the colloquial phrase "guard as if it were your own." Too often where pension funds are concerned, that statement is not lived up to. The men in charge do not—and have not—guarded other people's money as if it were their own. That is intolerable and we must put an end to it. There is only one sure solution to this and we have taken it: require personal liability on the part of all those who deal with pension funds; in effect, require the money managers to treat the fund as if it were their own money. This section alone goes a long distance toward securing the basic rights of the worker to a secure pension.

The next section, vesting, is critically important to the concept of fairness. A pension plan is not fair if, given the conditions of the modern marketplace, an individual's rights to a pension never vest. For it is wrong to make a worker choose between a job offer and his pension, as is now the case. It is immoral to require a worker to forfeit 25 years of pension contributions and benefits if he exercises his God-given right to take another job just a few years before his retirement. He is sacrificing what is his—his contributions—and what he and his family need—his retirement fund. That is unrealistic, unfair, intolerable and wrong in today's society.

The answer to this injustice is vesting. Once his rights in the pension fund are vested, the worker retains his share arising from the period he worked for the employer, regardless of where he works later on in his career. The worker need never again sacrifice his pension to take a better job.

But for vesting to work well, it must occur early in the employment period. If this requirement is not included, a worker could spend 19 years on the job only to find the gross injustice that, when leaving it, he has no rights to a pension because they do not arise—his rights do not vest—unless he has been on the job for 20 years. To remedy this wrong, we have set vesting relatively soon after the worker comes onto the company's payroll.

But we are conscious of the variety of pension plans and of the importance of private sector decisions on this important matter. Thus, we have left it to the company offering a plan to chose one of three different vesting procedures: Graduated vesting beginning with at least 25 percent after 5 years, reaching 100 percent after 15 years, or simple 100 percent after 10 years, or, finally, 50 percent when years of service and age of employee total 45, 10 percent per year over the succeeding 5 years. Behind all of these provisions stands the just and necessary rule that all persons serving in a company with a pension plan must be covered if they have worked with the company for at least 1 year and are at least 25 years of age.

The next critical feature of pension reform and our effort to secure justice for the American worker is the funding section. There is no security to a pension plan if it is not funded properly. Improper funding, whether arising through inexcusable ignorance or outright fraud, leads to bankruptcy. We cannot permit that if the worker is to be sure of his pension. The subcommittee of which I was a member conducted careful and thorough surveys of various funding procedures which would guarantee solvency. We reached the conclusion there is no financial security to a plan which does not fund normal costs currently, and we have so required in the bill.

Existing past service costs we found could safely be amortized over a 40-year period, and unfunded costs arising in the future could be amortized over 30 years with a slightly longer period for multiemployer plans. I am confident these provisions will insure pension solvency and protect the worker.

All that we have required, however, is meaningless—is a fraud—without part 4 of title I, the all important termination insurance provision. This is a particularly controversial section, but it must be adopted if our promise of reform is to be anything more than an empty illusion.

The requirements for funding, vesting, fiduciary responsibility, and disclosure go a long distance toward making plans safe, fair, and secure. There remains, however, the risk that the employer company will go out of business, be bought up or merged with another firm. When a company effectively goes out of business all of its assets and commitments go into the general fund of bankruptcy and are lost to the worker. He receives no pension payments. He is cheated out of not only what his company promised him, but out of his own contributions toward his retirement. The incompetence of a business would result in a virtual theft of his own, hard earned money. This represents the ultimate nightmare for the retired pensioner, primarily dependent on his retirement income and now plunged into poverty. It is heartbreaking for the worker looking forward to his retirement pension, for which he has struggled all his working life. Just last month, the Rheingold Beer Co. in New York City went bankrupt, and workers of 25 and 30 years employment with the company are now in danger of losing their pensions and facing just such a nightmare.

The termination insurance program will stop this scandal. Its operation is simple. A company is required to pay insurance premiums on its unfunded liabilities to an insurance program administered by the Secretary of Labor. If the company becomes insolvent, the insurance program pays the worker his pension under any and all circumstances. This guarantee means that never again will the worker lose what is his by right, and never again will the pensioner be thrown into poverty. It goes a long way toward making retirement the truly safe haven it should be for those who have worked hard all of their lives.

The termination insurance program is thus the critical section of the bill. If we fail to enact it, we are merely improving the operation of pension plans, not insuring the delivery of moneys. This would make pension reform a heartbreaking fraud on the American worker.

Title II of the bill represents the Ways and Means Committee contribution toward pension reform. The most important provisions of this title relate to the contributions employees may make to their pension plans above the required minimum and the granting of tax deductions for allowable amounts. This is especially important in the so-called Keogh plan self-employment situation, the tax qualified plans which are generally regulated by title II, and for individuals not covered by other plans. I believe title II represents a valuable and significant contribution to the overall structure of pension reform as laid out in title I.

In sum, Mr. Chairman, we cannot delay any longer. We must pass this bill now. I urge quick passage of the Employee Benefit Security Act of 1974.

Mr. BIAGGI. Mr. Chairman, I have two questions I would like to pose to the chairman, for the record, and I would appreciate his response.

Section 411(a)(1)(E) of section 1012 states that a multiemployer pension plan may suspend payment of benefits whenever a participant resumes employment in the industry. For purposes of clarification, it is appropriate to define the maritime industry generally as that sector presently under the jurisdiction of the Merchant Marine Subcommittee of the House Merchant Marine and Fisheries Committee, namely, commercial, exploratory, service and mining vessels operating on the high seas, inland waterways, Great Lakes, coastal zones, harbors, and noncontiguous areas, or serving offshore ports, platforms or other sites.

Mr. DENT. Well, in my opinion it is appropriate and has that designation.

Mr. BIAGGI. I have another question, Mr. Chairman. Under section 105(b)(3) of title I, the plan is required to furnish certain information to plan participants and beneficiaries each year. In the maritime industry many seafarers maintain no permanent address. In fact, frequently the union headquarters or the union hall in port cities is the address used by seafarers. In addition those seafarers having a permanent address are frequently at sea for extended periods of time. Many do not return to home port or to a permanent residence for months and sometimes for more than a year. For many years the Seafarers International Union has published full information on the pension plan covering its members in the Seafarers Log. The Seafarers Log is sent to each seafarer's last furnished address. In addition, multiple copies of this newspaper are available at all times in each union hall and are also placed aboard every vessel on which members of the SIU are employed. The Seafarers Log is published every month. If all of the information required by the act is printed at least once a year in the Seafarers Log, would this constitute compliance with the requirements of section 105(b)(3)?

Mr. DENT. I expect it would be proper for the Secretary of Labor to issue regulations along that line, because as I understand it now, the same conditions prevail in the reporting that has to be done at the moment. I am sure that the Secretary will issue a regulation along that line, if he has not yet.

Mr. BIAGGI. I thank the chairman.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. YOUNG).

Mr. YOUNG of Illinois. Mr. Chairman, I would like to review two or three features of this proposed legislation. I think that the present legislation like most legislation, has some forward looking improvements, but it also has some handicaps and defects also encompassed in this proposed legislation and I would like to join with the remarks of my colleague from Illinois (Mr. ERLENBORN) with respect to certain of the criticisms of this legislation which I think need to be emphasized.

First of the purpose of this legislation is to improve the protection of the employees who are to benefits by these types of deferred compensation programs, and in particular the benefits of the pension, or the defined benefit type of plan, as that term is used in this legislation.

The defined benefit plans, under this legislation, have specific provisions with respect to funding and with respect to participation and vesting.

By adopting the rules of law in this legislation and applying them across the board to both the defined benefit plan, and also to the defined contribution plan, some companies with which I am familiar will not be able to afford both plans, and in such cases, we will be creating a detriment to the employees of such companies. Why? The reason is that this legislation requires both types of plans, defined benefit plan and defined contribution plan, to meet these minimum requirements with respect to funding and vesting and participation. As a result, the additional cost of amending these plans to meet such criteria, may well cause that company or some of such companies to reduce the benefits in one of their two plans in order to be able to afford to keep both plans in effect, or they may have to eliminate one of the plans.

So, I think we might have drafted better legislation. We might have improved this legislation if we had provided that the three items I have referred to, participation, vesting and funding, where a company has two plans in effect, that if the pension plan meets the requirements of participation vesting and funding, then the profit sharing plan would not have to meet the same strict requirements. That is one point I want to emphasize.

The second point I want to make is, as my colleague from Illinois (Mr. ERLENBORN) has very clearly pointed out, that the net effect of this legislation may well be that many employers will decide to discontinue their pension plans and go to a profit-sharing plan, because the insurance termination provisions of this legislation are going to require them to make contributions. Such contributions will be deducted from the amounts of moneys which would otherwise go into the retirement plan. As a result it is either going to cost employers more money or it will serve to reduce the amount the employees would otherwise get. Many employers are going to say, "I think the thing we must do is discontinue this pension plan," particularly in view of the fact that the employers are now being saddled with the higher cost of social security which is now becoming a very major factor in the compensation plans of most companies around the United States.

Therefore, I think that just as has been so well stated by Congressman ERLENBORN, the net effect of this legislation may well be to discourage not only the existing pension plans from continuing, but also to discourage the formation of new pension plans. The effect will be that we will have more profit-sharing plans which avoid the requirements of pension plans that have to be met with respect to funding and with respect to the insurance termination provisions that apply to the fixed benefit type of plans.

Therefore, I join with my colleague from Illinois in saying that I wish we could eliminate the insurance provisions from this bill, at least for a year or 2 years, to study the effects of this legislation on the existing plans.

We could then see if this type of legislation unduly discriminates against the pension types of plan in such a manner that it will discourage the continuation of those plans or discourage the future creation of such types of plans.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I wish to commend the two committees that worked so hard in bringing out a pension reform bill. I have had a great deal of concern expressed by people in my particular congressional district, many of whom are membrs of the United Auto Workers, particularly—it is the Farm Implement Workers really.

I know that this has been a very laborious task.

Mr. Chairman, I wish to commend particularly my friend, the gentleman from Illinois (Mr. ERLENBORN) who, I think, has done an outstanding job.

Mr. Chairman, today is indeed a historic occasion. Finally, we have pension reform legislation on the floor of the House. I was beginning to wonder if we were ever going to see this day. Back in the 92d Congress, I introduced several bills to strengthen and improve the private pension system. Unfortunately, no action was taken by the House on any pension reform measure that Congress. Therefore, early last year, I again reintroduced my bills.

H.R. 932 would have established standards of conduct that pension plan fiduciaries would have been required to adhere to in order to protect the rights of pension plan participants and beneficiaries. This measure would have also called for improved reporting and disclosure of pension plan operations, terms, and conditions. Another bill I sponsored, H.R. 934, would have permitted individuals to set aside certain amounts of income for their own personal retirement savings, while at the same time enabling them to receive a tax deduction for their savings, similar to that already available to self-employed under Keogh plans. Individuals would have received tax incentives, for the first time, for their own retirement savings when their employer or their union did not already have a pension plan, or in instances where the individuals wished to provide additional retirement benefits because the plan under which they were covered did not provide sufficient benefits. My third proposal, H.R. 935, would have called for minimum standards of vesting and funding, established a pension plan reinsurance program, and provided for a study on portability.

I am most heartened to see that the legislation before us today embodies the substance of my proposals and what I have been advocating over the last few years. Hopefully, we are finally coming to grips with the serious and pressing problems facing far too many Americans today concerning their pension and profit-sharing plans.

However, I would like to mention one aspect of our private pension system which desperately needs improving.

Mr. Chairman, you may recall that when termination insurance was being considered by the committees last Congress, the charge was made that we did not have enough data to shape effective legislation. Because of the lack of sound data, the President directed the Secretaries of the Treasury and Labor to undertake a joint study and report back to him.

That study was made and revealed that a program of pension plan termination insurance is indeed needed. Some opponents state that the 19,400 workers who lost $48.7 million of pension benefits according to the 1972 study represented only about eight one-hundredths of 1 percent of all workers covered by private pension plans. Granted, eight one-hundredths of 1 percent sounds like a small number. However, I hasten to add that the 19,400 workers and the $48.7 million in pension benefit losses are by no means insignificant considerations.

The chance of a worker losing his pension goes on year after year. The Treasury-Labor Department termination study recognizes this, and includes an estimate of the projected risk of loss over a 30-year period. The chance of having your pension terminate during the 30-year period is 1 in 41—or 2.4 percent. That is hardly insignificant.

Mr. Chairman, by passing legislation here today calling for minimum standards of vesting we will in fact be calling for a "bigger" promise under many pension plans. We will unfortunately also be contributing to the present "pension illusion" if we fail to write a termination insurance program into this legislative package. Any pension reform legislation which fails to address itself to the problems of termination is at best unresponsive to the overriding concerns of workers for the safety of their pensions.

We must now usher in a new era of pension reform.

Mr. ERLENBORN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have asked for this time in order that I may ask the chairman of the subcommittee a question, if he will, please.

First of all, I would like to tell the Members my little story, and then I will ask the gentleman a question. Some years ago I had in my city of York, Pa., a rather sizable plant owned by one family that was doing an excellent job. There were people who worked in that plant for 20 and 30 years; they had a retirement plan.

Some of the elder members of this family which controlled the plant died and the plant was sold to a bigger company. The new company came in, got all of the patents they wanted, and then closed the plant. As a result of that action, these people who had paid into this pension plan practically all their lives got not one penny out of it.

Mr. Chairman, my question to the gentleman is this: Under the legislation that we are considering today, can that happen?

Mr. DENT. Mr. Chairman, in answer to the gentleman's question, I will say that it cannot.

Mr. GOODLING. It cannot?

Mr. DENT. As far as termination of the plant is concerned, if they shut the plant down, at that point everybody on the payroll will automatically be vested into a position and placed in a special group. Everyone will get what is available to him, whatever is vested in his pension, and all moneys will be received. No funds will go anywhere except to the participants in the plan.

Mr. GOODLING. Mr. Chairman, I am happy to hear the gentleman say that, because I know the gentleman can appreciate what this meant to these people who paid in all their lives and did not get one penny in return.

Mr. DENT. Mr. Chairman, I appreciate the gentleman's concern.

Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. Mr. Chairman, I wish to ask the chairman of the subcommittee a few questions in order to make legislative history.

Mr. DENT. I would be very happy to answer the questions.

Mr. GAYDOS. I would like to make sure of the vesting requirements under the substitute 12906. Allow me to ask about the application of the requirements to a specific plan.

An existing plan provides, upon retirement at age 62 or later, a benefit equal for each year of service to 2½ percent of the employee's final average pay, defined as his average compensation in his best 5 consecutive years. The plan pays a maximum of 50 percent of final average pay. The plan now provides that an employee who has completed 20 years of service is to be vested in the full benefit—50 percent of final average pay—payable at age 62.

The bill would, of course, require this plan to extend the right to vested benefits to employees who terminate before 62 and with less than 20 years of service. Let us assume that this plan elects to provide 100 percent vesting after 10 years of service.

Is it correct that this plan could be amended, after enactment of the law, but before the vesting provision becomes effective, to identify age 65 as its normal retirement age for payment of benefits to participants who terminate before 62 if they have completed 10 to 19 years of service?

Mr. DENT. Yes.

Mr. GAYDOS. Is it clear that this plan could establish 65 as its normal retirement age even though it would continue to pay unreduced benefits to participants who terminate at 62?

Mr. DENT. Yes.

Mr. GAYDOS. Now assume that this

plan decides to use the 3 percent formula in section 205(a), paragraph 1 and in the newly proposed section 411(b)(1)(A) of the Internal Revenue Code. Is it correct that the rate of accrual for vested benefits could be fixed by the plan at 3 percent, for each year of service, of the maximum benefit of 50 percent of final average pay?

Mr. DENT. Yes.

Mr. GAYDOS. Now, if we apply 3 percent to the maximum benefit of 50 percent, we get an annual rate of accrual of 1½ percent. Is my understanding correct that this plan could fulfill the vesting requirements of the bill by providing any participant whose employment terminates before age 62 after 10 to 19 years of service with a pension payable from age 65 equal to 1½ percent of his final average pay for each year of his credited service?

Mr. DENT. Yes.

Mr. GAYDOS. That would mean, then, that the vested deferred benefit for a terminated participant with 10 years of service would be 10 times 1½ percent or 15 percent of pay, starting at 65. Is my understanding correct?

Mr. DENT. Yes.

Mr. GAYDOS. And the vested deferred benefit for a terminated participant with 19 years of service would be 19 times 1½ percent or 28½ percent of his final average compensation payable from age 65?

Mr. DENT. Yes.

Mr. GAYDOS. This is true, I gather, even though the plan could continue to pay the full maximum benefit of 50 percent starting at age 62 to any participant whose employment terminated after 20 years of service?

Mr. DENT. Yes.

Mr. GAYDOS. In the face of these vesting provisions, it could continue to provide 2½ percent of final average pay per year of service to any participant who terminated at 62, could it not?

Mr. DENT. Yes.

Mr. GAYDOS. Of course, there is nothing in the bill to prevent the employer from providing a greater deferred vested benefit than the 3-percent formula requires; is that correct?

Mr. DENT. Yes; the bill establishes minimum requirements for vesting. Plans can, of course, accrue benefits at a faster rate and can vest their employees in those benefits sooner than would be required under the bill.

Mr. GAYDOS. Will the gentleman yield further to me?

Mr. DENT. I will.

Mr. GAYDOS. I want to thank my chairman.

Following the discussion I had with my colleague from Illinois (Mr. ERLENBORN whom I most emphatically commend for his concise approach and explanation to the legislation generally, except in a specific area where we disagree, I would like to make these observations in order to clarify my position on the general discussion that we had.

It seems to me while the vesting and funding provisions that my colleague from Illinois (Mr. ERLENBORN) referred to and which are required by this present legislation, should go a long way toward minimizing the probability of loss from future plan terminations, still in all, as long as a plan contains unfunded accrued liabilities—and a lot of them do—there is always that distinct possibility and even probability, particularly taking into consideration the present economic climate, that the termination of a plan with such unfunded liabilities will result in a loss of vesting benefits to participants and beneficiaries of the plan.

As a matter of record and for the purposes of explanation, I would like to make reference to a recent study of pension plan terminations for the year 1972 prepared by the Department of Labor and Treasury. Their findings disclose the following: First, there were 1,227 plans terminated involving 42,000 claimants; second, 19,500 claimants in 546 plans lost benefits; third, 8,500 of the claimants with losses were either retired or eligible for retirement or fully vested; and fourth, the total present value of these losses amount to $48.7 million for all claimants and $34.4 million for thise eligible for retirement or whose rights were fully vested.

Mr. ERLENBORN. Will the gentleman yield?

Mr. GAYDOS. I will in just 1 minute. Half of these losses were participants in plans of unprofitable employers. I do concede that this is minuscule in a way when we consider any relation to the overall participants in pension plans, but I do make the point in good conscience and urge my colleagues to accept the position that under the circumstances we have experienced, as indicated in the numerous hearings we had, if even one employee loses a benefit under these circumstances, regardless of the statistics, still to him it is a fiasco and an important item.

Mr. ERLENBORN. Will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman.

Mr. ERLENBORN. Is the gentleman aware of the fact that under this legislation before the effective date of termination of the insurance those companies that operate pension plans that are not collectively bargained will have the option to terminate their plan before the insurance takes effect? And in this way many hundreds of thousands of employees may be denied private benefit coverage in the future.

Mr. GAYDOS. I am not proud of that provision. I wish we could change it. In fact, we had an amendment that was designed to do just that. It is not the best situation, but we are talking about the present legislation generally.

Mr. ERLENBORN. Will the gentleman yield further?

Mr. GAYDOS. I yield to the gentleman.

Mr. ERLENBORN. The gentleman is aware at the present time it is customary when a new plan is begun to give credit for past service of all employees for their service with the company even before the pension plan is begun.

Mr. GAYDOS. If that were not true, you could never start a pension plan. But go ahead. I do not want to interrupt the gentleman.

Mr. ERLENBORN. This then means that the plan starts with large unfunded past-service liabilities, because you have not had an opportunity before starting a plan to get it funded, then you do not have sufficient funding. Is the gentleman aware that the creation of these vast unfunded liabilities combined with insurance that makes it a personal liability of the employer will probably even further discourage the employer from either starting a plan or, if he does start the plan, then not to give past service credits?

Does the gentleman feel that this sort of legislation is really ultimately to the best interest of the working men and women of this country? I personally do not think so. I think we ought to encourage the expansion of the private pension industry, and encourage more employers to give larger pensions, but the introduction of insurance termination will do exactly the opposite, and will hurt hundreds of thousands more working men and women than will ever be affected by the termination that the gentleman from Pennsylvania is opposed to.

Mr. GAYDOS. The gentleman from Illinois is a very difficult man to carry on a colloquy with because, for want of a better descriptive term, the gentleman hogs the time. But let me ask the gentleman from Illinois, is the gentleman or is the gentleman not in support—and I think I understand the position of the gentleman, but I would like to have the gentleman clarify it, I ask again, is the gentleman in support of plan termination insurance?

Mr. ERLENBORN. If the gentleman will yield, I think I made it clear that I do not believe it is workable. I am sorry that it is in the bill, but the provisions can be made more workable. We can take out the political determination as to investments. We can give organized labor and business a voice in operating this insurance corporation.

No, I would rather we not have insurance, because I will predict, and I think I will be proven correct, that many more people will be adversely affected by the termination insurance than will ever be benefited by it.

Mr. GAYDOS. Mr. Chairman, I want to thank my colleague, the gentleman from Pennsylvania (Mr. DENT), who is the chairman of the subcommittee, for yielding me this time and, further, Mr. Chairman, I do want to congratulate the gentleman from Pennsylvania on his foresight in insisting upon and presently supporting the plan termination aspect of this legislation.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. THOMSON).

Mr. THOMSON of Wisconsin. Mr. Chairman, I would ask the distinguished gentleman from Pennsylvania (Mr. DENT) if he would enter into a colloquy with me for the purpose of answering some questions?

Mr. DENT. Mr. Chairman, I will be happy to do that.

Mr. THOMSON of Wisconsin. Mr. Chairman, as I am sure the gentleman from Pennsylvania knows, the State of Wisconsin was one of the first States in the Union requiring pension trust supervision, and we in Wisconsin are a little bit disturbed about the preemption by the Federal Government of this plan that has worked so successfully for many, many years.

The question is: Will the preemption of State law nullify any pending litigation a State may be involved in concerning violations of State law which occurred prior to the preemption?

Wisconsin, for example, has legal actions pending due to violations of State law. If the cases cannot be brought to court prior to the Federal preemption, will Wisconsin be able to proceed?

Mr. DENT. Mr. Chairman, in reply to the inquiry of the gentleman from Wisconsin (Mr. THOMSON) may I say that in my opinion they would be able to proceed with any pending judicial proceeding. So far as I know we have no retroactivity in any such case.

Mr. THOMSON of Wisconsin. Question No. 2: If States now have laws to be preempted by this act, will there be a period between preemption of State law and the effectiveness of the Federal law?

With respect to fiduciary responsibility and disclosure, for example, that portion of the bill becomes effective 6 months after enactment. When is a State law preempted? On the date of enactment or 6 months after enactment?

Mr. DENT. It would be my opinion it would become effective at the same time as the relevant substantive part itself. In other words, 6 months after the passage of the act.

Mr. THOMSON of Wisconsin. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

The CHAIRMAN. The Chair would like to inquire of the gentleman from Pennsylvania (Mr. DENT) whether the gentleman from Pennsylvania intends to yield back all of his remaining time?

Mr. DENT. I do, Mr. Chairman. I yield back the remainder of my time.

The CHAIRMAN. The Chair would like to make the same inquiry of the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for debate for the Committee on Education and Labor having expired, the Chair will now recognize, under the rule, the gentleman from Oregon (Mr. ULLMAN) for 1 hour, and the gentleman from Pennsylvania (Mr. SCHNEEBELI) for 1 hour, controlling the time for general debate for the Committee on Ways and Means.

The Chair now recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, first I want to commend the committee members and the staff and the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), and the members of his committee and their staff, for what I consider to be one of the most difficult legislative operations that we have had in Congress for a long time.

The Employee Benefit Security Act of 1974 is one of the most important bills to come before the House in many years. It deals with a basic problem affecting practically every individual in this country—namely, more adequate provision for retirement. It represents landmark legislation whose beneficial effects in protecting the pension rights of individuals and encouraging more adequate provision for the retirement of all gainfully employed people will be felt for decades to come.

This legislation concerns the legitimate interests and jurisdiction of both the Ways and Means Committee and the Committee on Education and Labor. The Ways and Means Committee, for example, is concerned with pension legislation because over $14 billion of tax deductions were taken for contributions to qualified corporate plans in 1971. For over three decades the tax laws have been used to grant inducements for the growth and development of nondiscriminatory pension plans for the benefit of the rank and file of employees. Under rules laid down in the Internal Revenue Code, employer contributions to such nondiscriminatory plans may be deducted within specified limits, employees defer payment of tax on the employer contributions made on their behalf to such plans until they receive them in the form of benefits, and the earnings of the pension plan itself are exempt from tax. And for over 30 years, the Internal Revenue Service has been administering the vital provisions of the Internal Revenue Code relating to pension plans, examining such questions as coverage, participation, and vesting practices in order to determine whether particular plans are in fact nondiscriminatory and qualify for the special tax treatment.

However, we on the Ways and Means Committee recognize that the Education and Labor Committee also has a legitimate concern in pension legislation, particularly since such subjects as coverage, vesting, and funding practices directly affect the welfare of many millions of employees.

This dual jurisdiction over pension matters has undoubtedly raised some technical problems in bringing this legislation to the floor. But I think that the two committees working together have successfully resolved these technical problems. In fact, it is probable that the dual jurisdiction has resulted in a better bill because it has meant that the joint experience and resources of both the Ways and Means Committee and the Committee on Education and Labor have been brought to bear on the complex issues involved in pension reform. In particular, we on the Ways and Means Commitee want to acknowledge the very substantial contribution to this legislation that has been made by Mr. DENT and his fellow members on the Education and Labor Committee.

I might also add that the Ways and Means Committee has worked very hard on this bill and has given it very considerable consideration. We held public hearings on pensions earlier this year and we have met in 38 executive sessions over the period from October 1 of last year and to February of this year to develop the legislation.

The substitute, therefore, represents the combined cooperative efforts of the two committees. Title I was developed by the Education and Labor Committee and title II by the Ways and Means Committee. To a considerable degree, these two titles deal with different matters. Title I, for example, makes provision for plan termination insurance as well as for new requirements regarding fiduciary responsibility and disclosure, matters which are not dealt with in title II. Similarly, title II contains provisions relating to purely tax matters, such as tax deductions under pension plans, not covered in title I since they are of no direct concern to the Education and Labor Committee. Title I and title II each contain provisions dealing with participation, vesting, and funding—reflecting the concern of each of the two committees in these areas. However, I do not think this will create any problem because the language in the overlap areas in title I and title II is virtually identical and the bill provides for the development of joint regulations by the Treasury Department and the Labor Department in the overlap areas. In addition, it is our intention that these two departments coordinate their efforts to avoid duplicate enforcement.

Before turning to the substantive provisions of the pending legislation, I think it only fair to point out that the private pension system has many important achievements to its credit. Estimates of the coverage of private pension plans range from 23 million to 30 million employees for 1972 and 42 million employees are expected to be covered by 1980 without any change in law. Similarly, in 1970 about $14 billion was contributed to pension plans by employees and employers and 4.7 million beneficiaries received $7.4 billion in pension payments. Moreover, pension plan assets amounted to $150 billion, book value, in 1972 and are expected to reach $225 billion by 1980.

However, despite these achievements, a number of serious problems have arisen in regard to pension plans which require remedial action. Only about one-half of all employees in private nonagricultural employment are covered by pension plans. Many private pension plans give covered employees vested rights to benefits—that is, the right to receive benefits if he leaves or loses his job before retirement age. However, many plans provide inadequate vesting or no vesting at all prior to retirement. The result is that large numbers of employees who are now covered by pension plans may never receive benefits in the absence of remedial action. Although many plans are adequately funded, a significant number of plans are not, raising a serious question as to whether adequate funds will be available to pay benefits to employees when they fall due. Finally, present law discriminates against individuals not covered by pension plans with regard to the tax treatment of retirement savings. It also accords widely disparate pension tax treatment to corporate employees as compared with self-employed individuals that cannot be justified.

In dealing with these problems, title II, or H.R. 12855, continues to rely primarily on the tax laws to secure needed improvements. In general, it retains the tax incentives granted under present law for the purpose of encouraging the establishment of plans which contain socially desirable provisions. However, it improves the effectiveness of these tax incentives by extending the incentives where this is justified and by pruning them where this is indicated to prevent abuses. In addition, the title requires qualified plans to comply with specified standards designed to make such plans a better instrument for providing benefits for employees.

Let me be more specific in describing the provisions of title II of the bill.

Qualified plans are prohibited from requiring overly restrictive coverage standards by providing that generally an employee cannot be excluded from a plan on account of age or service if the employee is at least 25 years old and has had at least 1 year of service. The 1-year service requirement may be extended to 3 years if immediate vesting is provided.

Qualified plans are also required to comply with one of three alternative minimum vesting standards. The first of these provides for at least 25 percent vesting at the end of the fifth year of covered service. Thereafter, the vesting percentage is increased by 5 percent a year until a level of 50 percent is reached at the end of the 10th year. Following this, vesting increases at the rate of 10 percent a year until 100 percent vesting is reached at the end of the 15th year.

The second vesting standard under the bill is 100 percent vesting at the end of 10 years of covered service.

The third vesting standard is the so-called rule of 45. Under this standard, there must be 50 percent vesting when the sum of the age of the individual and the number of years of covered service equal 45—provided there is at least 5 years of service. An additional 10 percent per year is then required to be vested in each of the next 5 years of service.

These vesting rules are phased in over a 5-year period beginning, in the case of existing plans, in 1976.

The title provides three alternative minimum vesting standards because we did not believe that it would be desirable to force all retirement plans into one rigid mold in regard to vesting. These alternative standards have the advantage of providing adequate flexibility to the hundreds of thousands of retirement plans to enable them to provide adequate vesting protection to their covered employees in the light of the individual circumstances and conditions confronting them. Moreover, the additional cost of financing pension plans involved in these minimum vesting requirements is expected to be moderate. Overall, for all plans, these cost increases will range from 0 to 1.5 percent of payroll.

The title also provides minimum funding standards for qualified plans to assure that adequate funds will be available to pay retirement benefits when they fall due. Under the bill, normal costs are to be funded currently. Accrued costs attributable to already existing liabilities are to be amortized over a 40-year period. Liabilities under plan amendments and new plans generally are to be amortized over a 30-year period, except that in the case of multiemployer plans the amortization period is to be 40 years—in this latter case the Secretary of Labor can extend this for a further period of 10 years. Experience gains and losses are to be amortized over 15 years generally. However, for multiemployer plans, experience gains and losses are to be amortized over 20 years and the Secretary of Labor can add an additional 10 years to this 20-year amortization period. These experience gains and losses generally will be required to be recomputed only every 3 years.

The funding standards that I have just described are based on accrued liabilities. However, if funding requirements are higher under a second general standard which is based on accrued "vested" liabilities, this standard is to apply. Under this standard, accrued vested liabilities are determined, as also are the value of the plan's assets. Where the former exceeds the latter, the contribution for that year must be sufficient to cover the level annual payment required to amortize the difference in 20 years. A determination for a new 20-year amortization period is made in each of the succeeding years.

Where any of the requirements set forth above present hardship under a plan, the Secretary of the Treasury can under certain specified conditions permit variances spreading the current liability in this case over a 15-year period.

In addition, the title recognizes the special problems of multiemployer plans by authorizing the Secretary of Labor to authorize exceptions to the vesting and funding standards which I have described where he finds that they seriously endanger the continuation of a plan.

Finally, the title gives existing plans time to comply with the new participation, vesting, and funding standards. Under the title, the new standards generally do not apply until plan years beginning on or after January 1, 1976. In the case of collective bargaining plans, the January 1, 1976, date is to be extended to January 1, 1977, or the expiration date of the current collective bargaining agreement, but not beyond January 1, 1981. For new plans adopted after January 1, 1974, the participation, vesting, and funding provisions are to be effective as of the date of enactment.

Your committee's bill also requires qualified plans to provide annuities to pay benefits in the form of a joint and survivor annuity, giving the surviving spouse an annuity equal to at least 50 percent of the annuity paid during the joint lives, unless the participant elects in writing before the annuity starting date not to take a joint and survivor annuity.

Let me turn now to the provisions in title II which are unrelated to provisions in title I. At present, the tax treatment of different taxpayer groups under pension plans is highly inequitable because widely disparate treatment is given to different groups. The deductible contributions to pension plans on behalf of a self-employed person are limited to a maximum of 10 percent of earned income or $2,500 a year. However, there is no specific limitation on the amount of deductible retirement plan contributions that can be made for corporate employees.

As a practical matter, cost considerations tend to place some limitations on the amount of contributions or benefits that can be provided for highly paid executives under qualified corporate plans since the nondiscrimination provisions of the code generally require that rank and file employees be provided with contributions or benefits which are as large in relation to their salaries. However, under smaller plans, such practical cost considerations do not operate to the same extent in limiting contributions or benefits for highly paid individuals. Perhaps the worst discrimination of all applies to individuals who are not covered by qualified plans and who therefore are required to save for retirement out of taxed income.

Because the present tax treatment in regard to pension plans is so diverse for the different groups of individuals involved, it is not feasible at this time to move to a single and completely uniform system of treatment for all the taxpayers involved. However, title II of the bill makes a giant step toward this goal. In effect, it substantially narrows the present differences in tax treatment under pension plans by liberalizing the tax treatment of those who are now restricted in this regard—namely, the self-employed and individuals not covered by pension plans—and by imposing limitations to prevent undue tax advantages under pension plans for highly paid individuals through provisions for inordinately large contributions or benefits for such individuals.

More specifically, the bill increases the maximum deductible contributions that a self-employed individual is allowed to make on his own behalf to a qualified plan to 15 percent of earned income up to $7,500 a year. At the same time, provision is made to assure that self-employed people who wish to utilize this full maximum tax allowance for their own contributions will also have to provide significant pension contributions for their regular employees who are covered by the pension plan.

Individuals who are not receiving the advantages of current coverage under qualified retirement plans are permitted to take deductions for annual contributions to a new type of individual retirement plan, up to 20 percent of earned income or $1,500, whichever is less. To encourage the widespread use of such individual retirement plans, your committee has provided that the contributions to such plans can be invested in a wide range of investments, including special government retirement bonds which would be issued for this purpose, annuity contracts sold by insurance companies, mutual funds, corporate securities, banks, and credit unions.

This amount cannot be drawn down without penalty before age 59½—except in the case of death or disability—and the individual must begin drawing the amount down by age 70½ if penalty is to be avoided. An individual may establish the account directly himself or, alternatively, an employer or labor union may maintain accounts of this type for employees or members.

Finally, we have placed limits on the amount of contributions or benefits that may be provided for any individual under qualified plans. In taking this action we have not been motivated by the desire to limit retirement benefits as such. Your committee believes that it is generally desirable to encourage large retirement benefits provided that they do not constitute unreasonable compensation. However, I am sure that you will agree with me that there is no reason to subsidize extraordinarily large retirement benefits through the tax system.

For this reason, the bill provides that annual contributions on behalf of any individual under defined contribution plans—profit sharing and money purchase pension plans—cannot exceed 25 percent of his compensation or $25,000, whichever is less.

In the case of defined benefit plans, the pension which may be paid with respect to any individual may not exceed 100 percent of his compensation in his high 3 years of employment or $75,000, whichever is the lesser. Both the $25,000 amount and the $75,000 amount are subject to cost-of-living allowances. A "grandfather clause," provides that if an individual is eligible for more than a $75,000 pension based upon his current compensation by taking into consideration his additional period of employment up to the time of his expected retirement, this amount may be paid despite the $75,000 limitation.

If an employee is under both a defined benefit plan and a defined contribution plan, then an overall limit is applied to coordinate the two limits discussed above. In this case, the sum of: First, the percentage utilization of the maximum limit under the defined benefit plan and; second, the percentage utilization of the maximum limit under the defined contribution plan cannot exceed 140 percent. Amounts in excess of these limits may be provided under the plan, but may not be paid out of a qualified trust.

I would like to add that the Ways and Means Committee worked very hard in developing the limitations on contributions or benefits for individuals that I have just described. We believe that these limitations will not impose hardship for individuals covered by qualified plans such as the Sears, Roebuck plan. This is not to say that you won't hear of some cases where individuals are affected by the limitation.

This is the purpose of the limitations since if they didn't affect anybody there would be no purpose to having them. However, I want to assure you that these limitations permit pensions that are generous, judged from any reasonable standard.

The tax provisions affecting retirement plans when fully effective will result in an estimated net revenue loss of $460 million a year. This figure covers the revenue losses resulting from the liberalized H.R. 10 provisions and the new individual retirement plans offset by increased revenue attributable to the limitations on pension contributions and benefits and other tax provisions. I might add that the equity gain resulting from the fairer tax treatment of individuals in regard to pension plans resulting from the tax provisions in the bill is worth the revenue loss.

This completes my general statement outlining the major provisions of the bill. Because of the importance of these provisions, however, I would like to insert in the RECORD a more detailed explanation at this point.

I have already said enough to show how essential this bill is and how much it merits your support. Many millions of individuals are counting on us to adopt this vital legislation and we should do so promptly.

GENERAL EXPLANATION OF TITLE II OF THE EMPLOYEE BENEFIT SECURITY ACT OF 1974

One of the most important matters of public policy facing the Nation today is how to assure that individuals who have spent their careers in useful and socially productive work will have adequate incomes to meet their needs when they retire. This legislation is concerned with improving the fairness and effectiveness of qualified retirement plans in their vital role of providing retirement income. In broad outline, the objective is to increase the number of individuals participating in employer-financed plans; to make sure to the greatest extent possible that those who do participate in such plans actually receive benefits and do not lose their benefits as a result of unduly restrictive forfeiture provisions or failure of the pension plan to accumulate and retain sufficient funds to meet its obligations; and to make the tax laws relating to qualified retirement plans fairer by providing greater equality of treatment under such plans for the different taxpayer groups concerned.

Essentially, the bill represents a significant improvement in the tax treatment now applicable with respect to qualified retirement plans. Your committee regards the present legislation as part of an evolutionary process which keeps this basic framework but which builds on it new provisions which experience indicates are necessary for the proper functioning of these plans.

A fundamental aspect of present law, which the committee bill continues, is reliance on voluntary action by employers and employees under contributory plans for the establishment of qualified retirement plans. The bill also continues the approach in present law of encouraging the establishment of retirement plans which contain socially desirable provisions through the granting of tax inducements. In other words, under the new legislation as under the present law, no one is compelled to establish a retirement plan. However, if a retirement plan is to qualify for the favorable tax treatment, it will be required to comply with specified new requirements which are designed to improve the retirement system. Since the favorable tax treatment is quite substantial, presently involving a revenue loss of $4 billion a year, it is anticipated that plans will have a strong inducement to comply with the new qualification rules and thereby become more effective in fulfilling their objective of providing retirement income.

The tax advantages associated with qualification under the Internal Revenue Code are substantial. Employers, within certain limits, are permitted to deduct contributions made to such plans on behalf of covered employees, whether or not the interests of covered employees are vested; earnings on the plan's assets are exempt from tax; and covered employees defer payment of tax on employer contributions made on their behalf until they actually receive the benefits, generally after retirement when their incomes and hence applicable tax rates tend to be lower.

THE ENCOURAGEMENT OF NONDISCRIMINATORY PLANS UNDER PRESENT LAW

As already indicated, our tax laws now provide substantial tax incentives for the establishment of nondiscriminatory retirement plans. In order to qualify as nondiscriminatory, a retirement plan must cover a specified percentage of employees or cover employees under a classification found by the Internal Revenue Service not to discriminate in favor of employees who are officers, shareholders, supervisory employees, or highly compensated employees. Similarily, either the contributions to the plan or the benefits paid out by the plan must not discriminate in favor of officers, and so forth.

In adopting this legislation, your committee is aware of the achievements of the private pension system under the 1942 legislation. The private retirement system has grown rapidly over the past three decades. While the precise coverage of retirement plans is not known, estimates of the number of employees now covered by such plans range from 23 million to 30 million. This compares with coverage of 4 million in 1940 and 9.8 million in 1950. By 1980, these retirement plans are expected to cover 42 million employees.

The growth which has occurred is also evidenced in other ways. Between 1950 and 1970, total annual contributions made to retirement plans by employees and employers rose from about $2.1 billion to about $14 billion. In 1950, 450,000 beneficiaries received $370 million from retirement plans; in 1970, 4.7 million beneficiaries received $7.4 billion in pension payments. Moreover, retirement plan assets soared from $12.1 billion in 1940 to $150 billion in 1972—book value—and are expected to reach $225 billion by 1980.

PROBLEM AREAS

Despite the substantial achievements of retirement plans, it has become apparent that a number of problems have arisen which prevent many of these plans from achieving their full potential as a source for retirement income. These problem areas are outlined below.

Inadequate coverage.—Despite the rapid growth in retirement plan coverage in recent years to its 1970 level of from 23 to 30 million employees, somewhere in the vicinity of one-half of all employees in private, nonagricultural employment are still not covered by retirement plans. Retirement plans are still relatively rare among small business firms and in agriculture. Moreover, even where employees work for a firm with a retirement plan, the age and service requirements for participation in the plan may be overly restrictive, excluding many employees.

Discrimination against the self-employed and employees not covered by retirement plans.—Another problem area is that present law discriminates against employees not covered by retirement plans and against the self-employed. This is primarily because the personal retirement savings of individuals not covered by pension plans must be made out of after-tax income, while those covered by retirement plans are permitted to defer tax on their employer's retirement contributions. In addition, the earnings on the retirement savings of noncovered persons are subject to tax as earned, while the tax on earnings of pension funds is deferred until paid out as a retirement benefit.

Self-employed people also frequently maintain that they are discriminated against as compared with corporate executives and owner-managers of corporations in regard to the tax treatment of retirement savings. At present, there is no comprehensive limit on the amounts the employer can contribute on behalf of corporate executives and owner-managers of corporations; similarly, there is no statutory limit on the amount of pension benefits that the latter can receive—so long as those contributions or benefits do not discriminate in favor of employees who are shareholders, officers, supervisors, or highly paid and do not constitute unreasonable compensation. As a result of legislation enacted in 1962 and amended in subsequent years, self-employed people can establish retirement plans for themselves and their employees but their deductible contributions to such plans on their own behalf are limited to 10 percent of earned income up to $2,500 a year.

Inadequate vesting: Present law generally does not require a retirement plan to give a covered employee vested rights to benefits—that is, the right to receive benefits even if he leaves or loses his job before retirement age. Over two-thirds of the private retirement plans provide vested rights to retirement benefits before retirement. However, as a general rule, employees do not acquire vested rights until they have accumulated a fairly long period of service with the firm and/or are relatively mature.

At present, only one of every three employees participating in employer-financed plans has a 50 percent or greater vested right to his accrued retirement benefits. Moreover, 58 percent of covered employees between the ages of 50 and 60 and 54 percent of covered employees 60 years of age and over do not have a qualified vested right to even 50 percent of their accrued retirement benefits. As a result, even employees with substantial periods of service may lose retirement benefits on separation from employment. Extreme cases have been noted in which employees have lost retirement rights at advanced ages as a result of being discharged shortly before they would be eligible to retire. In addition, failure to vest more rapidly is charged with interfering with the mobility of labor, to the detriment of the economy.

Inadequate funding: Another problem area is that a significant portion of present pension plans are not adequately funded—that is they are not accumulating sufficient assets to pay benefits in the future to covered employees. As a result, there is concern that many employees now covered by pension plans may not actually receive pensions when they retire because the funds will not be available to pay for those pensions.

In general, pension plans that are qualified under the Internal Revenue Code must meet certain minimum funding requirements by irrevocably setting aside funds in a trust or through the purchase of insurance contracts. Contributions to such plans must generally be at least large enough to pay the normal pension costs plus the interest on unfunded accrued liabilities which generally are attributable to the past service of the covered employees. However, this minimum funding requirement is not adequate because it is designed only to prevent the unfunded liabilities from growing larger and does not require any payment to reduce the amount of the outstanding unfunded liabilities, which may be substantial.

The available evidence suggests that many pension plans are adequately funded—but that a significant proportion of the plans have not been adequately funded. This is indicated, for example, by a survey made by the Senate Labor Subcommittee of 469 trustee-administered pension plans covering 7.1 million employees. In 1970, about one-third of the plans in the study covering one-third of the participants reported a ratio of assets to total accrued liabilities of 50 percent or less; while 7 percent of the plans covering 8 percent of the participants reported a ratio of assets to accrued liabilities of 25 percent or less.

In general, the older plans are better funded than the newer ones. Over one-half of the plans covered by the study which were 6 years old or less had an assets-liabilities ratio of 50 percent or less, while 35 percent of the plans in existence for 17 years to 21 years had such an assets-liabilities ratio.

Loss of pension benefits due to plan terminations.—Concern has also been expressed over the possible loss of pension benefits as a result of termination of pension plans. The Studebaker case, which has been widely publicized, illustrates how pension benefits can be lost as a result of termination of a plan. When Studebaker closed its South Bend, Ind., plant in 1964, the employees were separated and the pension plan was terminated. The plan provided fairly generous vested rights and the funding apparently would have been adequate had the firm remained in business and the plan continued in operation. However, at termination, the plan had not yet accumulated sufficient assets to meet all its obligations. As a result, full pension benefits were paid only to employees already retired and to employees age 60 or over with 10 years or more of service. Little or no benefits were paid to large numbers of other employees, many of whom had vested rights.

A joint study of the Treasury Department and the Department of Labor indicates that there were 1,227 plan terminations in 1972. These terminations resulted in the loss of $49 million of benefits—present value—by 19,400 pension participants in 546 of the terminated plans. The average loss of benefits for participants amounted to $2,500. Participants losing benefits represented about eight one-hundredths of 1 percent of workers covered by pension plans. The data, of course, cover terminations occurring over a 1-year period and may not be the typical experience.

Misuse of pension funds and disclosure of pension operations.—There also has been concern about the administration of pension plans. It has been charged that all too frequently pension funds have not been used in the best interest of covered employees. There have been cases of extreme misuse of pension funds.

The Welfare and Pension Plans Disclosure Act, which is administered by the Labor Department, was adopted in 1958 to protect the interests of welfare and pension plan participants and beneficiaries by requiring disclosure of information regarding such plans. This act requires the plan administrators to file with the Secretary of Labor and to send to participants upon written request a description and annual report of the plan. The act was amended in 1962 to make theft, embezzlement, bribery, and kickbacks Federal crimes where these occur in connection with welfare and pension plans. The 1962 amendment also conferred limited investigatory and regulatory powers upon the Secretary of Labor. However, abuses in the administration of pension plans and in the handling of pension funds have continued.

The Internal Revenue Code at present seeks to prevent abuses in the use of funds held under qualified retirement plans by prohibiting qualified trusteed plans from engaging in certain specified prohibited transactions such as lending funds without adequate security and a reasonable rate of interest to the creator of the plan, his family, or corporations controlled by him. Other prohibited transactions include payment of excessive salaries, purchase of property for more than an adequate consideration, sale of property for less than an adequate consideration, or any other transactions which result in a substantial diversion of funds to such individuals. Special additional rules apply to payment of excessive salaries, purchase of property for more than a trust benefiting owner-employees.

OBJECTIVES OF THE MAIN PROVISIONS OF THE BILL

Although there have been significant legislative changes since the present basic framework of the tax laws relating to pensions was first adopted—principally in allowing self-employed people to establish retirement plans for themselves and their employees and in requiring the disclosure of information regarding welfare and pension plans—it has been more than 30 years since these basic pension provisions were first adopted. It is time for new legislation to conform the pension provisions to the present day situation and to provide remedial action for the various problems that have arisen in the retirement plan area during the past three decades.

As indicated above, the present provisions of the Internal Revenue Code provide tax inducements for the adoption of nondiscriminatory plans and to a limited extent other objectives. These nondiscrimination provisions are retained, but the new legislation also requires retirement plans to conform to additional requirements in order to qualify for the favorable tax treatment under the Internal Revenue Code. In taking this action, the committee has been mindful of the need to construct the new requirements so that they will provide meaningful improvement in the various problem areas noted under the present law. At the same time, the committee is aware that under our voluntary pension system, the cost of financing pension plans is an important factor in determining whether any particular retirement plan will be adopted and in determining the benefit levels if a plan is adopted, and that unduly large increases in costs could impede the growth and improvement of the private retirement system. For this reason, in the case of those requirements which add to the cost of financing retirement plans, the committee has sought to adopt provisions which strike a balance between providing meaningful reform and keeping costs within reasonable limits.

Generally, it would appear that the wider or more comprehensive the coverage, vesting, and funding, the more desirable it is from the standpoint of national policy. However, since these plans are voluntary on the part of the employer and both the institution of new pension plans and increases in benefits depend upon employer willingness to establish or expand a plan, it is necessary to take into account additional costs from the standpoint of the employer. If employers respond to more comprehensive coverage, vesting and funding rules by decreasing benefits under existing plans or slowing the rate of formation of new plans, little if anything would be gained from the standpoint of securing broader use of employee pensions and related plans. At the same time, there are advantages in setting minimum standards in these areas both to serve as a guideline for employers in establishing or improving plans and also to prevent the promise of more in the form of pensions or related benefits than eventually is available.

The provisions described below are contained in title II of the bill as developed by the Ways and Means Committee.

Coverage: One of the major objectives of the new legislation is to extend coverage under retirement plans more widely. For this reason, title II of the committee bill sets minimum standards on the age and service requirements which can be used to exclude employees from participation in plans. Under the new rules, a qualified plan cannot require an employee to serve longer than 1 year or attain an age greater than 25; whichever occurs later; as a condition of eligibility to participate in the plan. Thus, an employee who reaches age 25 and has at least a year of service would be eligible to participate; unless he is excluded for some reason other than age or service. However, a plan that provides vested rights immediately on participation will be permitted to set the participation requirements at no more than 3 years of service and age 25.

The Ways and Means Committee believes that these rules are reasonable. They provide a balance between the need to grant employees the right to participate in pension plans at a relatively early age so that they can begin to acquire pension rights and the need to avoid the administrative drawbacks that would be involved in granting coverage to immature and transient employees whose benefits would in any event be small. The participation rules also prevent potential avoidance of the vesting rules in the committee bill.

The bill also adopts a number of provisions which are carefully designed to make the minimum age and service requirements for participation work effectively. The Secretary of the Treasury or his delegate is given the authority to determine under regulations what constitutes a year of service for purposes of fulfilling the participation requirement in order to make the service requirement sufficiently flexible to meet the many varying situations which arise in different industries operating under different conditions of employment. At the same time, guidance is provided to those framing the regulations so as to minimize the possibilities of abuse. The bill, for example, provides that a qualified plan may not establish a service requirement for participation which has the practical effect of treating as a year of service an average period for all employees of more than 12 months or which excludes any employee who has more than 17 months of continuous service. In addition, the bill provides that a seasonal employee whose customary employment is for at least 5 months in a 12-month period is generally to be given credit for a year of service if he works his customary season months in a 12-month period.

The Secretary of the Treasury or his delegate is also given authority to prescribe by regulations different rules for determining a "year of service" for those industries whose normal work schedules are substantially different from those that are generally applicable. For example, the regulations could, where consistent with the practice of an industry, permit 100 hours of employment to be treated as 1 month, or 1,000 hours of employment to be treated as 1 year.

The bill also provides guidance to the Secretary or his delegate in issuing regulations in regard to the computation of the years of service of an employee who has a break in service. This is of significance since an employee will generally receive greater vested rights if all his periods of service with the employer are combined and treated as one period of service than if each period of service interrupted by a break is treated separately. This matter involves difficult issues. On the one hand, it appears desirable not to require service prior to the break to be merged with service after the break where the break in service is of substantial duration and the period of prior service is relatively short. This is because in such cases, the plan frequently will not have records regarding the employees' prior service and the administrative difficulties resulting from any requirement to merge service prior to the break with service after the break might make employers reluctant to rehire employees and yet at the same time would not provide substantial benefits for the latter. On the other hand, where the break in service is of relatively moderate duration, treating each period of service as a separate period could give rise to abuses by giving employers an inducement to discharge covered employees and then rehire them after a short time in order to reduce the cost of financing plan benefits. An additional consideration is that where an employee has acquired an attachment to the firm by serving a substantial number of years, and particularly where he has accumulated substantial vested rights to benefits, it seems reasonable that all his service including service prior to the break should be taken into consideration in determining his participation under the plan.

The bill resolves these issues by providing that where an employer rehires an employee who has had a break of service of at least one year after serving with the employer for less than 4 consecutive years, the plan will not be considered to be following an unreasonable procedure merely because it does not take into consideration his prior service. However, where a rehired employee had completed at least 4 consecutive years of service before the break, his prior years of service must be taken into consideration for purposes of computing his years of service unless the break is for 6 years or more. However, if a rehired employee acquired a nonforfeitable right to at least 50 percent of his accrued benefits derived from employer contributions prior to the service break, all his prior service must be taken into consideration in computing his years of service, regardless of the duration of the break.

Under plans which provide defined or specified benefits, it is more expensive for an employer to finance an equivalent retirement benefit for an older employee than for a young employee. To avoid making it more difficult for older workers to find employment, the bill permits plans which provide defined benefits to exclude from participation employees who begin employment within 5 years of the normal retirement age. This, for example, permits a defined benefit plan which provides for a normal retirement age of 65 to exclude an employee who begins work at the age of 60. Such exclusions are not permitted under money purchase pension plans or profit sharing plans. Under these plans, an employee is not promised any specified benefits, but instead is entitled only to the amount that is in his account—employer contributions, forfeitures, and employee contributions, adjustments for earnings, losses, and expenses—with the result that it is no more expensive for the employer to cover older employees than younger employees under such plans.

For purposes of satisfying the coverage rules of the Internal Revenue Code, a plan is permitted to exclude from participation employees covered by a collective bargaining agreement where the agreement does not provide that such employees are to be included in the plan and there is evidence that retirement benefits were the subject of good faith bargaining. This provision has two objectives: first, it recognizes that employees who are represented in collective bargaining agreements may prefer other forms of compensation, such as cash compensation, to coverage in a plan; and second, it makes it possible for employees who are not covered by a collective bargaining agreement to receive the advantages of coverage in a qualified plan where some employees of the same firm have elected through collective bargaining agreement not to be covered by the plan. At present, it frequently is not feasible for the former employees to receive the advantages of a qualified plan because the very fact that the employees covered by the collective bargaining agreement rejected coverage results in disqualifying the plan on the ground that it does not satisfy the coverage requirements for nondiscrimination. Also in the case of a plan covering airline pilots under a collective bargaining agreement, the bill permits the exclusion of the employees who are not covered by the collective bargaining agreement for purposes of the coverage requirements for nondiscrimination.

Finally, all Government plans, including the Federal civil service pension plan, and plans of church—unless they elect to be subject to the new rules—are exempted from the new participation standards as well as from the minimum vesting and minimum funding standards described below. However, both Government plans and church plans must continue to meet the requirements for qualification under present law in order to make their employees eligible for the tax benefits associated with qualified plans. The committee exempted Government plans from the new higher requirements because adequate information is not now available to permit a full understanding of the impact these new requirements would have on Government plans. For this reason the bills specifically provide that the Committee on Ways and Means and the Committee on Education and Labor are to study the participation, vesting, and funding practices of Government plans, Government plan fiduciary standards, factors affecting the mobility of Government employees and those employed under Federal procurement contracts, and the need for Federal standards in each of these matters. Each committee is to submit to the House of Representatives not later than December 31, 1976, the results of the studies, together with its recommendations.

In order to minimize administrative problems, and insure insofar as possible that plans which satisfy the requirements of the Internal Revenue Code also meet the pension standards which are to be administered by the Labor Department, and vice versa, the bill provides that the Treasury regulations with respect to the participation, vesting, and funding requirements of the bill, other than regulations to enforce the antidiscrimination requirements of the code, are to be effective for plan years beginning after December 31, 1975, only if approved by the Secretary of Labor. Where the bill's provisions apply before that date, as in the case of new plans and plans which elect earlier dates, then the regulations may be prescribed without the necessary approval of the Secretary of Labor. However, these regulations are not to apply beyond the December 31, 1975, plan year cutoff date.

To give existing plans time to adjust to the new age and service participation requirements, the effective date of these requirements is deferred to January 1, 1976, for plans in existence on January 1, 1974. For plans adopted on or after January 1, 1974, the new minimum age and service requirements will be effective in the first plan year beginning after the date of enactment. However, for existing plans which were the subject of collective bargaining agreements, the new participation standards are not to apply until the later of, first, the expiration date of the last of the present collective bargaining agreements, but not later than January 1, 1981, or second, January 1, 1977.

Vesting.—Coverage under a pension plan does not aid an individual if he later forfeits his right to his pension benefits upon voluntary or involuntary termination of employment. This is an important consideration in view of the fact that ours is a fairly mobile economy where employees tend to change jobs frequently, especially in their younger years. Moreover, the cyclical and technological nature of certain industries results in frequent layoffs over a work career for employees in those industries, as in aerospace and defense. The committee bill deals with this problem by requiring qualified pension plans to grant covered employees reasonable minimum vested rights to their accrued benefits.

The bill helps to assure that covered employees will actually benefit from pension plans by requiring qualified plans, as a condition of qualification under the Internal Revenue Code to meet reasonable minimum vesting standards. Qualified plans are required to grant covered employees nonforfeitable rights with respect to their own contributions. In addition, such plans are required to provide covered employees minimum vested rights with regard to employer contributions after they have fulfilled certain specified requirements. In adopting these minimum vesting requirements, your committee was guided by two broad considerations. The first relates to the need to balance the protection offered by the minimum vesting provision against the additional cost involved in financing the plan. Employees, of course, would be accorded the maximum protection if they were granted immediate and full vested rights to plan benefits. However, it is generally recognized that a requirement for immediate and full vesting would not be feasible because it would involve such substantial additional costs that it would impede the adoption of new plans and the liberalization of existing ones.

The second broad consideration guiding the committee in regard to minimum vesting is the need to provide adequate flexibility to the hundreds of thousands of retirement plans, to enable these plans to provide adequate vesting protection to their covered employees in the light of the individual circumstances and conditions confronting them. In other words, the committee does not believe that it would be desirable to force all retirement plans into one rigid mold so far as vesting is concerned.

In view of these considerations, the bill provides three alternative vesting options:

Under one option, a qualified plan would be required to provide an employee with vested rights to at least 25 percent of his accrued benefits from employer contributions after 5 years of covered service, plus an additional 5 percent for each of the next 5 years and 10 percent for each of the next following 5 years. This means that under this option, at least 50 percent of the employer-provided benefits must be vested after 10 years of covered service and 100-percent vested after 15 years of covered service. This option is designed to enable plans to provide the required vesting on a gradual basis according to years of service, generally without reference to the age of the employee. This option is neutral with respect to age, since all employees who fulfill the required service requirements are entitled to the specified vesting without regard to their age.

A second option permits firms which wish to provide faster vesting for their more mature employees than for their younger ones to do so by taking into consideration the age of the employee as well as his service for purposes of computing his vested rights. Under this option, the plan is required to provide a covered employee who has at least 5 years of covered service a vested right in at least 50 percent of the accrued benefits financed by the employer's contributions when the sum of his age and years of service equals 45; the minimum required vesting percentage would thereafter be increased by 10 percentage points a year in each of the following 5 years. This would, for example, provide an employee who began work for the employer at the age of 25, a vested right in 50 percent of his accrued benefits financed by employer contributions after 10 years of covered service when he reaches the age of 35. After completing an additional 5 years of service and attaining age 40 he would then be vested in 100 percent of his accrued benefits. On the other hand, an employee who starts to work for the employer at the age of 40 under this option would at the age of 45, upon completion of 5 years of service, receive a 50-percent vested right in his accrued benefits.

The third option provided under the bill permits qualified plans to fulfill the minimum vesting requirements by providing employees a 100-percent nonforfeitable right to accrued benefits derived from employer contributions when they have achieved at least 10 years of service. The committee provided this option because it grants covered employees complete vesting protection after the completion of a reasonably short period of service.

Because the objective is to encourage more adequate provision for retirement, plans are permitted to defer the payment of the benefits to individuals with vested rights until they reach normal retirement age and are separated from the firm. However, to avoid requiring a plan to carry relatively small amounts of benefits on its books for a long period of time, the bill permits a plan to elect to pay off the employee's vested rights in the form of a lump-sum payment when the employee is separated if the amount of the distribution is less than $1,750. In addition, at the election of the employee, a plan which so provides may make lump-sum payments of any amount to employees at the time they are separated from service in lieu of retirement benefits.

As a general rule, the plan will specify what is normal retirement age for this purpose. However, in order to prevent undue delay in the payment of benefits, payment must begin not later than 60 days after the close of the last plan year in which the participant first, attains age 65, second, reaches the 10th anniversary of the start of his participation, or third, terminates his employment. The "10th anniversary" provision was adopted to encourage the employment of individuals who are hired at mature ages for a long enough period to enable them to earn significant benefits under the plan.

The committee further decided to apply the minimum vesting requirements to benefits accrued prior to the effective date of the provision as well as to benefits accrued after this date on the ground that employees merit equal protection with regard to plan benefits regardless of when these benefits accrued. This is achieved by generally taking into account the employee's entire service with the employer in determining both his nonforfeitable vesting percentages and the amount of accrued benefits to which these vesting percentages are applied.

To keep the operation of the minimum vesting requirement reasonable and to avoid imposing undue burdens on plans, certain periods of service are permitted to be excluded in determining the employee's nonforfeitable rights. The service which may be excluded is:

First. Service before age 25;

Second. Service during a period for which the employee declined to contribute to a plan requiring employee contributions;

Third. Service during any period for which the employer did not maintain the plan;

Fourth. Seasonal service which does not include a sufficiently long period of time in each 12-month period to be counted as service for purposes of the plan;

Fifth. Certain service broken by periods of suspension of employment; and

Sixth. Service before January 1, 1969, unless the employee has had at least 5 years of service after December 31, 1968. This latter exclusion was adopted to prevent the possibility that plans would otherwise be required to incur extremely large costs for benefits to previously retired employees who would otherwise have the incentive to come back to a firm for relatively short periods of time, primarily in order to obtain plan benefits for their prior service.

How much protection is actually afforded to employees under the minimum vesting provision depends not only on the minimum vesting percentages set forth in the bill but also in the case of defined benefits on the accrued benefits to which these minimum vesting percentages are applied. For this reason, your committee has devoted particular attention to the development of fair and equitable procedures for the computation of accrued benefits.

Under the first option, the accrued benefit is determined by providing that the plan may not allow employees to accrue benefits in any year of service at a rate which is more than 133⅓ percent of the rate of accrual in any other year. However, it is permissible for a plan to provide an accrual rate for any year before the 11th year of service which exceeds 133⅓ percent of the accrual rate after the 10th year of service. The primary purpose of this provision is to prevent attempts to defeat the objectives of the minimum vesting provisions by providing undue "backloading," that is, by providing inordinately low rates of accrual in the employee's early years of service when he is most likely to leave the firm and by concentrating the accrual of benefits in the employee's later years of service when he is most likely to remain with the firm until retirement. Of course, a plan under which employees accrue benefits at a uniform rate would satisfy the requirements of this option. The 133⅓ percent rule also is obviously not intended to place a limit on the amount of benefit increases for future service that may be provided under plan amendments. Moreover, this rule is not to apply to the accrual rate of any plan year after the participant is eligible to retire with benefits which are not actuarially reduced on account of age or service.

Under a second option, a defined benefit plan may provide for an annual rate of accrual which is not less than 3 percent of the maximum benefit to which the participant would be entitled if he became a participant at the earliest possible entry age under the plan and served continuously until the earlier of age 65 or the retirement age specified under the plan. This treatment provides equal amounts of accrued benefits to employees who are separated prior to retirement age after having worked the same number of years, regardless of their respective ages at the time the service was performed.

**Under present law, highly mobile employees such as engineers, frequently do not derive benefits from pension plans even when such plans have liberal vesting provisions because they tend to change jobs before they acquire vested rights in any particular plan. The bill approved by your committee will help such employees to secure actual benefits from pension plans. It provides that where an employer sets up different pension plans for different groups of employees the rate of vesting granted under the different plans need not be the same so long as the combined effect of all the plans is nondiscriminatory. This permits an employer to cover his highly mobile employees in a separate plan which provides faster vesting but lower benefits at normal retirement age than the other plans that he establishes for his other employees.**

**In addition, the committee bill instructs the Secretary of Labor to conduct a full and complete study of the steps necessary to insure that professional, scientific, and technical personnel and others working in associated occupations employed under Federal procurement, construction or research contracts or grants will, to the extent feasible, be protected against the forfeitures of pension or retirement rights as consequence of job transfers or loss of employment resulting from terminations or modifications of Federal contract grants or procurement policies. The Secretary of Labor is further instructed to report the results of his study to the Congress within 2 years after the date of enactment of the act. Also, if he determines it to be feasible, the Secretary is to develop regulations within 1 year after the date on which he submits his report to the Congress, which will provide for the better protection of the vesting rights of the employees concerned. These regulations are to take effect unless either House of the Congress adopts a resolution disapproving the regulations within 90 days after they are submitted to the Congress.**

Under certain circumstances, a plan's vesting rules may cause the prohibited discrimination. Questions have arisen as to whether a plan which satisfies the vesting requirements provided by your committee automatically satisfies the vesting requirements of the nondiscrimination rules. To remove any possible ambiguity on this subject, the committee bill specifically provides that a plan which satisfies the minimum vesting requirements provided by this legislation is to be treated as satisfying any requirements regarding the vesting schedule and the rate at which benefits accrue, resulting from the application of the Internal Revenue Code requirements regarding nondiscrimination, unless (a) there has been a pattern of abuse under the plan—such as a firing of employees before their accrued benefits vest—or (b) there have been, or there is reason to believe there will be an accrual of benefits or forfeitures tending to discriminate in favor of employees who are officers, shareholders, or highly compensated.

The additional costs of financing plans involved when the minimum vesting requirement adopted by your committee becomes fully effective is expected to be moderate. These cost estimates are necessarily based on assumptions as to turnover rates, age distribution, and so forth. However, the range of costs is believed to be broadly indicative of the expected experience of employers generally.

The additional costs will, of course, be zero or smallest for those plans which now have liberal vesting provisions and greatest for those plans which now provide no vesting prior to retirement. This reflects the fact that the minimum vesting provisions will generally bring the costs of the latter plans up to the level of those plans which now have liberal vesting provisions. Overall, for all plans, the cost increases resulting from the new minimum vesting requirements will range from 0 to 1.5 percent of payroll.

In the case of plans adopted after January 1, 1974—which will have been adopted with knowledge of the new requirement—the effective date is the first plan year beginning after the date of enactment. However, for plans in existence on January 1, 1974, to provide time to adjust to the new minimum vesting requirements, the effective date of the minimum vesting standards is plan years beginning after December 31, 1975. For plans, which are maintained pursuant to collective bargaining agreements, however, the minimum vesting requirements take effect for plan years beginning after the expiration of the latest agreement or December 31, 1980, whichever is earlier, but in no event before January 1, 1977.

In addition, for all plans in existence on December 31, 1973, the vesting provisions are to become effective gradually over a 5-year transition period. Under this rule, 50 percent of the vested rights generally called for under the legislation are to become effective in the first year in which the vesting requirement applies. Thereafter the required vesting is to increase 10 percentage points each year until reaching 100 percent of the vested rights generally required under the legislation after the fifth year.

Finally, the Secretary of Labor is authorized to provide variances from the generally applicable minimum vesting requirements for multi-employer plans whenever he finds that the application of these requirements would increase the cost of the parties to the plan to such an extent that there would be a substantial risk to the voluntary continuation of the plan, or a substantial curtailment of pension levels or the levels of employees' compensation, or impose unreasonable administrative burdens regarding the operation of the plan, and where the application of these requirements would be adverse to the interest of plan participants generally. Under such variances, the Secretary of Labor would prescribe alternative methods by which the multiemployer plan concerned could satisfy the minimum vesting requirements for the period of time this is necessary. These variances from the vesting requirements are not, however, to be prescribed unless all plan participants and other interested persons have received adequate notice from the plan administrator of any hearing to be held to consider the variance.

Minimum funding standard.—The Ways and Means Committee believes that it is essential for plans to be adequately funded in accordance with a contributions schedule which will produce sufficient funds to meet the obligations of the plan when they fall due. Such an adequate contributions schedule for funding plans not only protects the rights of employees under the plan but also provides an orderly and systematic way for employers to pay their plan costs.

Your committee believes that the minimum funding requirements under present law are inadequate because they do not require any provision to be made to amortize unfunded past service liabilities. Instead they merely require the contributions to the plan to be sufficient to pay normal costs—the costs attributable to the current operation of the plan—and to prevent an increase in unfunded liabilities. To remedy this, your committee has provided new minimum funding standards for qualified plans. In the most typical case, the standard requires contributions to the plan to be sufficient not only to pay normal costs but also to amortize all unfunded past service liabilities in level payments over specified periods of time. A second standard requires contributions to be based on the accrued unfunded vested liabilities of the plan if this results in higher annual payments than the general funding standard. It is anticipated that this second standard will be used for only a small minority of the plans which have relatively large unfunded vested liabilities.

The new funding standards do not apply to the following types of qualified plans:

First. Profit-sharing and stock bonus plans. There is no need for a requirement that contributions be sufficient to fund a specified level of benefits in the case of these plans since they do not specify that participants are to receive any designated amount of benefits, but instead require the paying out of whatever benefits the funds in the plan will purchase on the date the benefits are to begin.

Second. Plans funded exclusively through the purchase of individual insurance contracts which provide for level annual premium payments. These plans are excluded from the funding requirements because they have behind them the funding of the insurance companies involved.

Third. Government plans. However, government plans are still required to meet the present funding standards which require contributions to be sufficient to pay normal pension costs plus the interest on past service liabilities. Also, as noted previously, your committee has provided for a study of Government plans to determine the need for supplying funding standards.

Fourth. Church plans unless these plans elect to be covered by such requirements, and

Fifth. Plans which after the date of enactment of the legislation do not provide for employer contributions.

In the most typical case where the first general funding standard is employed, employers maintaining single-employer plans not in existence on the effective date of the legislation must pay normal costs currently and amortize their past service liabilities in level payments over no more than 30 years. A similar amortization period of no more than 30 years is required for past service liabilities arising as a result of a single-employer plan amendments after the effective date. However, in recognition of the fact that large numbers of plans assumed heavy past service liabilities prior to any requirement to amortize such liabilities, plans in existence on the effective date of the legislation are allowed a longer period—up to 40 years—to amortize past service liabilities existing at the beginning of the first plan year to which the requirement applies. In addition, multiemployer plans are allowed to amortize all past service liabilities, including those created after the effective date of the legislation, over a period of up to 40 years. This recognizes that multiemployer plans generally have an added element of financial strength in that their contributions come from a number of employers who as a group are less likely than comparable single employers to experience business difficulties.

This funding standard, which will apply to the overwhelming majority of plans, is comprehensive since it requires amortization of all accrued past service liabilities, that is, both vested and nonvested unfunded past service liabilities.

The level payment method of funding adopted by your committee is analogous to the payment of a home mortgage in that each specified payment includes a payment for both interest and principal. It has the advantage of spreading the payments out evenly over the payment period which generally makes it easier for the employer to plan for meeting the payments. Another factor in your committee's decision is that the level payment method, while providing for adequate amortization of past service costs, initially adds only relatively moderate amounts to an employer's existing funding costs. This is because interest on unfunded accrued past service costs, which accounts for the bulk of the payments under the level payment method in the early years, is already required to be contributed to a defined benefit plan under present law.

Provision is also made for the equitable funding of experience deficiencies which arise when the actual plan costs turn out to be greater than were previously estimated on the basis of the actuarial assumptions—for example, when the value of the plan assets is less than was expected. In establishing a minimum funding standard for such experience deficiencies, the committee sought to avoid two problems. If it allowed the experience deficiencies to be funded over a very long period of time, an incentive would be provided for the use of actuarial assumptions which understate the costs since any resulting deficiencies could then be made up over a long period of time without penalty. On the other hand, if the experience deficiencies were required to be amortized over too short a period, employers would encounter hardships in meeting the annual payments. This is especially pertinent in view of the fact that most actuarial or experience difficulties are inadvertent.

The bill seeks to avoid both these problems by allowing experience deficiencies to be funded in level amounts over a period of up to 15 years for single employer plans and up to 20 years for multiemployer plans. Symmetrical treatment is provided for experience gains which are attributable to a favorable variation between actual experience and the actuarial assumptions entering into the determination of the employer's cost and contributions.

The determination of experience gains and losses for this purpose will generally be made every 3 years except where the Secretary or his delegate, pursuant to regulations, finds it necessary to require the determination to be made more frequently.

Relief measures are provided to mitigate the impact of the funding requirements in cases where it would otherwise result in hardship. The bill gives the Internal Revenue Service the authority to waive the minimum funding requirement in cases where the application of this requirement would involve substantial business hardship to the employer and would be adverse to the interests of plan participants in the aggregate.

However, the waived contribution must be made up in level payments over a maximum of 15 years. To avoid the indefinite postponement of the fulfillment of the funding standards, the committee bill further provides that not more than five such waivers may be made in any 15-year period.

The Ways and Means Committee also recognizes that multiemployer plans which are negotiated as a result of collective bargaining agreements may involve different considerations in regard to funding than individual employer plans. While it is the objective of the committee's bill to require adequate funding for multiemployer plans as well as for individual employer plans, the committee is aware that a number of multiemployer plans are not as well funded as they might be at the present time and that the application of the new funding standards to such plans without an adequate transition period might cause hardship and be detrimental to the interests of the employees covered by such plans. For this reason, if 10 percent or more of the number of employers contributing to a multiemployer plan demonstrate to the satisfaction of the Secretary of Labor that they would experience substantial business hardships if they were required to amortize past service liabilities and experience deficiencies over the periods of time specified by the bill—40 years and 20 years, respectively—and if this requirement would be adverse to the interests of plan participants in the aggregate, then upon certification by the Secretary of Labor to the Secretary of the Treasury, these plans are to be allowed an additional 10 years to amortize such costs.

In addition, the Secretary of Labor is authorized to provide variances from the minimum funding requirements for multiemployer plans where he finds that the application of these requirements would increase costs to the extent that there would be a substantial risk to the voluntary continuation of the plan, impose unreasonable administrative burdens in regard to the operation of the plan and be adverse to the interests of plan participants in the aggregate. The conditions under which such variances from the funding requirements may be granted are identical to those applying to variances from the minimum vesting requirements described above.

Your committee believes that the generally applicable funding standard, which requires past service liabilities to be amortized in level payments over a specified number of years, will generally provide an equitable and adequate approach to funding the vast majority of plans. However, in some cases where plans have very substantial vested liabilities and relatively small asset values, it appears desirabe to require the unfunded vested liabilities to be amortized more rapidly than under the generally applicable funding standard. For this reason, your committee has provided a second funding standard, based on accrued unfunded vested liabilities. This standard is to apply in lieu of the generally applicable funding standard if it results in a higher annual contribution. Under this standard, the accrued vested liabilities of the plan and the value of its assets are determined. Where the former exceeds the latter, the contribution for that year must be sufficient to cover the first year's payment under a level annual payment schedule required to amortize the difference in 20 years. A new determination with respect to the applicability of this second funding standard is to be made in each of the succeeding years. It is contemplated that this funding standard will be required for only a small minority of qualified plans.

In general, for purposes of funding, the value of the plan's assets is to be determined on the basis of any reasonable actuarial method of valuation which takes fair market value into account under regulations prescribed by the Secretary of the Treasury or his delegate. However, to permit fixed obligations, which frequently are held until maturity, to be given stable values for funding purposes, the plan administrator is given the option of determining the value of a bond or other evidence of indebtedness, which is not in default as to principal or interest, on an amortized basis.

The Ways and Means Committee is aware that the actuarial assumptions made by actuaries in estimating future pension costs are crucial to the application of minimum funding standards for pension plans. This is because in estimating such pension costs, actuaries must necessarily make actuarial assumptions about a number of future events, such as the rate of return on investments—interest—employee future earnings, and employee mortality and turnover. In addition, actuaries must also choose from a number of funding methods to calculate future plan liabilities. As a result, the amount required to fund any given pension plan can vary significantly according to the mix of these actuarial assumptions and methods.

Conceivably an attempt might be made to secure uniform application of the minimum funding standards by authorizing the Secretary of the Treasury or some other authority to establish the specific actuarial assumptions and methods that could be used by pension plans. This would involve, for example, setting a specific rate of interest that could be used by certain pension plans or by specifying certain turnover rates for specified types of firms. However, the committee does not believe that this would be an appropriate procedure, since the proper actuarial assumptions may differ substantially between industries, among firms, geographically, and over time. Further, in estimating plan costs each actuarial assumption may be reasonable over a significant range and it would appear that the proper test would be whether all actuarial assumptions used together are reasonable. These considerations strongly indicate that any attempt to specify actuarial assumptions and funding methods for pension plans would in effect place these plans in a straitjacket so far as estimating costs is concerned, and would be likely to result in cost estimates that are not reasonable.

However, your committee's bill requires the actuarial assumptions of each plan to be certified by an actuary every 3 years, or more frequently if required by the Internal Revenue Service. These certifications will be reported to the Service. Moreover, in order to insure that such certification will be made by competent actuaries, the bill provides that the Secretary of the Treasury is to establish qualifications for actuaries and is to certify for practice before the Internal Revenue Service the persons who meet these standards. In the case of individuals applying for enrollment as actuaries before January 1, 1976, the standards and qualifications set forth by the Secretary shall include a requirement for an appropriate period of responsible actuarial experience or of responsible experience in the administration of pension plans. The Secretary of the Treasury is also to review the actuarial assumptions used by particular plans and an advisory board of actuaries is to be established to assist him in setting up general standards as to reasonableness of assumptions.

The bill also provides new and more effective penalties where employers fail to meet the funding standards. In the past, an attempt has been made to enforce the relatively weak funding standards existing under present law by providing for immediate vesting of the employees' rights, to the extent funded, under plans which do not meet these standards. This procedure, however, has proved to be defective since it does not directly penalize those responsible for the underfunding. For this reason, the bill places the obligation for funding and the penalty for underfunding on the person on whom it belongs—namely, the employer.

This is achieved by imposing an excise tax where the employer fails to meet the funding standards, which starts out at a relatively modest level and increases sharply where there is continued failure to make the indicated contributions. More specifically, if an employer fails to contribute sufficient amounts to meet the new funding requirements, he will be subject to a nondeductible excise tax of 5 percent per year on the amount of the underfunding for any year. If the employer fails to make up the underfunding by 90 days after original notification by the Internal Revenue Service—but with the Service in a position to grant extensions of time—then the employer is subject to a second level excise tax amounting to 100 percent of the underfunding. This determination by the Service is appealable to the tax court and no assessment may be made until after the end of the litigation. Since the employer remains liable for the contributions necessary to meet the funding standards even after the payment of the excise taxes, it is anticipated that few, if any, employers will willfully violate these standards.

For plans adopted after January 1, 1974, which will have been adopted with knowledge of the new requirement, the effective date of the new funding requirements is the first plan year beginning after the date of enactment. For plans in existence on January 1, 1974, which are not maintained pursuant to collective bargaining agreements, the effective date of the minimum funding standards is deferred to plan years beginning after December 31, 1975. And for plans which are maintained pursuant to collective bargaining agreements, the minimum funding requirements take effect for plan years beginning after the expiration of the latest agreement; if this is after December 31, 1975, or after December 31, 1980, whichever is earlier.

Other provisions to protect covered employees and their beneficiaries—in addition to the minimum participation, vesting and funding standards provided in the bill, your committee has adopted a number of specific provisions to protect the rights of employees and beneficiaries under qualified plans.

Qualified plans that provide annuities must pay benefits in the form of a joint and survivor annuity, giving the surviving spouse an annuity equal to at least 50 percent of the annuity paid during the joint lives, unless the participant elects in writing before the annuity starting date not to take a joint and survivor annuity.

Qualified plans must provide that retirement benefits may not be assigned or alienated, except for voluntary and revocable assignments of not more than 10 percent of the benefits.

Provision is made to prevent mergers or consolidation of plans from reducing the rights of participants. This is achieved by specifying that immediately after the merger each participant would be entitled to receive a benefit equal to or greater than the benefit he would have been entitled to receive immediately before the merger had the plan been terminated.

Protection is given to retired individuals who are separated from the service of the employer against reductions in private plan benefits when social security benefit levels increase. In general, under present integration procedures, social security benefits attributable to employer contributions are treated as though they were part of the private plan. As a result when the level of social security benefits increases, some integrated plans have reduced the amount of the retirement benefits that they provide for covered employees.

Present law under administrative practice provides that qualified plans may not use increases in social security benefit levels to reduce the benefits that they pay where the employees concerned are retired and are already receiving integrated plan benefits. The bill codifies this treatment for retired persons. It also extends the prohibition against reducing plan benefits where social security benefit levels are increased to cases where the individuals concerned are separated from service prior to retirement and have deferred nonforfeitable rights to plan benefits. This provision is effective for increases in social security benefits which take place after the date of enactment or on the date of the first receipt of plan benefits or the date of separation from service—whichever is applicable—if that date is later.

These changes do not affect the ability of plans to use the integration procedures to reduce the benefits that they pay to individuals who are currently covered when social security benefits are liberalized. Your committee, however, believes that such practices raise important issues. On the one hand, the objective of the Congress in increasing social security benefits might be considered to be frustrated to the extent that individuals with low and moderate incomes have their private retirement benefits reduced as a result of the integration procedures. On the other hand, your committee is very much aware that many present plans are fully or partly integrated and that elimination of the integration procedures could substantially increase the cost of financing private plans. Employees, as a whole, might be injured rather than aided if such cost increases resulted in slowing down the rate of growth of private retirement plans.

In view of the serious issues involved in the integration of private plans with the social security system, your committee believes that it is desirable to postpone action on this issue pending further study of this problem. More specifically, your committee plans to consider this overall problem again at the earliest opportunity, possibly in connection with future tax reform or social security legislation. However, your committee believes that no further integration of social security and pension benefits should be allowed under any further regulations issued by the Secretary or his delegate at least until June 30, 1975.

Portability.—In view of the fact that ours is a highly mobile economy, characterized by high employee turnover rates, various proposals have been made to establish a system for the portability of vested rights to benefits from one plan to another when an employee changes jobs.

While the complete portability of vested rights to benefits from one pension fund to another is hard to achieve because of the numerous basic differences in private pension plans, your committee's bill contains a number of provisions which will achieve much of the advantage of portability. Under present law, when an employee changes jobs, it is already possible for funds representing his vested rights to benefits under his old employer's plan to be transferred to the retirement plan of his new employer without payment of tax on an optional basis—that is, if the employee and the administrators of the plans involved agree to the transfer. Your committee's bill adds another way in which individuals can transfer their retirement funds on a tax-free basis to a tax-exempt retirement account. It allows them to establish a new type of account called a "rollover account." Under the new arrangement, individuals will have the right to roll over into individual retirement accounts, without payment of current tax, complete distributions of funds financed by employers under qualified plans, H.R. 10 plans, as well as funds from individual retirement accounts, provided that the transfer into the new account is made within 60 days of the withdrawals of the funds from the old plans.

Provision also is made to supply adequate information to plan participants regarding their vested rights to retirement benefits so that they will not neglect to claim these benefits when they become eligible to receive them. In this connection, plan administrators are required to furnish each separated employee who has vested rights an individual statement showing the nature, amount and form of the deferred vested benefit to which he is entitled.

Also, in order to insure that employees will be fully alerted to their retirement benefits, the Social Security Administration will keep records regarding the vested rights of separated employees under single employer plans. Annual information pertaining to such vested rights will be forwarded by plan administrators to the Social Security Administration through the Internal Revenue Service. The Social Security Administration will then furnish this information regarding vested rights to individuals both on request and at the same time that official information is supplied to the employee or his beneficiary regarding social security benefits.

Because the furnishing of such information involves considerably more difficulties for multi-employer plans than for single-employer plans, the bill does not require multi-employer plans to supply individual statements regarding vested rights to separated employees; nor does it require multi-employer plans to file information showing the vested rights of separated employees. However, the Secretary of the Treasury after consultation with the Secretary of Health, Education and Welfare, may prescribe regulations requiring multi-employer plans to submit such information, to the extent it is found feasible.

Plan termination insurance.—Although the Ways and Means Committee regards the development of an adequate program of plan termination insurance as essential to protect the rights of covered employees, title II of the bill, which it developed, makes no provision for such plan termination insurance. This is because provision for plan termination insurance is made in Title I of the bill which was prepared by the Committee on Education and Labor.

Fiduciary requirements.—Title I of the bill makes no change in the rules relating to fiduciaries of qualified retirement plans. As with plan termination insurance, this is not because your committee regards this matter as unimportant but rather because title I of the bill which was prepared by the House Committee on Education and Labor, contains provisions providing for additional rules regarding fiduciary requirements.

Enforcement.—Title II of the bill relies heavily on the tax laws in order to secure compliance with the new requirements that it imposes on pension plans. Plans, for example, are required to comply with the new coverage, vesting, and funding standards in order to qualify for favored tax treatment under the Internal Revenue Code. In addition, excise taxes are imposed for failure to meet the funding standards. As a result, these substantive pension provisions would be administered by the Internal Revenue Service.

The Ways and Means Committee believes that primary reliance on the tax laws represents the best means for enforcing the new improved standards imposed by the bill. Historically, the substantive requirements regarding nondiscrimination, which are designed to insure that pension plans will benefit the rank and file of employees, have been enforced through the tax laws and administered by the Internal Revenue Service. As a result, the Internal Revenue Service is already required to examine the coverage of the retirement plans and their contributions and benefits as well as funding and vesting practices in order to determine that the plans operate so as to conform to these nondiscrimination requirements. Also, the Internal Revenue Service has administered the fiduciary standards embodied in the prohibited transactions provisions since 1954.

Your committee believes that the Internal Revenue Service has generally done an efficient job in administering the pension provisions of the Internal Revenue Code. The very extensive experience that the Service has acquired in its many years of dealing with these related pension matters will undoubtedly be of great assistance to it in administering the new requirements imposed by the committee bill.

However, because the bill increases the administrative job of the Service in this respect, your committee believes that it is desirable to add to its administrative capability for handling pension matters. For this reason, the committee bill provides for the establishment by the Internal Revenue Service of a separate office headed by an Assistant Commissioner of Internal Revenue to deal primarily with pension plans and other organizations exempt under section 501(a) of the Internal Revenue Code, including religious, charitable, and educational organizations. In order to fund this new office, the bill authorizes appropriations at the rate of $70 million per year for such administrative activities. It is intended that the Internal Revenue Service obtain from all appropriate pension administration sources annual statistical data to indicate the operations of the private retirement system for the purpose of evaluations and public information.

In addition to providing additional opportunities for redress in case of disagreement with the decisions of the Internal Revenue Service on pension matters, both employees and employers will be allowed to appeal determination letters issued by the Internal Revenue Service to the Tax Court after exhausting their remedies under the Internal Revenue Service administrative procedures.

Equalizing tax treatment: in general.—Another objective of the bill is to provide more rational and equitable tax treatment under retirement plans.

The committee believes that there is need on equity grounds to grant individuals who are not covered by any kind of qualified pension plan some of the tax advantages associated with such plans by providing them with a limited tax deduction for their retirement savings.

In addition, there is no justification for the present widely disparate treatment which places no specific limitation on the amount of deductible retirement plan contributions for corporate employees and at the same time limits the deductible contributions to pension plans on behalf of the self-employed to a maximum of 10 percent of earned income or $2,500 a year.

This unjustifiable difference in treatment has resulted in unduly large tax advantages for certain corporate employees: it also discriminates against the self-employed and has had the undesirable result of encouraging large numbers of self-employed people to incorporate merely to secure the larger tax advantages available with respect to corporate retirement plans. This includes large numbers of professional people who are now permitted by all 50 States and the District of Columbia to incorporate.

In view of these considerations, the committee has provided the following three changes which should be regarded as one package in the sense that the adoption of all three changes are needed at the same time in order to improve the tax laws in regard to pension plans.

Equalizing tax treatment; individual retirement plans.—The bill allows individuals who are not receiving the advantages of current coverage under qualified retirement plans to take deductions for annual contributions to a new type of individual retirement plan, up to 20 percent of earned income or $1,500, whichever is less.

These retirement plans will be available to all employees who are not active participants in a qualified retirement plan, in a governmental pension plan or in an annuity plan established by a tax-exempt or public educational institution under section 403(b) of the Internal Revenue Code. Self-employed individuals who are not covered by qualified retirement plans—H.R. 10 plans—are also eligible to establish individual retirement plans for themselves.

The employer of any individual who establishes a personal retirement plan will be allowed to make tax deductible contributions to that individual retirement account on behalf of the employee which will not be currently taxable to the employee so long as the sum of the employee's own deductible contribution and the employer's contribution do not exceed the allowable 20 percent of compensation—$1,500 annual limit. Unions may also establish individual retirement accounts for their members.

In order to encourage the widespread use of such individual retirement plans, your committee has provided that the contributions to such plans can be invested in a wide range of investments, including special government retirement bonds which would be issued for this purpose, annuity contracts sold by insurance companies, mutual funds, corporate securities, banks and credit unions.

The earnings on the amounts put aside in the individual retirement accounts are to remain free of tax until they are distributed. Distributions from the individual retirement savings plans are to be taxable when received by the employee, generally upon retirement or upon death or disability. However, since the individual's incomes will generally be relatively low when they receive such distributions, the latter will ordinarily be taxed at relatively low rates. Individuals will also enjoy tax savings from being able to defer payment of tax on the earnings of the retirement funds during the time they are retained in the tax-free plans.

Since the objective of the new provision is to encourage adequate provision for retirement needs, withdrawal of the retirement savings prior to age 59½ will result in a penalty tax equal to 10 percent of the amount of the premature distribution. However, early withdrawals are permitted without penalty where the taxpayer becomes disabled. In addition, to prevent the individual retirement savings plans from being used to postpone tax indefinitely, the retirement savings must either be distributed by the time the individual reaches age 70½ or distributed over the lives or life expectancy of the individual and his spouse beginning no later than age 70½.

Your committee anticipates that by encouraging employers to make modest contributions initially for the retirement needs of their employees, such individual retirement plans will lead eventually to the establishment of a significant number of new qualified retirement plans by employers. An employer who believes he cannot afford the entire cost of a retirement plan can start by contributing small amounts for employee individual retirement accounts, can increase his contributions over the years—if it does not exceed the 20 percent-$1,500 annual limits per participant—and then can subsequently convert to an employer-financed qualified plan. The provisions allowing individuals to deduct contributions within the specified limits to individual retirement plans generally take effect for taxable years beginning after December 31, 1973.

Equalizing tax treatment; increasing deductions for H.R. 10 plans.—Your committee's bill grants self-employed people tax treatment with respect to retirement plans—H.R. 10 plans—which is more nearly comparable to that now accorded to corporate employees under qualified retirement plans. This is achieved by increasing the maximum deductible contributions a self-employed individual is allowed to make on his own behalf to a qualified plan from the present level of 10 percent of earned income up to $2,500 a year to 15 percent of earned income up to $7,500 a year. For H.R. 10 plans which are of the defined benefit type, provision is made for applying comparable limitations on the benefits that may be paid to self-employed individuals under regulations to be prescribed by the Secretary of the Treasury or his delegate.

In keeping with the major objective of securing more uniform tax treatment of self-employed people and corporate individuals under qualified retirement plans, contributions or benefits for self-employed people under qualified plans are also made subject to the same overall limitations that are placed on contributions or benefits for regular employees under qualified plans.

Your committee has also made provision to allow self-employed individuals, whose earned income fluctuates sharply, declining to low levels in some years, to continue to set aside a specified minimum amount regularly for retirement under an H.R. 10 plan. This is achieved by permitting a self-employed individual to deduct contributions to such plans amounting to $750 or 100 percent of their earned income, whichever is less, even though these amounts are in excess of the regular deduction limits.

The new more liberal limitations on contributions or benefits for self-employed people under qualified plans are also to apply to shareholder employees of subchapter S corporations—small business corporations—who are generally subject to the same limitations as self-employed people under qualified plans. This means, for example, that contributions of up to the lesser of 15 percent of earned income or $7,500 a year may be made under qualified defined contribution plans on behalf of such shareholder employees without giving rise to current tax for them.

In addition, provision is made to insure that self-employed individuals who wish to utilize the full maximum tax allowance for their own contributions will also provide significant pension contributions for their regular employees who are covered by the pension plan. This is achieved by allowing self-employed people to count no more than $100,000 of their earned income in computing pension contributions or benefits for themselves. This prevents a self-employed individual with an extremely large income from achieving the $7,500 maximum annual deduction for his own pension contribution through the use of a low contribution rate which would be detrimental to his employees since the pension contributions on their behalf are computed using the same contribution rate. For example, a self-employed individual who counts his first $100,000 of earned income for this purpose, must contribute to the plan at least 7.5 percent of the wages of his covered employees in order to be permitted a deductible contribution of $7,500 on his own behalf.

Finally, your committee adopted provisions to improve the effectiveness of H.R. 10 plans in achieving their retirement objectives and preventing abuses in the operation of such plans. Present law disqualifies the plan if willful contributions in excess of the allowable limits are made on behalf of owner-employees since such excess contributions unduly build up their tax-free accumulations in the plan. Experience has shown that this is not an adequate remedy since disqualification of the plan for excess contributions on behalf of owner-employees penalizes the regular employees who are not in any way responsible for the excess contributions. For this reason, instead of disqualifying the plan, where excess contributions are made on behalf of the self-employed individuals, the bill adopts a new more effective penalty; namely, a tax on the employer, amounting to 6 percent a year on the amount of the excess contribution. In addition, to discourage premature withdrawal of the H.R. 10 funds by owner-employees prior to retirement age, withdrawals before such individuals attain the age of 59½, except in case of disability, are subject to an additional tax amounting to 10 percent of such premature contributions.

The new more liberal limits in regard to contributions on behalf of self-employed people under H.R. 10 plans are effective for taxable years beginning after December 31, 1973. However, the new limits on benefits under defined H.R. 10 benefit plans, which are designed to secure comparability with the limitations applying to H.R. 10 plans of the defined contribution type, the 6-percent tax on excess contributions for self-employed individuals, and the 10-percent tax on premature withdrawals by owner-employees are effective for taxable years beginning after December 31, 1975.

Overall limitations on contributions and benefits for employees under plans.—In view of the vital role that the favorable tax treatment accorded under the Internal Revenue Code plays in stimulating the growth and development of nondiscriminatory retirement plans, your committee believes that it is essential to continue this treatment. In fact, as noted above, the bill adopted by your committee extends the favorable tax treatment more generally by increasing the allowable deductible contributions of self-employed people under H.R. 10 plans and by providing for the establishment of limited retirement savings plans for individuals who are not covered by qualified retirement plans

However, after careful consideration, your committee has concluded that it is not in the public interest to make the substantial favored tax treatment associated with qualified retirement plans available without any specific limitation as to the size of the contributions or the amount of benefits that can be provided under such plans. The fact that present law does not provide such specific limitations has made it possible for extremely large contributions and benefits to be made under qualified plans for some highly paid individuals. While there is, of course, no objection to large retirement benefits in themselves, your committee believes it is not appropriate to finance extremely large benefits in part at public expense through the use of the special tax treatment. Moreover, the fact that there are no specific limits on the size of the contributions or benefits that may be made under qualified plans on behalf of highly paid employees discriminates against the self-employed whose contributions or benefits under H.R. 10 plans are limited by law. For this reason, your committee has provided specific limitations on the amount of contributions and benefits that can be provided for any one individual under a qualified plan. These limitations, which apply to both employees and self-employed people under qualified plans, have been designed to avoid abuse of the favored tax treatment to finance extremely large pensions. However, the limitations are generous enough to permit substantial retirement benefits which are adequate judged from any reasonable standard.

Under defined contribution plans—money-purchase pension plans and profit-sharing plans—the sum of the employer's contributions for the employee, a specified portion of the employee's own contributions, and any forfeitures allocated to the employee cannot exceed 25 percent of the employee's compensation or $25,000, whichever is less. These limits would also apply to contributions made to qualified plans of exempt organizations under section 403(b).

Your committee decided to take employee contributions to qualified plans into account for purposes of this contribution limit because the employee gets a tax advantage from the fact that the earnings on his contributions remain free of tax so long as they are kept in the plan, thus permitting a tax-free buildup of funds. However, unlike employer contributions under qualified plans, employee contributions are made out of taxed income. For this reason, for purposes of counting employee contributions for purposes of the 25 percent and $25,000 annual limits on contributions on behalf of any employee under a defined contribution plan, there is to be excluded the greater of (*a*) employee contributions amounting to 6 percent of compensation or (*b*) one-half of the employee's contributions.

For plans which provide defined benefits, your committee has phrased the limit in terms of the amount of annual benefits that may be paid to a participant. More specifically, the annual benefit paid under such plans cannot exceed 100 percent of the participant's average compensation for his highest 3 years of earnings, regardless of the age at which the benefits start, or $75,000 beginning at age 55 or later, whichever is less. Where the annual benefit starts before age 55, the $75,000 annual limit on benefits is adjusted downward actuarially. However, to avoid any possible adverse effect on individuals with relatively modest retirement benefits, this benefit limitation is not to apply to retirement benefits which do not exceed $10,000 for the plan year or for any prior plan year. This exception from the benefit limitation is available only where the employer has not at any time maintained a defined contribution plan in which the participant was covered.

While any specific dollar limit on the amount of benefits under qualified plans is necessarily a matter of judgment, your committee believes that the annual limitation of $75,000 at age 55 or later achieves a reasonable balance in view of the considerations involved. Benefits starting at any age are allowed to amount to as much as 100 percent of average pay during the high 3 years of earnings after study disclosed that any lower percentage limit would adversely affect individuals with relatively modest earnings who are covered under generous plans. Your committee believes that it would be unwise to discourage liberal benefits for such individuals.

As noted above, the $75,000 annual limit is applied to a benefit financed by the employer which is payable in the form of a straight life annuity beginning at age 55. Correspondingly, higher benefits may be paid to the extent that they are financed by employee contributions. No actuarial adjustment is required to be made in the maximum annual limit on benefits under defined benefit plans where ancillary benefits which are not related to retirement are provided. For example, no downward actuarial adjustment in the limit is to be required for disability benefits before normal retirement age. In addition, no downward adjustment is to be made for a normal joint and survivor feature.

Moreover, to prevent abuse, the full maximum benefit may be paid only to individuals who have 10 years or more of service. Where an individual has served for less than 10 years, the maximum permissible benefit is reduced proportionately.

The contribution and benefit limits are applied in a way which prevents any individual from securing higher limits for himself merely because he is covered by several retirement plans financed by the same employer. For purposes of applying these limits, all defined contribution plans established by an employer are combined and treated as one defined contribution plan, and all defined benefit plans established by an employer are combined and treated as one defined benefit plan.

Also, if an individual is covered by both a defined contribution plan and a defined benefit plan established by his employer, then an overall limit is applied to coordinate the two limits discussed above. In this case, the sum of one, the percentage utilization of the maximum limit under the defined benefit plan and two, the percentage utilization of the maximum limit under the defined contribution plan cannot exceed 140 percent. For example, if, under the defined benefit plan, the employee is to receive a pension of $75,000 a year—using up 100 percent of the defined benefits limit—then the maximum additions to his defined contributions plan may not exceed 40 percent of what would otherwise be his defined contributions limit. Put another way, this overall limit, if both types of plans are used equally, may be satisfied by using up 70 percent of the limits applicable to each type of plan.

The rule described above is not intended to require the aggregation of section 403(b) plans which the participant did not control with qualified plans which the participant did not control. For example, a teacher who is covered by a section 403(b) plan as well as by a qualified State or local government plan which he did not control would not be forced to aggregate his contributions and benefits under the two plans.

Because of the vital importance of maintaining the real value of retirement benefits, the bill instructs the Secretary or his delegate, through regulations, to make annual adjustments in the allowable limits to take account of increases in the cost of living. This includes adjustments in the $75,000 annual limit to benefits paid by defined benefit plans, the $25,000 limit to contributions under defined contribution plans and, in the case of a participant who was separated from service with the firm, the amount of his average earnings in his highest compensated 3 consecutive years of service.

Your committee has provided adequate time for adjustment to the new limits on benefits and contributions under retirement plans. In general, these limits apply to contributions made or benefits accrued in years beginning after December 31, 1975. However, to ease the transition to the new rules, an active participant in a defined benefit plan on October 2, 1973, will be permitted to receive an annual benefit, based on his annual rate of compensation on that date and the plan provisions in effect on that date, which exceeds $75,000 a year, provided the benefit does not exceed 100 percent of his annual compensation on October 2, 1973. Where this "grandfather" treatment is utilized, the cost-of-living adjustments in the limits, described above, are not available.

Finally, because the objective of the limits on contributions and benefits is to keep the tax advantages associated with qualified plans within reasonable bounds and not to restrict the amount of retirement benefits that may be paid to individuals under other arrangements, the bill specifically indicates that nothing in the provisions relating to such limits (or in the provisions of the bill which relate to minimum funding standards) is to be construed to require the disqualification of any plan solely because additional benefits are provided to the employee under nonqualified portions of the plans.

Lump-sum distributions under qualified plans.—Prior to the Tax Reform Act of 1969, lump-sum distributions made by qualified pension plans were generally taxed as long-term capital gains. Such capital gains treatment, however, had the disadvantage of allowing employees to receive substantial amounts of deferred compensation in the form of lump-sum pension distributions at more favorable tax rates than other compensation received currently. The 1969 Tax Reform Act sought to ameliorate this problem by providing that any part of such lump-sum distributions which represented employer contributions accrued in plan years beginning after 1969 was to be taxed as ordinary income rather than as capital gains. In addition, the 1969 act provided a special 7-year averaging procedure for the portion of the lump-sum distribution taxed as ordinary income.

However, while the 1969 provisions were intended to provide more equitable treatment for such lump-sum pension distributions, they have not achieved their purpose. The Treasury has had great difficulty in providing regulations to carry out this provision. Problems have arisen both in determining the amount of the ordinary income element of a distribution and in determining the precise amount of tax imposed on account of the "ordinary income" element. Moreover, in practice the new proposed regulations have proved to be very complex and it is frequently maintained that individuals receiving lump-sum distributions have been unable to compute their taxes and that accountants and tax lawyers have been refusing to attempt the computations.

Your committee believes that this situation cannot be permitted to continue. For this reason, it has provided a new method of taxing such lump-sum pension distributions which is relatively simple and yet at the same time equitable. Under the new provision, that portion of the distribution representing pre-1974 value receives capital gains treatment. The balance of the lump-sum distribution is to be taxed as ordinary income under a separate tax schedule—the tax schedule applicable to single people—generally without reductions, exclusions, or consideration of the taxpayer's other income. However, to insure that the tax paid by lower income individuals on their lump-sum distributions will generally not be more than under present law, a special minimum distribution allowance is provided under the separate tax rate schedule. In addition, averaging relief is provided for the portion of the lump-sum distribution which is taxed as ordinary income under the separate tax rate schedule by providing 10-year averaging for such income. This in effect provides a tax payable at the time of the distribution, but no greater in amount than the taxpayer could expect to pay were the income to be spread over his remaining life expectancy.

The new treatment of lump-sum distributions from qualified retirement plans is to apply to distributions made after December 31, 1973, in taxable years beginning after that date.

Salary reduction plans: Under present law, employee contributions to qualified retirement plans are generally made out of taxed income without any tax allowance. However, in certain cases, employees have entered into arrangements with employers to accept salary reductions in return for contributions on their behalf to qualified retirement plans. If employer contributions to such plans are not taxed currently to the covered employees, this results in tax advantages for the covered employees as compared with making their own contributions to the retirement plan. Until the latter part of 1972, the Internal Revenue Service under administrative rulings recognized such salary reduction plans, providing that the amount of the reduction was not in excess of 6 percent of compensation and the plan met certain antidiscrimination requirements.

However, on December 6, 1972, the Internal Revenue Service issued proposed regulations, providing that amounts contributed by an employer to a retirement plan in return for a reduction in the employee's basic or regular compensation or in lieu of an increase in such compensation are to be considered to have been contributed by the employee and consequently be taxable income to the employee.

The proposed regulations dealing with salary reduction plans raise major issues of tax policy. The basic question is the extent to which employees should be allowed to convert what would otherwise be a nondeductible employee contribution to a retirement plan to tax-deferred employer contributions on their behalf. This, in turn, involves issues regarding the equitable treatment under the tax laws of employee contributions and employer contributions to qualified retirement plans.

In view of these basic issues, your committee has concluded that it would be desirable for the Internal Revenue Service to defer action on its regulations until the Congress has had further opportunity to consider this matter. For this reason, the bill directs the Secretary of the Treasury to withdraw the proposed salary reduction regulations issued on December 6, 1972. Moreover, no other salary reduction regulations may be issued in proposed form before January 1, 1975, or in final form before March 16, 1975. The bill further specifies that until new salary reduction regulations have been issued in final form, the law with regard to salary reduction plans is to be administered along the lines of the administration before January 1, 1972. Any salary reduction regulations which become final after March 15, 1975, for purposes of individual income tax, are not to take effect before January 1, 1975.

Labor unions providing pension benefits.—Your committee considered a provision recognizing the right of tax-exempt labor unions to provide pension benefits to its members from funds derived from members' contributions and the earnings on the contributions, without affecting their tax-exempt status. However, the committee concluded that labor unions are permitted to provide benefits in this manner under present law and as a result it decided such a provision is unnecessary. The Internal Revenue Service has recognized this result in a published ruling which provides "that payment by a labor organization of death, sick, accident or similar benefits to its individual members with funds contributed by its members, if made under a plan which has as its object the betterment of the conditions of the members does not preclude exemption of the organization under section 501(c)(5) of the code."

REVENUE EFFECT

There are several kinds of revenue effects which can be expected to arise from H.R. 12855.

First, three provisions designed to equalize the tax treatment of pensions have an impact on tax deductions. These are the provisions raising the maximum deductible amount that the self-employed can set aside annually for their retirement; making provision for employee retirement savings deductions for those not now covered under qualified retirement plans, Government plans, or section 403(b) plans; and a provision which limits the maximum retirement benefit and the maximum deductible contribution on behalf of employees.

Tax revenues are also affected by the modification of the tax treatment of lump-sum distributions.

Finally, a third category of revenue effect from the bill arises not because of any change in tax deductions as such, but rather because increased amounts may be set aside by employees for vesting and funding. The bill imposes additional requirements in the areas of vesting and funding which must be met if the present favorable treatment for pensions is to continue to be available. These new requirements may result in employers making larger contributions to retirement plans, resulting in larger income tax deductions.

Provisions designed to equalize tax treatment of retirement plans: It is estimated that the provision increasing the maximum annual deductible pension contribution by self-employed persons on their own behalf to the greater of $750—but not in excess of earned income—or 15 percent of earned income—up to $7,500—will result in an annual revenue loss of $175 million.

The provision allowing an individual not covered by a qualified retirement plan, Government plan, or section 403(b) plan to deduct annually the lesser of $1,500 or 20 percent of compensation for contributions by him or on his behalf to a tax-exempt retirement account, annuity, or bond plan established by him, or to certain trusts established by employers or associations of employers, is estimated to involve a revenue loss amounting to $225 million for 1974 and rising to $355 million for 1977, at 1973 income levels.

On the other hand, a revenue increase of $10 million a year at 1973 income levels is estimated to result from limiting the maximum annual benefit under defined benefit plans to the lesser of $75,000—where benefits begin at age 55 or later—or 100 percent of average compensation for the 3 consecutive calendar years aggregating the highest compensation and limiting annual contributions under defined contribution plans to the lesser of $25,000 or 25 percent of compensation, with a cost-of-living adjustment to the dollar ceilings in the case of active participants and to the resultant amount under the 100-percent rule in the case of participants separated from service.

Altogether, when fully effective, these three provisions involve an estimated annual net revenue loss of $520 million.

Tax treatment of lump-sum distributions: The revised tax treatment of lump-sum distributions from retirement plans, which provides for taxing that part of lump-sum distributions which is attributable to 1974 and later years as ordinary income subject to 10-year averaging, is expected to result in the long run in annual revenue gains amounting to $60 million a year based on 1973 levels of income.

Revenue effect of minimum vesting and funding provisions: The new minimum vesting standards, which generally become effective for plan years beginning after 1975, will also involve an indirect loss of revenue, ranging from zero to an estimated $265 million a year, at 1973 income levels.

The minimum vesting requirement involves little or no revenue loss to the extent that the benefit levels of plans are adjusted to absorb the increased employer costs resulting from the requirement. This is because, in that event, the requirement would have no effect on the deductions taken for contributions to plans or on the taxable income of covered employees. If the additional amounts required to be contributed to pension plans as a result of the vesting standards are a substitute for cash wages, rather than a net addition to cash wages, the annual revenue loss is estimated at $130 million. This could occur, for example, if the additional employer payments into the pension plan are taken into consideration in setting future wage increases. In this event, the revenue loss results from the fact that the covered employees are permitted to postpone payment of tax on the employer contributions involved, instead of being required to pay tax currently, as would be the case had they received an equivalent amount of wages. Some part of this postponed $130 million of taxes presumably will be recovered in the future in tax payments on the benefits paid out by the plan.

The upper range of the estimate, $265 million, represents the revenue loss if it is assumed that the additional employer payments into the pension plans required by the new vesting standards constitute an addition to the cash wages that will be paid in any event. In this case employers will have large total wage bills, for the sum of cash wages and wage supplement, and hence will take larger tax deductions, giving rise to a $265 million revenue loss.

It appears that realistically there is likely to be a combination of the three effects suggested above.

No revenue estimate is given for the increased funding requirements under the bill. Data are not available which would make a reliable estimate of this type possible. However, it is believed that the minimum funding requirements will have a relatively modest revenue effect.

I yield to our very able and distinguished colleague from Michigan, who has served with such distinction on the Committee on Ways and Means. We learned with a great deal of sorrow the other day that she will not be with us another year, but her service has been tremendous and outstanding and her impact on this bill has been vital.

Mrs. GRIFFITHS. Mr. Chairman, I would like to make clear my understanding of this, that is, I would like to recite my understanding and ask if the gentleman would agree with this.

The effective date provisions of title II of the substitute, relating to participation and vesting will, as I understand them, be interpreted in a way that insures against disruption of collective bargaining agreements concluded under present law. For example, 3-year collective bargaining agreements were negotiated in the car and truck industry in 1973, and these generally may be reopened in 1976, although major provisions of the pension plans under the agreements cannot be reopened before 1979. The committee report on H.R. 12855—which is the source of title II—at pages 51 and 52 makes it clear that the effective date provisions in this situation will leave the pension plan provisions undisturbed until 1979 even though relatively narrow pension issues, illustrated by the examples in the report, may be reopened in 1976.

The committee report also clarifies the situation where the employer has a second pension plan, primarily for nonunion employees, which is essentially the same as the collectively bargained plan. From the report it is clear that the two plans will be considered as one for purposes of applying the delayed effective date provisions of title II of the substitute. Thus, in the car and truck industry example, amendment as to both plans would first be required in 1979.

Would that be the understanding of the gentleman from Oregon?

Mr. ULLMAN. Mr. Chairman, that is my understanding.

Mrs. GRIFFITHS. There is a related situation that arises because of union opposition to contributory features in a collectively bargained plan, and the desire of other employees for the additional security the plan can provide if they contribute toward their own retirement benefits. In this situation, the employer's second plan typically consists of noncontributory features essentially the same as are found in the collectively bargained plan, plus additional features relating to employee contributions and to the additional retirement benefits provided for employees who contribute. Several of the companies having collectively bargained plans follow different patterns in the "second plans".

It is my understanding that the rules of interpretation set forth in the committee report will require, in this situation, that the collectively bargained plan and part of the employer's second plan consisting of essentially similar noncontributory features will be considered as one plan for purposes of applying the deferred effective date provisions of the bill, with amendments first required in 1979. On the other hand, I understand that the remaining portion of the second plan, consisting of the features relating to employee contributions and related benefits, would not be entitled to the delayed effective date provisions, so that any amendments would be required in 1976.

Is my understanding in respect of these matters correct?

Mr. ULLMAN. The gentlewoman's understanding is entirely correct.

Mrs. GRIFFITHS. It is my further understanding that this matching of the collectively bargained plan and the related part of the second plan will be only for the limited purpose of determining the application of the delayed effective date provisions. For example, this rule of interpretation will not adversely affect the employer's right to continue to treat both parts of the second plan as a single plan for qualification purposes under section 401(a) of the code. Am I correct in this understanding also?

Mr. ULLMAN. The gentlewoman's understanding in this regard is entirely correct.

Mrs. GRIFFITHS. Mr. Chairman, I thank the gentleman from Oregon very much.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 2 additional minutes.

Mr. KARTH. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. Mr. Chairman, I yield to the gentleman from Minnesota (Mr. KARTH), a member of the committee.

Mr. KARTH. Mr. Chairman, I thank the gentleman for yielding.

So that some legislative history can be made on that subject, I ask the following question:

Mr. Chairman, the bill provides that a plan may be retroactively amended within a limited period of time without the approval of the Secretary of Labor. Do you agree that within limits specified by the bill, a plan may be amended under this provision to reduce plan liabilities that have accrued in a previous year and thereby eliminate a funding deficiency and also avoid the excise taxes that otherwise would have been due on the funding deficiency?

Mr. ULLMAN. The gentleman is correct. Under the bill, if there is an accumulated funding deficiency with respect to a plan as of the end of a plan year, the plan may be amended after the end of that plan year. Such an amendment could be effective as of a date within that year to reduce the benefits accrued under the plan in that year and thereafter. This could eliminate a funding deficiency that otherwise would have occurred during that year, and also avoid the excise taxes that otherwise would have been due. This may be done only within a limited time period without the approval of the Secretary of Labor as specified in the bill. The purpose of allowing this type of amendment is to allow plans an opportunity to correct unforeseen funding deficiencies without being subject to a penalty.

There are a number of ways that a retroactive amendment might be made without the approval of the Secretary of Labor to reduce an accumulated funding deficiency and avoid the excise taxes. For example, if the benefits accrued under the plan initially were $5 per month per years of service—up to a maximum of 25 years of service under a plan using the 3-percent vesting rule—and it was determined that an accumulated funding deficiency had occurred at the end of the plan year but could be avoided by reducing the $5 benefit to $4, the plan might be amended to reduce benefits accrued—whether or not vested—during the year in question and for future years.

Following this example, if the benefits were reduced from $5 to $4 per month for all years of service, a person who had 10 years of service at the beginning of the plan year in question would have accrued $50 per month of benefits. These $50 of benefits would not be reduced by the amendment in questio, but this individual would not accrue additional benefits under the amendment until after he had 12½ years of service in the plan, at which time he would have accrued $50 in benefits under the new benefit schedule—$4 times 12½ years.

For single employer plans, such amendments may be made without approval of the Secretary of Labor within the time required to file the employer's tax return for the year in question. For multiemployer plans, such an amendment may be made without the approval of the Secretary of Labor within 2 calendar years after the end of the plan year for which the amendments are to be effective. For example, with a multiemployer plan if a funding deficiency would have occurred for a plan year ending on December 31, 1980, the plan could be amended on or before December 31, 1982, to reduce benefits that otherwise would have accrued after the beginning of the plan year that ended on December 31, 1980.

Mr. KARTH. Mr. Chairman, I thank the gentleman very much. If he would yield for just another moment, may I proffer the same question to the distinguished gentleman from Pennsylvania (Mr. GAYDOS)?

Mr. GAYDOS. Mr. Chairman, in response to the gentleman from Minnesota, the question was thoroughly discussed with Chairman DENT. He was momentarily called from the floor, but authorizes me as a matter of record to respond to the question by emphatically agreeing with Mr. ULLMAN.

Mr. KARTH. Mr. Chairman, I thank the gentleman for yielding.

Mr. SCHNEEBELI. Mr. Chairman, I yield myself 7 minutes.

Mr. BROYHILL of Virginia. Mr. Chairman, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Virginia, a valued member of the committee.

Mr. BROYHILL of Virginia. Mr. Chairman, I rise in support of H.R. 2 and the amendments of the Education and Labor Committee and the Ways and Means Committee which will be offered to it. The joint package which has been put together by these two committees represents an important milestone along the road to equity in the private pension system.

I wish to direct my remarks today to several aspects of this legislation which relate to the pensions of public employees—both at the Federal level and at the State and local level.

The bill before us provides increased protection to workers in the private sector by imposing new standards for participation, vesting, and funding of their pension plans. During consideration of this legislation, the Committee on Ways and Means spent a considerable amount of time on the question of whether these standards should be applicable to Government plans generally. I continually made the argument that public employees should be afforded at least as much protection and given equal consideration in our tax laws as those workers in the private sector.

Under present law, the civil service retirement system and most employee retirement plans of State and local governments are qualified under the tax law; that is, the employees covered by those plans do not have to take into account currently for income tax purposes the contributions to those plans made by their employers. Rather, they can defer the payment of tax until they receive the pension benefits during retirement. At that time, presumably, they will be in lower tax brackets and, therefore, will be paying a lower rate of tax. There are also certain other tax benefits resulting from the plan being considered qualified.

During discussion of whether to include Government plans under this bill, it became apparent that many of the plans—including the Federal plan—might be unable to meet the new participation, vesting and funding standards with the result that they would lose their "qualified" status and the workers covered by them would be denied the special tax benefits previously described. Such a result is, of course, totally unacceptable and, therefore, the committee decided to exempt these Government plans from the requirements of the bill thus allowing them to continue to remain qualified as under present law. However, in order to determine the desirability of ultimately bringing Government plans under the new standards, both the Education and Labor Committee and the Ways and Means Committee have been charged with conducting studies of this entire question. The committees are to report to the House on the results of these studies no later than December 31, 1976. I plan to take an active role in the study to be conducted by the Ways and Means Committee.

Another provision in this legislation of great significance is the one establishing individual retirement accounts for that half of the work force not presently covered by any pension plan. This is another stride toward equity and will make it possible for millions of workers who would have no private pension at retirement to provide one for themselves and their families. Such a device is in the best tradition of self-help and in contrast to total reliance on the Government.

The original IRA proposal submitted by the administration was broader in coverage than the one adopted by the committee and recommended in its report. Simply stated, the administration's proposed IRA would have allowed employees covered by plans with low benefit levels to establish and contribute tax free to an IRA as a supplement to their regular pension plan. Since a person with a poor pension plan needs more security than those with better benefits, such an approach makes sense. The provision would have made it possible for a large number of Government workers in the lower wage brackets to establish IRA's and thus help improve their own retirement income situation. Basically, those Government employees making less than $10,000 per year would have been eligible.

Unfortunately, despite every effort the committee decided to not include the IRA provision for the low benefit plans due in part to the revenue loss of which would have occurred if this had been included. I was distressed that this decision was made but feel that the establishment of IRA's in general is important. In the future I plan to work for inclusion of a provision which will allow workers under low benefit plans—including the Federal civil servants—to participate in IRA.

Finally, Mr. Chairman, I want to briefly discuss the increase in allowable pension deductions for self-employed persons. Under present law, the annual deductible contribution a self-employed individual can make to a so-called H.R. 10 plan is the lesser of 10 percent of his earned income or $2,500. This low limit—in contrast to no limit on the contributions corporate employees can make—has caused serious equity problems in the pension law field. In many instances, self-employed persons have established professional service corporations in order to be able to set aside amounts necessary for an adequate retirement pension. Such a course should not be necessary.

In an effort to balance the equities between corporate and self-employed employees, this legislation would increase the deductible amounts for H.R. 10 plans to the lesser of 15 percent of earned income or $7,500 per year. This is an essential increase and should be supported.

Finally, I would like to mention another item which is not in this bill but is related to the pension area. I am referring to the need to liberalize the retirement income credit. The retirement income credit is intended to equate the tax treatment of individuals with retirement income but no social security coverage with those who are covered by social security. It is of particular value to many Federal employees who are covered under the Federal civil service retirement plan but not social security.

The credit provisions have long needed to be updated and simplified and this was done in H.R. 1 in 1971 by both the House and Senate but was dropped in conference. I again raised the issue during consideration of the pension legislation and the committee urged that this change be delayed until we take up general tax reform. I have been patient about this matter but the time for making necessary adjustments to liberalize the retirement income credit is past and I shall press with all my energy to see that it is achieved in our tax reform bill so that those retirees who are supposed to benefit from the credit will be able to do so.

Mr. Chairman, I believe this pension legislation is as important to the future generations as to those presently covered by pension plans. It may require certain changes in the future including those I have mentioned but it is a solid base upon which to build. I urge its passage.

Mr. SCHNEEBELI. Mr. Chairman, the legislation before the House provides needed reform of the present rules governing private pension programs. Since 1942, significant incentives have been contained in the income tax law to encourage employers to develop pension plans benefiting their employees on a broad and nondiscriminatory basis.

Our private retirement system has grown rapidly under these rules. In 1940, it was estimated that 4 million employees were covered by pension programs. Estimated coverage grew to 9.8 million in 1950 and then to between 23 and 30 million today. It is expected to grow to 42 million by 1980.

Between 1950 and 1970 contributions grew from $2.1 billion to $14 billion. During the same period the number of beneficiaries grew from 450,000 to 4.7 million, with benefits increasing from $370 million to $7.4 billion. During the last 30 years, assets of retirement plans rose from $12.1 billion to $150 billion, and it is estimated that they will increase to $225 billion by 1980. This is an important segment of our economy—a huge potential purchasing power.

This is a commendable record, and we should continue to encourage private economic security measures within a framework that is fair to all of our citizens. This requires us to focus on areas of existing law that need improvement. The legislation before the House does precisely this.

There is a need to increase coverage, to provide greater vesting of accrued benefits, and to remedy inadequate funding.

We also need to improve equity between corporate employees and the self-employed as well as provide a mechanism for employees to save for retirement even when their employers decline to establish a pension program. Administration should be improved, fiduciary standards and disclosure rules strengthened, and termination insurance considered.

The substitute bill before the House today deals fully with all these problems. In developing legislation there has been a division of responsibilities on some items and shared responsibilities on other items, by the Education and Labor Committee and the Ways and Means Committee. The portion of the substitute reported by the Education and Labor Committee (H.R. 12906) deals with the subject of fiduciary standards, reporting and disclosure, and plan termination insurance. These matters are not, therefore, dealt with in the portion of the substitute reported from the Ways and Means Committee (H.R. 12855). The Ways and Means Committee dealt with all the matters relating to the taxation of private pension plans, and the bill from the Education and Labor Committee, therefore, contains no provisions in this regard.

However, in the areas of eligibility and participation, vesting, and funding, the two committees shared responsibility, and the bills reported by both committees contain provisions on these subjects which are substantially identical. A requirement for joint regulation contained in the substitute is designed to insure that there will be uniformity of interpretation of these standards by the executive branch.

One of the central features of the substitute before the House is the improved rules provided for eligibility and participation, vesting, and funding. The legislation will generally require that a retirement plan cover individuals after they attain age 25 or complete 1 year of service, whichever is later.

Additionally, plans must meet one of three alternative rules relating to vesting of benefits. In framing these rules the committee attempted to improve employee protection while avoiding the imposition of costs that would discourage the establishment of new plans and the broadening of benefits for an existing plan.

The first alternative gradually increases vesting over a period of years, resulting in 25 percent vesting at the end of 5 years, 50 percent vesting at the end of 10 years, and 100 percent vesting at the end of 15 years. The second option is the so-called "Rule of 45," requiring that an individual with 5 years of service have a vested right of 50 percent when the sum of his age and years of service equals 45, with the remaining benefits vesting uniformly over an additional 5-year period. The third option provides for 100 percent vesting when an individual has 10 years of service. The different options should provide flexibility that will accommodate individual circumstances and varying conditions.

The only requirements relating to funding under existing law are those promulgated under the Internal Revenue Code. They require the funding of current liabilities as well as the payment of interest due on past service costs. While this keeps the amount of unfunded pension liabilities from increasing, it does not require the amortization of existing unfunded liabilities. The new rules would require that existing past service liabilities be amortized over a 40-year period. Past service liabilities created by plan amendment and the establishment of new plans will be amortized over a 30-year period, while existing gains and losses will be amortized over a 15-year period. Special rules are provided for multiemployer plans. Additionally, extensions would be available under certain circumstances.

The proposed legislation also provides greater equity betwen self-employed individuals and corporate employees. Under existing law there are generally no limitations on the benefits an employee can receive from a qualified plan. Presently a self-employed individual may only deduct 10 percent of his earned income or $2,500 in a given year, whichever is less. This disparity is not only inequitable, but has provided a substantial incentive for the incorporating businesses in order to get the more generous pension benefits applicable to corporate employees.

This disparity between the unincorporated and the incorporated self-employed persons is in part remedied by increasing the limit of 10 percent of earned income or $2,500 on deductions for the self-employed to 15 percent of earned income or $7,500. This increase is also justified because of substantial inflation that has occurred during the 10 years since the Self-Employed Individuals Tax Retirement Act was first enacted.

Additionally, the bill places overall limitations on the amount of deductible contributions that may be made in the case of defined benefit plans and money purchase plans covering corporate employees. While providing generous limits on the amount of retirement income that can be set aside, the bill recognizes that after a certain point an individual should save out of pretax dollars. While accomplishing this through the limitation imposed on these plans, the bill also narrows the disparity between benefits provided the self-employed and corporate employees.

This legislation also contains provisions enabling an employee to establish his own individual retirement account, IRA, when his employer has not established a qualified plan in which he can participate. This program, recommended by the Treasury and pushed vigorously and effectively in committee by Congressman BROTZMAN will enable an individual in these circumstances to deduct contributions of up to 20 percent of earned income, as long as this amount is not in excess of $1,500. The amount contributed can be set aside in a special custodial account. Like qualified retirement plans, the account will draw interest tax free during an individual's working years, and he will not pay taxes on this amount until he begins drawing retirement benefits.

There are other changes in the existing law and its administration that I will not discuss in detail. Some of my colleagues will do so. However, the bill does provide for a separate administrative unit in the Internal Revenue Service to supervise exempt organizations and pension plans. Judicial remedies are provided for plans receiving adverse rulings from the Internal Revenue Service, and the Social Security Administration is required to maintain certain information on benefits accrued under private pension plans.

Mr. Chairman, this is an extremely comprehensive and complex bill that will have a pervasive effect on private economic security measures. It is a needed bill and despite many difficulties I believe it has been carefully worked out on the House side. In view of the magnitude of the new program, legislative oversight will be required and changes will undoubtedly be in order as we gain experience. However, the legislation before the House is a needed step forward and I urge my colleagues to join me in supporting it.

Mr. Chairman, I yield at this time 7 minutes to the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman, the legislation before the House represents the first comprehensive overhauling of legislation affecting private pensions since I have been in Congress. There have been improvements of significance through the years, but Congress has not undertaken the pervasive review of pension legislation that the measure before the House today represents.

In the last 30 years, private economic security measures have grown profoundly. Undoubtedly, the incentives contained in the tax law for employers to provide nondiscriminatory plans for their employees have played a significant role. It is estimated that as many as 30 million employees were covered by private pension plans in 1972, and 42 million employees are expected to be covered by 1980—even without the changes provided by this bill. In 1970, $14 billion was contributed to pension plans by employees and their employers and 4.7 million individuals receive $7.5 billion in payments. The assets of pension plans now exceed $150 billion and are expected to reach $225 billion by 1980.

Despite the significant progress we have experienced, there are areas of the law that need improving. Coverage should be expanded, vesting improved, adequate funding provided, honest, open and efficient administration assured, and protection against plan terminations considered.

The substitute before the House deals with all of these measures. The portion of the substitute developed by the Education and Labor Committee deals with fiduciary standards, reporting and disclosure, and plan termination. The Ways and Means Committee portion of the substitute deals with the taxation of private pension plans. Additionally, both the bill reported by Education and Labor and the bill reported by Ways and Means provide common standards relating to eligibility and participation, vesting, and funding. The standards are virtually identical and it is provided that joint regulations will be issued to insure uniformity of interpretation. If not, the bill is too comprehensive to discuss in its entirety, and it has been adequately explained in a general way by speakers who have preceded me.

However, I would like to express my support for the legislation as it now stands and providing it is not emasculated by amendment and particularly for the central core of the substitute improving coverage, vesting, and funding. These provisions were carefully worked out to insure flexibility accommodating the individual characteristics of different plans and to balance the disincentives for wider coverage associated with increased costs against the need to provide greater protection. I think the bill in this regard represents a significant improvement over existing law.

I would like to address myself specifically to the improvements in the Self-Employed Individuals Tax Retirement Act. It has been about 10 years since we enacted this landmark legislation, and the present annual limitation on deductible contributions for self-employed individuals of 10 percent of earned income or $2,500, whichever is less, has been severely eroded by inflation.

Additionally, these limitations have provided incentives for individuals to incorporate in order to avail themselves of the more generous benefits available to corporate employees. The form in which a particular business activity is conducted should not be so directly dependent upon tax consequences.

The bill reported by the Ways and Means Committee would increase the present limitation applicable to the self-employed to 15 percent of earned income or $7,500, whichever is less. This significant increase will provide greater equity for self-employed individuals vis-a-vis employees in general, and will also provide substantial incentives for self-employed individuals to establish qualified plans providing for the economic security of their employees. The present rules require immediate vesting in the case of self-employed plans and these requirements would be maintained. Thus, these increases are justified both by historical events, considerations of equity, and the need to insure broader coverage.

I also feel the provisions of the bill enabling employees who do not have access to qualified employer plans to establish an individual retirement account, IRA, on their own behalf should be enacted. Under this procedure, an employee could contribute 20 percent of his earnings up to a maximum contribution of $1,500 annually. This contribution would be deductbile and interest on the IRA would accumulate tax free during the individual's working years. The account would be administered by a bank, life insurance, savings and loan, or other appropriately qualified financial institution. As with employer-administered, qualified plans, the tax consequences would inure when an individual begins receiving benefits upon retirement.

Mr. Chairman, there are other important features of this legislation. The bill provides for improved administration by establishing an Assistant Commissioner for Exempt Organizations and Employee Benefit Plans in the Internal Revenue Service; the bill provides a new set of rules for the taxation of lump-sum distributions from qualified pension plans; the bill requires the Social Security Administration to maintain certain information about the benefits an individual has accrued under private plans, and the bill makes other changes that are improvements over existing law. With the growth of private economic security measures, as well as the tax costs attributable to these items, Congress must be more concerned about insuring that they are meeting the reasonable expectations of the working public.

I believe this bill takes a major step in this regard and deserves the support of the House.

Mr. SCHNEEBELI. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. CONABLE) who served very valiantly and well on this committee in the consideration of this legislation.

Mr. CONABLE. Mr. Chairman, I would like briefly to make a reprise of what we are trying to do in this legislation, and some of the difficulties we faced. Of course, our basic goal is to provide protection for working people, to prevent the kind of disappointment that comes after a long and fruitful life of toil, to find that one does not have the retirement one expected when one went to work in the first place.

A second purpose of this bill is to spread the benefits of a tax preference which now is of assistance to roughly only half our work force. This has to be a major goal. One of the tests of tax preference is: Does it benefit a wide number of people, and does it, therefore, contribute to the benefit of a substantial enough block of citizens to justify the loss of revenue that is involved?

We have had some very obvious difficulties in putting together this somewhat disorderly package of legislation. First of all, quite obviously we have had jurisdictional problems. It has required a great deal of patience to come up with a formula which would present the Members of this body with comprehensible choices. I think we are going to have some difficulty in the amending process, and I hope all of the Members will be able to give their close attention to what the choices actually are.

A second problem arises over the diversity of our economic system itself. There are a great many different kinds of companies with a great many different types of plans, and we had to be careful in formulating this legislation that we did not in fact create serious dislocations to an already very diverse voluntary pension movement.

The third difficulty we had was that this is a voluntary movement and, therefore, there is no real necessity, outside of the collective bargaining agreements which are frequent in this area, for an employer to maintain a plan which has become too expensive for him. We have had some difficulty in the Committee on Ways and Means adjusting to this fact. We are used to legislating with respect to social security, a mandatory program, and so, of course, when we increase benefits and taxes, employers have no choice but to comply with what we have imposed on them in the way of obligations.

They do have some choice with respect to a voluntary pension plan, and while we had every desire to make it as splendid a set of protective requirements as we could, for the working people of this country, we had to be careful. If we overdid it, quite obviously we would have people writing us letters saying: "How come you helped us so much that now we have no pension plan at all because our employer has decided he cannot afford it any longer under the new rules?"

Having described these difficulties, I should like to look just briefly at what we did in title II of this bill. There were three major improvements we wanted there. First of all, we wanted to impose some reasonable limitations on corporate pensions. In fact, there are some very substantial sums of money set aside tax free for the largest corporate pensions. We believe that we have come up with a reasonable formula—the maximum defined benefit of $75,000 with a cost-of-living increase—which is certainly as liberal as anyone would wish, certainly offering no hardship to anyone, yet imposing a limitation where previously there was none.

The second thing we wanted to do was to liberalize Keogh plans, and we have gone, of course, to the $7,500 limit.

It seems to me in the interest of symmetry that we should have a cost-of-living factor added to that as well as to the corporate pension plans, and so at the appropriate time I will offer an amendment to permit the further liberalization of Keogh plans by the adding of this cost-of-living factor to the maximum that can be set aside under self-employment plans of this sort.

The third factor has to do with the independent retirement account, the IRA. Our friend, the gentleman from Colorado (Mr. BROTZMAN), can take particular credit for this provision, a Treasury recommendation, in his determination that it be added to the bill before we completed the work of the Committee on Ways and Means. I think it is a necessary addition and that it makes retirement income available to millions of people who have no voluntary pension plan, through their employment——

The CHAIRMAN. The time of the gentleman has expired.

Mr. SCHNEEBELI. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

This, while it will doubtless not be used by a large number of people, because it is a voluntary device, it will be available for those who do wish to use it. We hope it will get increasing use by wage earners of modest income who now have no benefit of this sort at all.

Mr. YOUNG of Illinois. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. Mr. Chairman, I noted under the terms of the act we set forth clearly the vesting provisions. It is my understanding if a profit sharing plan or commitment plan meets those vesting provisions, there will no longer be the bargaining session that has hitherto taken place with IRS when a particular company seeks to qualify a plan that meets the requirements. In other words, if it meets the requirements set forth in this act, it will be acceptable.

Mr. CONABLE. I see no reason why there should be the need for bargaining with IRS after this became law. Although a plan still cannot be discriminating, the vesting options are clear.

Mr. YOUNG of Illinois. Also, for the first time in history that I know of in the Internal Revenue Code, this provides for a declaratory judgment with respect to the qualification of the plan in the event there is disagreement between the Service and the proponents of the plan. I commend the committee for that. I hope the committee will widely open that door for other types of arguments with the IRS.

There is one other thing I want to ask about. What I want to ask about is with respect to the individual retirement accounts and the provision that there can be a trustee other than a bank. I think that is very desirable, because certainly a bank cannot handle and nobody can afford to pay the bank to act as a trustee of a $1,500 retirement account, but I would assume that the language which says another person if he satisfies the Secretary as to the proper custodianship of the assets may qualify as a trustee, I would think if the trustee will have those assets with the bank as an agency account, that certainly should satisfy the Secretary; should it not?

Mr. CONABLE. I would judge so. Of course, there will be regulations under this act, but the intent certainly is to try to remove a great many of the prevailing uncertainties in the absence of legislation.

Mr. YOUNG of Illinois. If the gentleman will yield further, would it not be proper under this legislation that if a trustee would put those assets with a brokerage firm in what they call a safekeeping account, that it would be also a satisfactory custodianship of the assets?

Mr. CONABLE. I cannot tell the gentleman right offhand on that. If there were adequate safeguards for the funds involved in such an arrangement I see no reason why it could not be done.

Mr. YOUNG of Illinois. I think we would have to be careful in connection with this regulation that the regulation would not in effect make this provision which is wisely put in the law be nullified because the cost of such custodianship is too prohibitive and then there would not be any validity to the provision.

Mr. CONABLE. As the gentleman is well aware, there is a need for this type of legislation and there has been for a long time. We believe this legislation is adequately comprehensive so it will take care of most of the situations he raises. It is our intent, of course, that we contribute to a government of laws and not of men by not putting unnecessary reliance on administrative regulations hereafter. While their is some flexibility in this law, the old freedom of the IRS to exercise wide latitude in approval of plans should be considerably circumscribed.

Mr. SCHNEEBELI. I yield to a member of the committee, the gentleman from Tennessee (Mr. DUNCAN) such time as he may consume.

Mr. DUNCAN. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding.

I rise in support of this legislation. I think it is the very best legislation that the committee could write.

Mr. SCHNEEBELI. I yield to a member of the committee, the gentleman from Michigan (Mr. CHAMBERLAIN) such time as he may consume.

Mr. CHAMBERLAIN. Mr. Chairman, I rise in support of the pension reform legislation presently under consideration. It is the product of a laborious effort by both the Education and Labor Committee and the Committee on Ways and Means.

This bill will no doubt be a landmark piece of legislation in the annals of Congress. It extends new and vital protection to workers presently under pension and profit-sharing plans by imposing new standards for participation, vesting and funding of those plans. It provides flexibility where needed so that employees will not face terminations of their plans if and when economic hardship falls on their employer. At the same time, however, it imposes meaningful penalties on employers who fail to comply with the requirements of the bill. Thus, for those employees presently covered by existing pension plans and for those who, in the future, will be under such a plan, this legislation is vital and of great meaning.

In addition to assuring the improvement of existing plans, and increasing the protection to workers under them, who comprise roughly one-half of the work force, it also takes a major step toward equity by permitting those employees who are covered by no pension plan to set aside, tax free, up to $1,500 per year of earned income for their retirement. This is accomplished by the inclusion in the ways and means part of this bill of a provision allowing for the establishment of individual retirement accounts—IRA.

IRA, which was first proposed by the President in his April 11, 1973, pension message, will allow about 25 million "pensionless employees" to participate in the private pension system should they so desire. Let me emphasize again that this would permit these employees to set aside annually, tax free, up to $1,500 per year which would accumulate tax free until retirement age when the funds could then be withdrawn and taxed at the time of withdrawal. The IRA funds could be invested in a wide choice of funding media including bank accounts, savings and loan accounts, bank trusts, bonds and annuities. While the funds could be withdrawn at any time prior to age 59½, a penalty of 10 percent—nondeductible—would be imposed on amounts withdrawn prematurely as a deterrent to early withdrawals. Since the IRA is designed as a device for providing retirement income, this penalty is provided to help achieve this goal.

Again, IRA represents a major step toward equity. Let me explain. The reason IRA is needed if we are to be fair is that 53 percent of the work force presently does not participate in the private pension system. This group includes 64 percent of the working women and 88 percent of the employees making under $5,000 per year. It is simply not fair to make them pay taxes to help finance somebody else's pension without giving them even the right to set aside a modest sum for their own retirement. This bill would give them that right.

It should be of particular benefit to part-time workers and women, many of whom work part time as a supplement to their husband's wages Under the bill, each person—whether or not married—would be able to deduct up to $1,500 per year for funds deposited in an individual retirement account. For example, if an individual age 30 in 1974 began contributing $1,500 per year into an IRA, at age 65, he would have an annual pension of $4,905. Assuming he was covered by social security, he would have an income from both of these sources in his retirement years.

The effect of including the IRA provision in this legislation is that in the future every American worker will have the chance to participate in some sort of pension plan. Such a result is not only fair but necessary if we are to avoid a totally different type of social security program which would amount to a kind of negative income tax or greatly expanded and more costly welfare program for the aged. That is why IRA is so important.

Mr. Chairman, I believe this legislation is as mandatory as it is important. It contains features which should greatly improve our existing pension plan law. I urge its adoption.

Mr. SCHNEEBELI. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado, a member of the committee, who has put a lot of effort into this.

Miss JORDAN. Mr. Chairman, will the gentleman yield?

Mr. BROTZMAN. I yield to the gentlewoman from Texas.

Miss JORDAN. Mr. Chairman, the bill before us today represents the culmination of nearly 10 years of study and work to improve workers' rights in private pension plans. With the passage of meaningful pension reform legislation this Congress will be guaranteeing to covered workers that their pensions are secure and that their pensions will be available when promised and due.

Those workers who were once doomed to disappointment upon reaching retirement age, to learn that their pension would not be forthcoming, will have administrative recourse to seek a redress of their penison rights before the Federal Government. With the passage of this bill it will not be possible for pension rights to be negotiated away in company mergers, plant shutdowns, or other unanticipated developments. In addition, the minimum reserve requirements of this bill will assure workers their pension fund will not wane with every passing economic downturn. With the passage of this bill, promises of economic security at a future time to offset wage demands in the immediate future will have to be fulfilled. No longer will it be possible for the pension systems of this country, with a net worth of nearly $160 billion, with tax subsidies amounting to an additional $8 billion, to continue to pay benefits to only half of those contributing to pension systems. No longer will it be in order for one-half of those who receive pension benefits to receive less than $1,000 per year.

The goals of this legislation are relatively straightforward: to increase participation in pension plans, to assure participants the solvency of the pension system in which they are a member, and to guarantee to the greatest extent possible that benefits are actually paid to recipients through liberalized portability, vesting, and disclosure requirements.

The procedure under which the House is considering this legislation demonstrates the importance of reforming the rules of the House in order that the Speaker may jointly refer bills to two or more committees, either in sequence or simultaneously, and for the development of a systematic means of adjudicating jurisdictional disputes among committees. The membership of both the Ways and Means Committee and the Education and Labor Committee have strived valiantly to bring to the House floor a comprehensive bill covering an exceedingly technical and complicated subject It is to the credit of these two committees under the leadership of their distinguished chairmen that we are able to debate this bill and respond to the proposal of the other body. But the fact remains; what we really have before us today are two bills, each duplicative of the other in some respects, and each with its own scheme of administrative enforcement.

The Select Committee on Committees has submitted to the House Members a preliminary report which contains recommendations for the establishment of a permanent mechanism for resolving jurisdictional contests between committees and a procedure for joint referral of legislation. I would hope my colleagues, especially after having heard the debate today, would not question the need for provisions in the rules of the House such as those recommended by the Select Committee on Committees. On the contrary, I would hope my colleagues would communicate to the committee their comments on the proposals for joint referrals and any additional suggestions they might have, in order that those proposals might be strengthened.

This will not be the last bill we will have occasion to consider which could have been improved by such a procedure. The ability of the House of Representatives to respond to the complicated issue of pension reform could have been improved if such rules were in effect today. In addition, should it be necessary for the Congress to consider technical changes in the bill we are debating today or to correct unforeseen inequities, the Congress may not be able to respond on a timely basis unless such rules are adopted in the near future.

Mr. BROTZMAN. Mr. Chairman, first may I take this opportunity to congratulate the chairman of the committee, the gentleman from Oregon (Mr. ULLMAN); the ranking member of the committee, the gentleman from Pennsylvania (Mr. SCHNEEBELI); the members of the committee and the staff, for presenting what I believe to be on balance a fine piece of legislation to the floor of this Chamber.

As has been stated, in view of the fact that the taxpayers of America invest roughly $4 billion in private pension plans, certainly it behooves the Congress to ascertain if the plans are being administered properly in the public interest.

Mr. Chairman, the pension bill, when enacted and signed into law, will be among the most significant legislation to emerge from Congress in recent years. I will restrict my remarks to that part of the bill which has been reported by the Ways and Means Committee. On balance, I believe the bill from our committee is worthy of support.

Federal legislation to encourage the development of private pension plans and set parameters for their operation is hardly a new thing. The three decades of operation under the current law have been a remarkable success. Somewhere between 23 million and 30 million Americans now enjoy private pension coverage. In 1940, only 4 million Americans were participants, and even by 1950 the figure had only grown to 9.8 million. Without any changes in Federal law it has been projected that 40 million people will be covered by private pension plans by 1980. The dramatic growth in coverage can be illustrated in other ways. Between 1950 and 1970, total annual contributions made to retirement plans by employees and employers rose from $2.1 billion to $14 billion. In 1950, 450,000 beneficiaries received $370 million from retirement plans. By 1970, 4.7 million beneficiaries were receiving $7.4 billion in pension payments.

In large measure, the growth of private retirement funds is attributable to the favorable tax treatment accorded employer and self-employed contributions to retirement plans. There presently is a revenue loss of some $4 billion by virtue of retirement plans qualifying under the provisions of the Internal Revenue Code. That being the case, even though the plans are voluntary, it is incumbent upon the Congress to assure that the beneficiaries of this revenue loss are conducting their affairs in a manner consistent with the public interest. There must be assurances that the revenue loss benefits American taxpayers in a fair and equitable manner. There must be assurances that the public purpose behind the tax reduction is being fulfilled. Stated another way, if an employer is given a tax incentive to provide pension benefits for his employees, then the public, through its elected Representatives, must see to it that the benefits are, in fact, being provided.

Despite all the progress, certain problems with regard to the current law are evident.

About one-half of all employees in private employment still are not covered.

There is discrimination against the self-employed. Under current law, there is no limit on what corporations can do for their executives, but self-employed persons can only deduct 10 percent of earned income up to $2,500 for their retirement plans.

In all too many instances there is adequate vesting. A plan's vesting provision determines whether the beneficiary keeps or loses his accumulated pension benefits if he leaves the company before retirement. Once vested, he can leave and retain the right to an annuity at retirement age. Some plans permit employees to draw out vested rights in cash rather than waiting. Much of the pension reform effort centers on vesting because people change jobs from time to time and can easily end up with no pension. One-third of existing private pension plans have no vesting rights, and when the person leaves his job he loses his pension rights.

In recent years, there has been mounting evidence that in some cases, the promised benefits are illusory. At present, only one of every three employees participating in employer-financed plans has a 50 percent or greater vested right to his accrued retirement benefits. Moreover, 58 percent of covered employees between the ages of 50 and 60, and 54 percent of covered employees 60 years of age and over do not have a qualified vested right to even 50 percent of their accrued retirement benefits.

Inadequate funding has been a problem. The end product of a pension plan is some sort of annuity that starts paying a steady income when you retire. The acquisition of that annuity may be funded with the cash value of a life insurance company contract bought for the employee when he joins the plan, by purchasing small deferred annuities each year as he builds up pension rights, by making payments to a trust that invests the money to build the sum needed for an annuity or by other methods. Many plans are not accumulating sufficient assets to pay benefits in the future to covered employees.

Pension benefits can be lost due to plan terminations. The most celebrated instance of this was when Studebaker closed its South Bend, Ind., plant in 1964. The plant closed and the pension plan was terminated. In 1972, there were 1,227 plan terminations resulting in the loss of $49 million by 19,400 pension participants in 546 of the terminated plans. The average loss to the individual was $2,500.

Finally, in spite of numerous laws, abuses continue with respect to the misuse of pension funds.

To remedy the problems I have enumerated, the Ways and Means Committee has reported a bill which would make some substantial changes in our tax laws. The bill would impose new requirements on pension funds which qualify for preferred tax treatment. Let me outline the major features.

MINIMUM PARTICIPATION STANDARDS

Generally, an employee cannot be excluded from a plan on account of age or service if he is at least 25 years old and has had at least 1 year of service. An alternative would provide for coverage after 3 years' service if immediate vesting is provided.

MINIMUM VESTING STANDARDS

Three alternative minimum vesting standards are provided. The first of these provides for 25-percent vesting at the end of the fifth year of covered participation. Thereafter the vesting percentage is increased by 5 percent a year until a level of 50 percent is reached at the end of the 10th year. Following this, vesting increases at the rate of 10 percent a year until 100 percent is vested at the end of the 15th year.

The second form of vesting permitted is 100-percent vesting at the end of 10 years.

The third form of vesting is the so-called rule of 45. Under this standard, there must be 50-percent vesting when the sum of the age of the individual and the number of years of participation equals 45.

These vesting rules are phased in over a 5-year period beginning, in the case of existing plans, in 1976.

MINIMUM FUNDING STANDARDS

Normal costs are to be funded currently. Costs attributable to already-existing liabilities are to be amortized over a 40-year period. Liabilities under plan amendments and new plans generally are to be amortized over a 30-year period, except that in the case of multiemployer plans the amortization period is to be 40 years with provision for the Secretary of Labor to extend this for a further period of 10 years. Experience gains and losses are to be amortized over 15 years generally, but in the case of multiemployer plans over a period of 20 years. In this last case, the period can be extended an additional 10 years by the Secretary of Labor. Generally, these experience gains and losses only will be required to be recomputed every 3 years. The above standards are based upon accrual liabilities.

If funding requirements are higher under a second general standard which is based on accrued "vested" liabilities, this standard is to apply in lieu of the rules set forth above. Under this standard, accrued vested liabilities are determined, as also are the value of the plan's assets. To the extent the former exceeds the latter, one-twentieth of this amount plus interest is to be paid in the current year. A new determination is made in each of the succeeding years.

Where any of the requirements set forth above present hardship under a plan—and certain standards are met—the Secretary of the Treasury can permit variances spreading the current liability over a 15-year period.

CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS

This subtitle provides that the limitation on deductions for self-employed individuals is to be increased from 10 percent of self-employment income, not to exceed $2,500 up to 15 percent of self-employment income, not to exceed $7,500. A minimum of $750 may be deducted in these cases without regard to the percentage limitation.

INDIVIDUAL RETIREMENT ACCOUNTS

To me, a most important part of the bill is the section dealing with the establishment of individual retirement accounts. As you probably know, individual retirement accounts were not included in the earlier drafts of the Ways and Means Committee bill. However, thanks to the fairness of Chairman ULLMAN, the matter was reconsidered and I was most gratified when my amendment was included in the final version.

Why was I so insistent? Because, despite the outstanding success of private pension plans, 53 percent of the American work force is not presently covered, 65 percent of the Nation's working women have no pension coverage, and 88 percent of all employees making under $5,000 per year are not covered. It simply is not fair to make these people pay taxes to finance the pensions of those who are covered without even giving them the right to set aside some modest sum for their own retirements. Yet, under current tax laws, they must bear their share of the $4 billion per year that we give up in taxes to finance the private pension system, and they have no right to set aside anything in their own behalf unless they set aside fully taxed dollars. Half of the revenue loss attributable to private pension plans goes to finance the retirement of the upper 8 percent of wage earners. The lower 50 percent of wage earners receive only 6 percent of the tax benefits.

To rectify this inequity, the pension bill, as reported by the committee, now provides that an employed individual who is not covered by a pension plan may set aside tax free, up to $1,500 per year or 20 percent of his salary, whichever is lower, in an individual retirement account. To guard against abuse, the money set aside would have to be deposited with a responsible third party such as a bank, savings and loan, credit union, annuity program, or the like. Moreover, penalties are included for premature withdrawal. Each account could be drawn down beginning at age 59½ and withdrawals would have to commence by age 70½. To guard against utilizing individual retirement accounts for the purpose of avoiding estate taxes, each program must anticipate full withdrawal within the life expectancy of the beneficiary. An exception to the premature withdrawal rule is provided in the case of death or disability prior to retirement age.

Originally, I had hoped to have inadequately covered workers in other private pension plans eligible for participation in partial individual retirement accounts. That part of my amendment would have allowed the $1,500 annual deduction reduced by the amount of the employer's contribution to the individual's retirement fund. Unfortunately, a majority of my colleagues on the committee were unwilling to extend individual retirement opportunities that far.

Even so, I believe the amendment which did pass establishes within our tax laws an important principle. Namely, it should be the policy of the Federal Government to encourage individuals, through their employers and through their own initiative, to provide for their retirements. I believe it is perfectly sound to permit people a deferred tax liability on their income for as long as the beneficial use of the income is deferred. Why not simply allow individuals the werewithal to provide for their own comfort during retirement? I believe the individual retirement accounts amendment represents major progress toward the achievement of that goal.

Mr. SCHNEEBELI. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ARCHER) a very capable Member of the Committee.

Mr. ARCHER. Mr. Chairman, we have labored long, both in the Ways and Means Committee and in the Committee on Education and Labor, on this piece of legislation in an effort to protect against abuses in the management of pension funds and to encourage coverage for more employees by private pension systems. We have had many problems. This is not a perfect bill, but it does include a number of excellent provisions.

Mr. Chairman, I have joined with my colleagues in attempting to work out many of the difficulties that came up as we went through our deliberations. I am particularly pleased that we have increased the H.R. 10 plan contribution limits and permit those who use them to compete, as it were, with corporate plans that we have adopted, as my colleague from Colorado (Mr. BROTZMAN) just told the House, the individual retirement accounts so that one-half of our people who are not covered today will have an opportunity to share in this tax deduction in providing for their retirement years.

I have been particularly concerned about the impact of this legislation on small businessmen, because most of the employees who are not covered today by a private pension plan work for what we would call small business. Realizing this, I asked for an evaluation of this bill by the National Federation of Independent Businessmen.

Mr. Chairman, I would like to insert their critique at this point in the RECORD:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS ANALYSIS OF PROPOSED PENSION LEGISLATION

I. INTRODUCTION

This analysis of proposed pension legislation was made by the National Federation of Independent Business with the primary objective of assessing the administrative and cost impact on small businesses.

The basic data for this analysis was obtained from the Survey of Employee Retirement Plans which was conducted by the National Federation of Independent Business in October, 1973. Data from the survey and supporting details of estimated costs are included in Section VIII.

The Survey of Employee Retirement Plans was based on a scientific random sample of all members of the National Federation of Independent Business. A total of 4,720 members in locations throughout the United States were asked to complete the survey during October, 1973. This is 1.3% of all members and the responses are statistically representative of the 367,000 members. Eight hundred and seventy-three responses (18%), were returned as of December, 1973.

II. MINIMUM PARTICIPATION STANDARDS

Under proposed legislation a plan shall not require, as a condition of participation, that an employee complete a period of service extending beyond the date on which he attains 25 years of age, or the date on which he completes 1 year of service, whichever is later.

It is estimated that these minimum participation standards will affect the plans of 607,000 small corporations which now exclude from their plans, based on present eligibility requirements, an average of 15 employees. If 10 of these 15 employees will be included under the proposad standards, and the average contribution for each participant is $900 a year, the small corporations will have to increase their contributions by a total of $5 billion a year. Alternatively, the contributions for present participants may be reduced to partially offset the increased costs.

Under the present regulations, a corporation may exclude from its plan those employees covered by a collective bargaining agreement if it proves to the Internal Revenue Service that the terms of its plan are not more favorable than those of the collective bargaining unit. The proposed exclusion from consideration of employees covered by a collective bargaining agreement will eliminate this problem.

III. MINIMUM VESTING STANDARDS

Under proposed legislation a plan shall provide for 100% vesting after 10 years of service; graded vesting with 25% after 5 years and 100% after 15 years; or vesting according to the "rule of 45".

It is estimated that these minimum vesting standards will affect the plans of 248,000 small corporations which have an average of 38 employees. If 33 of these employees will be included under the proposed standards, and the average contribution for each participant is $900 a year, the total contributions of these corporations will be $7.2 billion a year. This indicates that, if the reduction in forfeitures, due to the minimum vesting standards, is equal to 10% of contributions, the small corporations will have to increase their contributions by a total of $720 million a year. Alternatively, the benefits for present participants may be reduced.

IV. MINIMUM FUNDING STANDARDS

The proposed legislation provides for minimum standards for the amortization of unfunded accrued liabilities for plan benefits.

Based on the assumption that the minimum funding standards affect 25% of the plans of small corporations and would require the contributions to these plans to be increased by 10%, the total cost is estimated to be $498 million a year. However, many corporations may not be able to afford the additional contributions and will consequently have to reduce the benefits of participants.

H.R. 2 (but not H.R. 12481) provides an important exemption from the minimum funding standards for plans which provide individual accounts for each participant and where the benefits payable at retirement are based solely upon the amount contributed to the participant's account and any accumulated investment gains or losses.

V. REGISTRATION AND REPORTS

The proposed legislation requires plans to: file an initial registration statement and report subsequent amendments; furnish participants with a plan description and annual individual statements; obtain plan termination insurance; bond all fiduciaries; file annual reports, audited by an accountant and certified by an actuary. H.R. 2 (but not H.R. 12481) provides exemptions from the annual reporting requirement for plans with under 26 participants.

More than one-half of the respondents to the N.F.I.B. Survey indicated that one reason they had not started a plan was due to the present cost of establishing, administering, and reporting to Internal Revenue Service and Department of Labor.

More than two-thirds of respondents to the N.F.I.B. Survey indicated that only one report to the federal government should be required.

The proposed registration and reporting requirements will discourage more employers from starting a plan and probably result in many existing plans being terminated. The filing of annual reports audited by an accountant and certified by an actuary is likely to cost each plan over $2,000 a year and be an impossible burden for the plans of small businesses.

The exemption of plans with less than 100 participants from the proposed requirements, especially the audit by an accountant and certification by an actuary, would be very beneficial to the encouragement of the retirement plans of small businesses.

VI. CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS AND SHAREHOLDER-EMPLOYEES

H.R. 12481 (but not H.R. 2) proposes that the minimum tax-deductible contribution on behalf of a self-employed individual or shareholder-employee be increased to 15% of earned income with a ceiling of $7,500.

The NFIB Survey indicates that:

A. More than one-half of self-employed respondents, who do not have a retirement plan, would start a plan if the tax-deductible limit is increased to 15% of earned income, with a ceiling of $7,500.

B. More than three-quarters of those who have a plan would increase their contributions if the tax-deductible limit is increased.

This indicates that the proposed increase in the amount of tax-deductible contributions will result in more employees receiving larger benefits from retirement plans of self-employed individuals and Sub Chapter S corporations.

VII. CONCLUSION

Many small corporations may not be able to afford the substantial increase in contributions required by the proposed minimum standards for participation, vesting, and funding. As a consequence they will be forced to reduce the benefits of their participating employees.

Under the present regulations, a corporation may exclude from its plan those employees covered by a collective bargaining agreement if it proves to the IRS that the terms of its plan are not more favorable than those of the collective bargaining unit. The proposed exclusion from consideration of employees covered by a collective bargaining agreement will eliminate this problem.

H.R. 12481 does not provide the important exemption from minimum funding standards for plans which provide individual accounts for each participant, where the benefits payable at retirement are based solely upon the amount contributed to the participant's account, adjusted by any accumulated investment gains or losses.

The proposed registration and reporting requirements will discourage more employers from starting a plan and probably result in many existing plans being terminated. The cost of filing annual reports audited by an accountant and certified by an actuary will be an impossible burden for small businesses. The exemption of plans with less than 100 participants from the proposed requirements, especially the audit by an accountant and certification by an actuary, would be very beneficial to the encouragement of the retirement plans of small businesses.

The proposed increase in the amount of tax-deductible contributions on behalf of a self-employed individual or shareholder-employee will result in more employees receiving larger retirement benefits. However, the complete elimination of the discrimination in favor of the large corporations would encourage small businesses to establish more plans and reduce the number of employees who will be dependent upon Social Security and Welfare programs when they retire.

VIII. SUPPORTING DETAILS OF ESTIMATED COSTS

A. Estimate of number of corporations with plans:

1. The number of small businesses in the United States having less than 100 employees is 3.4 million based on Department of Commerce data.

2. Responses to NFIB Survey Question 1 indicate that 44% of small businesses are corporations.

3. Based on the above, there are 1.5 million small corporations in the United States.

4. Responses to NFIB Survey Question 4 indicate that 46% of corporations have retirement plans.

5. Based on the above, there are 690,000 small corporations with retirement plans. This includes plans which have not applied to IRS for approval.

B. Estimate of cost of proposed minimum participation standards:

1. Responses to NFIB Survey Question 3 indicate that corporations with retirement plans have an average of 38 employees.

2. Responses to NFIB Survey Question 5 indicate that corporations with retirement plans include an average of 23 employees in their plans.

3. The above responses indicate that corporations with retirement plans presently exclude, on an average, 15 employees due to participation requirements.

4. Assuming the average wage of participating employees is $9,000 a year and that the average contribution to retirement plans is 10%, the average amount of the contribution for each participant would be $900 a year.

5. Based on the above, a change in participation standards requiring a corporation to include one more employee in its retirement plan would cost the corporation an additional $900 a year.

6. If the change in participation standards requires a corporation to include 10 of the 15 employees presently excluded, the additional cost would be $9,000 a year.

7. It is estimated in VIII (A) above that there are 690,000 corporations with retirement plans.

8. Responses to NFIB Survey Question 9 (a) indicates that 88 per cent of corporations with retirement plans have a participation requirement of 1 year or more.

9. Based on the above, 607,000 (88% of 690,000) corporate retirement plans would be affected by changes in participation requirements.

10. If the changes in participation standards require a corporation to include 1 of the 15 employees presently excluded, the additional cost would be $546 million a year. If 10 more employees are required to be included, the additional cost would be $5 billion a year.

C. Estimate of cost of minimum vesting standards:

1. Refer to paragraphs (1), (2), (3), (4) and (7) of VIII (B) above.

2. Responses to NFIB Survey Question 9 (b) indicate that corporations with retirement plans provide for 100% vesting as follows:

| | Percent |
|---|---|
| Over 15 years service, no age requirements | 5 |
| Over 3 years service and attainment of age over 40 | 31 |
| | 36 |
| Other service and age requirements which presently comply with the proposed vesting standards | 64 |
| | 100 |

3. Based on the above, 248,000 (36% of 690,000) corporate retirement plans will be affected by changes in vesting requirements.

4. If the proposed changes in participation standards require a corporation to include 10 of the 15 employees presently excluded, the contribution will be $29,000 a year.

5. If the proposed changes in vesting requirements result in a reduction of forfeitures equal to 10% of contributions, a corporation with 33 participants will have to increase its contribution by $2,900 a year, and the total increase in contributions to the 248,000 corporate retirement plans will be $720 million a year.

D. Estimate of cost of minimum funding standards:

1. Refer to paragraphs (1), (2), (3), (4) and (7) of VIII (B) and paragraph (4) of VIII (C) above.

2. Based on the assumption that the minimum funding standards affect 25% of the 690,000 plans of small corporations and result in an increase in contributions of 10%, a corporation with 33 participants will have to increase its contribution by $2,900 a year and the total increase in contributions to 172,000 plans will be $498 million a year.

Mr. Chairman, one of the major reasons stated in this report for the lack of pension plans by small businessmen is the cost of administration, and one of the major problems still remaining in this bill, in my opinion, is the requirement for dual administration by both the Labor Department and the Department of the Treasury.

Such dual administration will greatly add to the cost of the administration for the small businessman.

I will at an appropriate time offer an amendment to consolidate the regulations for vesting, funding, and participation in the Treasury Department in order to eliminate a great deal of this administrative cost. I hope I will have the support of the House in this effort.

Mr. Chairman, another problem which I hope will be worked out in the bill is the provision for plan termination insurance, which, if adopted in its present language, could well force out the majority of small business-operated pension plans. I do not think that is what we want. I think we want to encourage a greater degree of pension coverage in small businesses, and I hope that we will be able to cure these two major problems that I see still left in the bill: The heavy administrative costs as a result of dual administration and the provisions with respect to plan termination insurance.

Mr. SCHNEEBELI. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. YOUNG).

Mr. YOUNG of Illinois. Mr. Chairman, I want to thank the ranking minority member for granting me this time.

I also wish to compliment the Committee on Ways and Means for this very forward-looking piece of legislation. I think that in many ways the committee has made a major contribution to the employees of this country. In certain minor ways I think the committee may have detracted from certain employees, but on the whole the legislation is very beneficial.

In particular, I think that the provision in this legislation pertaining to the H.R. 10 plans, bringing up the benefits of those plans to permit deductions up to $7,500 per year and up to 15 percent of compensation, is a very much needed piece of legislation.

Mr. Chairman, I think the changes that the committee has made permitting persons other than banks to act as trustees of such plans is also a very desirable piece of legislation, one which will encourage the further creation of such types of plans. The provisions permitting deductions up to $1,500 for individual retirement accounts is excellent and provides equity to persons who are not participants in qualified retirement plans.

I also think that the committee has done a very good job of eliminating some of the restrictions that were put in original bill H.R. 2 as introduced. I know that employees of Sears, Roebuck and the employees of several of the banks in my area, including the First National Bank of Chicago, were very critical of some of the provisions in H.R. 2. The proposed limitations would have eliminated some of the benefits provided for such employees.

I think that the committee's elimination of those limitations is excellent.

Mr. Chairman, I would like to state that I think this legislation deserves the support of the Members of this House. I am hopeful that we will make some changes with respect to the dual administration of the act.

I am hopeful that we will select just one agency to administer this act.

I also believe that certain of the provisions pertaining to termination insurance for defined benefit plans should be eliminated or changed. We need to amend this section to encourage the continuation of fixed contribution plans rather than discourage those plans.

Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. SCHNEEBELI) for granting me the time.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of the substitute pension reform bill presented to us by the House Ways and Means and Education and Labor Committees. The growth of the private pension plan system over the last 30 years has been dramatic. Whereas, in 1940 only 4 million employees were covered by such plans, by 1950 this had grown to 10 million, in 1960, 21 million, and today some 30 million workers are covered by these retirement plans. Nevertheless, this still represents only about one-half of the private nonfarm work force. And the hearing record on this legislation clearly indicates that there is not only a need for the expansion of coverage, but for improving the administration of plans and for protecting the rights of plan participants.

The two bills which comprise the substitute under consideration are thus aimed at these problem areas. The matters dealt wth exclusively in H.R. 12906 as reported from the Education and Labor Committee, that is, title I of the substitute, include, first, plan reporting and disclosure requirements which include filing annual reports with the Secretary of Labor and providing participants with periodic descriptions of the plan; second, fiduciary standards which define the responsibilities or plan administrators as well as prohibited activities; and, third, creation of a Pension Benefit Guarantee Corp. in the Department of Labor to insure participants and beneficiaries of covered plans against loss of benefits resulting from partial or complete termination of their plans.

The matters dealt with exclusively in H.R. 12855 as reported from the Ways and Means Committee, or title II of the substitute, include, first, limits on pension plan benefits and contributions for tax deduction purposes; second, an increase in the allowable deduction for annual contributions by the self-employed to H.R. 10 or "Keogh" plans from 10 percent of income up to $2,500, to 15 percent of income up to $7,500; third, provision for a tax deduction of the lesser of 20 percent of income or $1,500 annually for employees not covered by a plan who wish to establish their own individual retirement account; and, fourth, the treatment of lump-sum distributions as ordinary income for tax purposes, distributed over a 10-year period—except for benefits attributable to service prior to January of 1974 which would still be taxed as a capital gain.

In addition, both bills or titles of the substitute contain nearly identical provisions with respect to plan participation, vesting, and funding, the main difference being that these provisions would be administered by the Department of Labor under title I and the Department of Treasury under title II.

With respect to participation and coverage, as a rule, plans may not require, as a condition for participation, service of more than 1 year or the age of 25, whichever occurs later. An exception to this is plans which provide for 100 percent immediate vesting, in which case a 3-year minimum service condition may be required.

With respect to vesting, plans may choose one of three vesting schedules: First, 25 percent vesting after 5 years of covered service, increasing by 5 percent annually thereafter for the next 5 years, and 10 percent annually for the next 5 years, meaning 100 percent vesting would be reached by the 15th year; second, full vesting after 10 years of service; or, third, 50 percent vesting when the service plus the age of the participant equals 45, with 10 percent annual vesting over the next 5 years when 100 percent vesting would be achieved.

To absorb the costs of these new vesting standards, a 5-year transition period is allowed for all plans in existence at the beginning of this year. This vesting schedule applies retroactively, and all of an employees prior service—since the age of 25—must be taken into account, even if it includes preparticipation service. But this would not apply to service during which an employee did not make contributions to a plan or the employer did not maintain a plan. With respect to the distribution of vested benefits, plans are permitted to defer the payment of benefits to individuals with vested rights until they reach the normal retirement age and are separated from the firm. However, payments must be made not later than 60 days after the participant reaches the age of 65, or reaches the 10th anniversary of participation in the plan, or terminates service with the employer—whichever of these three events occurs later.

Both titles also require minimum funding of plans in order to insure that sufficient funds are available to meet the obligations of the plan when they fall due. Finally, provision is made for voluntary portability of vested benefits from one plan to another in situations where the old and new employer plans allow for such a transfer, and participants are allowed a tax free roll-over period for this purpose.

Mr. Chairman, in the time remaining I wish to express my position on two amendments which will be offered. I intend to support the amendment which will be offered by my colleague from Illinois (Mr. ERLENBORN) to make the board of directors of the Pension Benefit Guarantee Corp. more representative of labor, management and public interests, and second, to provide greater safeguards against abuse of the termination insurance program.

Finally, I wish to indicate my support for the increased deduction for contributions to retirement plans for the self-employed—the so-called H.R. 10 or Keogh plans. The Rules Committee has allowed for amendments to this section, and it is my understanding that attempts will be made to either reduce or eliminate the $7,500 limitation. I am unequivocally opposed to any such amendment. The whole rationale for the increase from $2,500 to $7,500 is to put the self-employed on a comparable footing with corporate employees. One of the major thrusts of this bill is to encourage retirement savings and at the same time achieve greater tax equity. This bill accomplishes the latter by putting a limitation on deductions for corporate plans and liberalizing the deductions for the self-employed plans. At present, the self-employed are discriminated against in comparison with corporate executives and proprietary employees of corporations in regard to the tax treatment of their retirement savings. Because the existing limitation for the self-employed is so unreasonably low, an artificial incentive has been created for the incorporation of businesses which traditionally would not or should not be incorporated. The provision contained in this bill for allowing a more reasonable and realistic deduction for the self-employed retirement plan will go a long way in eliminating this incentive for incorporation by putting the self-employed on a more equal footing with corporate and proprietary employees in terms of retirement plan tax incentives. I urge the defeat of any amendments to alter the provision now contained in title II.

Mr. ROSTENKOWSKI. Mr. Chairman, the consideration of this legislation by the full House of Representatives marks the culmination of many months of extensive analysis of pension systems and their particular needs by both my Committee on Ways and Means and the Committee on Education and Labor. In addition to the members and staff of these committees, countless hours of work were devoted to this bill by the staff of the Education and Labor's pension task force and by Dr. Woodworth and his very capable staff of the Joint Committee on Internal Revenue Taxation. Their technical expertise immeasurably aided the committee in their evaluation of the alternative courses of action available to us during our consideration of this landmark legislation.

The resolution of the jurisdictional disputes inherent in legislation of this type can be credited to the determination of both the acting chairman of the Ways and Means Committee, AL ULLMAN, and the dedicated head of the pension task force, my colleague, JOHN DENT. Their ability to construct a workable compromise has resulted in legislation that will hopefully tighten the tax laws and strengthen the regulatory standards applicable to both qualified and nonqualified plans.

During our deliberations in the Ways and Means Committee, our primary concern was in tightening the existing standards for qualified plans while at the same time continuing to encourage voluntary participation in such plans. As a result, the committee found it necessary to strike a very delicate balance between what we felt companies with pension plans should do and what they were willing to do, since no employer can be compelled to offer any plan at all.

The committee was challenged with the task of strengthening existing plans without creating barriers that would unnecessarily slow the rapid increase in the establishment of private pension plans that this country has witnessed during the past 30 years.

Since the Internal Revenue Code was first amended in 1942 to encourage employers to establish pension plans which did not discriminate as to coverage or benefits in favor of a selected few employees, the number of employees covered by these plans has increased by over 750 percent. While the tax incentives established at that time are undoubtedly responsible for the incredible growth of the system, these same incentives have been the basis of a growing number of schemes of tax avoidance in recent years. Studies have shown that in some corporations, particularly small, closely held ones with but a few highly paid employees, the incentives provided for under subchapter D of the Code were being utilized primarily to defer taxation on both corporate profits and employee salaries in amounts far in excess of what was needed to fund even the most generous of pension plans. By doing so, employees of these corporations—who are often the only stockholders, as well—would be able to defer taxation on a portion of their share of the corporate profits until they had retired and thus, would undoubtedly be in a lower tax bracket.

Confronted with this problem, the committee settled on a formula which would limit the amount of the employer's contributions to both defined benefit plan as well as to profitsharing plans, without imposing the undue restrictions on the average employees pension account that would have resulted from the Senate version of the legislation. In addition, it was necessary for the committee to resolve the problem created where the employer had established not only a defined benefit pension plan but a profit-sharing plan as well. In these cases, the committee has decided to limit the employers' contributions that would qualify for the tax deferral advantages, to a percentage of the maximum allowable under both plans. In this manner, the committee has tried to put more realistic limitations on presently deferrable income without unduly restricting the pension program of those employees at the lower end of the pay scale—employees that are traditionally most adversely affected by any percentage limitations.

In addition, the Ways and Means Committee's title of this bill will also substantively reform the Federal taxation of pension accounts for not only the self-employed, but for individuals not covered by any qualified plan or Government plan, but these are aspects of the legislation that have already been described at some length by other members of this committee.

I believe that the committee bill represents a workable solution to a myriad of complex and emotional problems. It is legislation that will narrow the possibility for abuse of the tax laws in this area, while at the same time provide the opportunity to save for retirement to millions who have been unable to adequately do so in the past. I urge my colleagues to support both the inclusion of title II and final passage of the legislation itself.

Mr. CLANCY. Mr. Chairman, I should like to comment on two provisions in the pension reform legislation which I believe are of particular importance, namely, the Individual Retirement Account program and the limitation on contributions to defined contribution plans. The need for individual retirement accounts is obvious, because millions of workers today do not have the opportunity to participate in qualified pension plans. Since they do not have this option, any earnings they might derive from pension savings of their own are subject to tax and cannot be deferred until retirement, and such earnings also grow at a much slower rate than earnings on contributions in qualified plans. The Individual Retirement Accounts program will benefit low- and middle-income workers formerly without pension plan protection, and distribute tax benefits equitably among all workers.

The bill makes available a special deduction for contributions to an individual retirement annuity, or a qualified retirement bond, the maximum annual deduction being $1,500 or 20 percent of compensation, whichever is less. This tax deduction from gross income is allowed for any taxpayer even though he or she uses the standard deduction rather than itemizing. Since an individual retirement account can be established by an individual for himself, by an employer for his employees, or by a union for its members, this program will be available to a substantial group of employees not presently participating in a qualified pension plan.

Many Members may be skeptical as to whether the individual retirement accounts program will be utilized to a large extent by the workers presently without pension plan coverage. It is not a question of utilization of the individual retirement accounts program, but rather its availability to workers who are not presently covered by qualified pension plans and who do not receive any tax benefits on their personal retirement savings.

The pension bill also includes a provision which would limit the annual additions that could be contributed to any employee's defined contribution plan in any given year to 25 percent of compensation, not to exceed $25,000 in that year. Defined contribution plans include profit-sharing and stock bonus plans as well as money purchase and target benefit plans. The annual addition means the employer's contribution to the plan, any forfeitures during the year and the lesser of one-half of all an employee's contributions or all of an employee's contribution over 6 percent of compensation.

The bill includes this limitation on contributions in order to achieve parity between corporate qualified pension plans and H.R. 10 plans, and the limitation must be met to retain the favorable tax status accorded any plan. Additionally, this provision will achieve a measure of comparability with the limitation in the bill imposed on benefits paid under a defined benefit plan. This limitation on contributions may seem restrictive to some. However, it is our understanding that very few profit-sharing programs have contributions which approach this limitation.

In that we were dealing with the future as well as the present, I felt it necessary to amend this provision to include a cost-of-living escalator clause, and I am pleased that the committee accepted such an amendment. It is necessary that any pension reform legislation enacted help, not hurt, the kind of pension and profit-sharing programs which have been so successful.

Mr. NIX. Mr. Chairman, I am pleased to support H.R. 2, the Employee Benefits Security Act. I am sure all of us have heard many stories of workers who have given years of dedicated service to their employers, only to find, at retirement age, that the pension plans they have participated in are worthless to them. Too often a worker who thought he would have a pension to help support him in his old age is forced to subsist on social security alone.

This situation can and will be remedied. The legislation now before us will establish reasonable standards that all private pension plans must meet. It will insure that pension plans serve the people they are supposed to serve.

Private pension plans, which were once limited to only a handful of workers, now cover more than 30 million workers. Passage of this bill will help assure that these workers, and the millions more who will join pension plans in the future, will have a fair chance at financial security in their retirement years.

Mr. TIERNAN. Mr. Chairman, tomorrow we will vote on a major piece of labor legislation, H.R. 2, the Employee Benefits Security Act. This bill will help to give to many retired employees the benefits they have worked so hard to obtain.

This legislation must be passed immediately. Last week I received a letter from a Rhode Island resident outlining a situation that has become all too familiar. An elderly citizen had worked for the same company for more than 32 years. Prior to his death, he had applied for pension benefits, but due to a quirk in the rules governing the administration of the plan, he received no payments. His surviving spouse was denied widows' rights even though the plan contains a "sixty-payments certain" clause. Now this elderly widow is faced with a long, grueling legal battle in order to obtain a meager pension.

It is shameful for situations like this to exist. But this is not an isolated instance. Thousands of our older citizens have already been deprived of a reasonable standard of living after retirement because the expected pension benefits, for which they had worked many years, were sharply reduced or had evaporated completely, because of business failures, relocations, termination of employment after many years of service, and even just plain mishandling of pension funds. Congress now has before it legislation that will prevent these abuses from occurring in the future, and we must pass this bill.

This legislation was carefully drafted to adequately safeguard the pensioners' rights and at the same time to avoid undue burdens that would discourage an employer from establishing new pension plans.

In the area of vesting, the employer is given three options. The 10-year service rule would provide for an automatic 100-percent vesting after 10 years of covered service. The graded 15-year service rule provides for 25-percent vesting after 5 years of covered service, increasing to 50 percent by the 10th year, and achieving 100-percent vesting by the 15th year. The rule of 45 provides for 50-percent vesting when age plus covered service equals 45, thereafter increasing in 10-percent intervals until the employee is 100-percent vested. The three vesting plans provide flexibility for the employer while providing guaranteed vesting for the employee.

This bill will also correct the problem of the loss of pension rights due to bankruptcy. Two provisions work hand in hand to acquire this goal. The employer is required to make payments toward the principal of the unfunded accrued liabilities of a pension plan. Plans will also be required to insure any unfunded vested liabilities. More adequately funded plans combined with the protection of insurance will take away the danger of loss of retirement income if the employer goes bankrupt.

We must assure individuals who have spent their careers in useful and socially productive work an adequate retirement income. Of those who have worked and then left jobs with pension plans over the past 20 years, only about 5 percent will ever receive any benefits. Today, we can take a giant step forward in providing comfort for our deserving older citizens. I urge my fellow colleagues to vote in favor of this pension bill.

Mr. BURKE of Florida. Mr. Chairman, I rise in support of H.R. 2, to revise the Welfare and Pension Plans Disclosure Act.

As our economy has matured, an ever increasing number of employers have recognized their responsibility for the physical and economic welfare of their employees. This development parallels the change from rural agrarian life styles to the present urbanized wage earner society.

Private pension systems have had such dynamic asset growth, that today, they influence the level of savings, the operation of our capital markets, and the relative financial security of millions of consumers.

The private pension movement in the United States proceeded slowly until the years preceding World War II. At that time the economic changes in the Nation started to be felt, and American beliefs and attitudes regarding retirement security changed. The turning point in American thinking and dissatisfaction with early pension programs was the passage of the Railroad Retirement Act and the Social Security Act. The wage freezes during World War II and the Korean conflict focused increased attention on the deferred component of compensation as a means of avoiding the freeze restrictions.

By 1940, approximately 4 million employees were covered by private pension plans; by 1950 the number had grown to 10 million; by 1960 21 million people were covered, and the current estimate is that one half of the private nonfarm work force, or 30 million employees, are covered by these plans.

It is obvious that this expanded coverage for U.S. employees means that pensions have become big business. In fact, today, amounts in excess of $150 billion in assets are held in reserve to pay benefits credited to private plan participants.

Federal regulation of private pension systems has been minimal. There are essentially three Federal statutes presently in existence. These are the Welfare and Pension Disclosure Act, the Labor Management Relations Act, and the Internal Revenue Code.

In the absence of Federal standards, pension participants have had to rely on the traditional equitable remedies of the common law of trusts. A few States have codified existing trust principles and enacted legislation which requires, in many instances, a degree of disclosure similar to that required by Federal statute. However, the fact that statutory rules exist says little as to their efficacy in adjusting inequities suffered by plan participants. Repeatedly instances occur where participants lose their benefits because of the manner in which the plan is executed with respect to its contractual requirements of vesting or funding as distinguished from instances where participants lose their benefits because of some violation of Federal law.

Congress has been reluctant to act due to the belief that legislation might impede plan growth. However, as a matter of equity and fair treatment, an employee covered by a pension plan should be entitled, after a reasonable period of service, to protection of his future retirement benefits against any termination of his employment.

H.R. 2 and amendments which we will consider today are designed to remedy certain defects in the private retirement system which limit the effectiveness of the system in providing retirement income security. The primary purpose of the bill is the protection of individual pension rights. I wholeheartedly support legislation which will truly protect an individual's pension rights, and I am hopeful that the House of Representatives will pass such a bill today.

It is regrettable that this type of legislation is being brought to the House in two separate packages since the combination of the two on the House floor will inevitably cause parliamentary confusion and obscure the choices to be made. H.R. 2 is designed to: First, establish equitable standards of plan administration; second, mandate minimum standards of plan administration; third, require minimum standards of fiscal responsibility by requiring the amortization of unfunded liabilities; fourth, insure the vested portion of unfunded liabilities against the risk of premature plan termination; and fifth, promote a renewed expansion of private retirement plans and increase the number of participants receiving private retirement benefits. I hope the final bill adheres to these aims. The goals of extending pension plan coverage to more working people, of assuring different categories of employees equitable pension treatment and benefits, and of protecting covered employees from loss of benefits because of bankruptcy, merger, or change of jobs, are laudable and worthy of our best efforts.

Present law places no specific limitation on the amount of deductible retirement plan contributions for corporate employees, limits deductible contributions for self-employed workers to a maximum of 10 percent of earned income or $2,500 a year, and makes no provision at all for workers not covered by any kind of qualified pension plan.

I favor a reasonable limit on the amount of deductible retirement plan contributions for corporate employees, liberalized limitations on "Keogh plans" so that self-employed individuals can have pension coverage more comparable to that accorded corporate employees, and the establishment of individual retirement accounts by the half of the work force not otherwise covered by qualified retirement plans for their own future retirement income needs.

It is my hope that the House of Representatives will be able to fashion, during the debate today, a bill which conforms to the views I have expressed above and which I will be able to support and proclaim to my constituents as a truly beneficial bill which brings order to the morass of existing private pension plans, and equitable treatment to the individual participant.

Mr. REUSS. Mr. Chairman, I rise in strong support of the Education and Labor pension reform bill, H.R. 2 as amended, and in equally strong opposition to H.R. 12855, the Ways and Means Committee pension bill.

In particular, I object to section 2001 of H.R. 12855—the section tripling the "Keogh plan" tax deduction for self-employed individuals from the current $2,500 to $7,500. This section is open to amendment under the rule, and I intend to offer an amendment tomorrow to strike the increase and keep Keogh plan deductions at their present levels.

I am anxious to see self-employed professionals get their just deserts—but no more. Let me point out the following facts:

For 10 years, self-employed individuals—mainly doctors, lawyers—have received a tax break for their retirement savings—first, a deduction of $1,250 maximum, then $2,500. In 1968, the Treasury Department included in their annual statistics of income a detailed breakdown of those who used the Keogh plan deduction. Over half of the taxpayers using the deduction had adjusted gross incomes of over $25,000—how far over the study does not show. This income puts Keogh users in the richest 5 percent of American families—not necessarily, or even probably, Rockefellers, but certainly in the fortunate upper middle income brackets.

During these years, more than half of American workers had neither qualified pension plans, nor tax-deferred retirement accounts. The 1973 Treasury figures put the exact figure at 53 percent of all workers. Included in this majority, according to the Treasury, are most low-paid workers, employees in small businesses, farmers, and fishermen.

H.R. 12855 deals with these two groups by giving self-employed professionals a $7,500 tax deduction and uncovered employees a $1,500 tax deduction. This disparity is unjustified.

Low- and moderate-income families are in greatest need of help right now. They are the ones who have suffered most under inflation and increased payroll taxes. They are the ones who spend every cent they earn on food, fuel, and housing, with maybe a small savings account for their children's education. They are the ones who need the greatest encouragement to save for retirement. If H.R. 12855 is adopted, they will have some help—a $1,500 maximum tax deduction.

The relatively wealthy Keogh plan beneficiaries spend a smaller percent of income for basic necessities. They invest in stocks—in happier days—in real estate, in hobby farms, and other tax shelters. And they have, under present law, a $2,500 maximum deduction a year for money put into a retirement account.

For the time being, the Keogh plan should be kept where it is, and a $1,500 tax deduction for uncovered employed workers enacted. Some disparity would continue to exist—but we would then have the chance to see how the new program is working before making further changes.

The argument is made that the Keogh plan deduction must be raised to prevent self-employed professionals from incorporating to take advantage of greater corporate pension benefits. This is circular reasoning. The way to prevent professionals from incorporating is to remove the incentive to incorporate—that is, to place a reasonable limit corporate pension benefits. Instead of meeting the issue head on, H.R. 12855 sidesteps by opening up the tax code a little further. The incentive to incorporate still exists—and taxpayers are $175 million poorer.

While H.R. 12855 ostensibly does "limit" maximum corporate benefits, it does so in such a way that few top corporate executives will notice the difference. An SEC survey of the pension benefit of the highest paid executives in private industry showed an average annuity expected after retirement of $61,000. H.R. 12855 imposes an upper limit of $75,000—which Treasury estimates could permit an annual tax-free setaside of about $35,000—hardly a drastic reduction, even for these most highly paid executives.

In short, H.R. 12855 is a haphazard, poorly coordinated, embarrassingly discriminatory hodge-podge of tax provisions. Section 2001 permits doctors and lawyers to deduct up to $7,500, section 2002 lets uncovered employees deduct up to $1,500, and section 2003 lets corporations take a deduction of up to about $35,000 for top executives: three different tax-financed living standards for three different income groups.

The only explanation of these tax disparities lies in the relative strengths of the lobbies for corporate executives, well-to-do professionals, and average workers. Not surprisingly, they have made out in about that order.

Mr. Chairman, many of us have had occasion in the past to protest the persistent use of the closed rule to prevent the House from legislating effectively on tax matters. H.R. 12855, on which the Ways and Means Committee sought and nearly got a totally closed rule, is a perfect example of the problems of that approach. Those of us who are committed to pension reform are forced to accept the unacceptable tax provisions of sections 2002 and 2003—unacceptable morally, intellectually, and economically.

The rule does permit amendment of section 2001—the Keogh plan deduction increase—and I urge all Members to support an amendment on the floor tomorrow striking the increase and keeping Keogh deductions at their present level. Such action would force the tax-writing committees to report out legislation that would give pension tax preferences on a basis that is fair and equal.

Mrs. SCHROEDER. Mr. Chairman, I would like to express my enthusiastic support for the two bills being offered today as substitutes to H.R. 2; H.R. 12906 and H.R. 12855. Together these bills provide a series of reforms in private pension plans to transform what has been up to now an amalgam of giant lotteries into a sensible, standardized, supervised plan of retirement income for older persons in America.

Private pension plans have assumed increasing importance in this country over the past 10 years. Today, some 30 million Americans are covered by pension plans, including nearly half of all fulltime nongovernment employees. Another 14 million persons are covered by government plans; this represents a 50-percent increase in one decade of persons covered by these two types of plans. The median pension payment for those retiring has doubled over this same period of time; and today these plans have an excess of $150 billion in assets. Up to now, pension plans have been characterized by gross deficiencies in organization and gross inequities in distribution of benefits. Far too many people never draw the pensions toward which they have contributed their hard earned dollars, money they had counted on, and to which they are entitled—not as a reward but as a matter of right.

The legislation before us would protect working men and women from being arbitrarily deprived of these retirement benefits by establishing minimum standards for companies offering such plans and by preserving tax advantages to encourage their participation. H.R. 12906 would establish tighter reporting and disclosure requirements to provide each participant or beneficiary with a written description of the plan and a summary of the annual financial report to be submitted to the Secretary of Labor. Members would thus be informed of their schedule of benefits, eligibility and vesting provisions, claim procedures and remedies, bases of financing, and any other plan provisions which affect their rights as employees. Fiduciaries of the plans are required to discharge their duties solely in the interest of the participants; they are prohibited from engaging in transactions purely for their own gain, directed to diversify investments so as to minimize the risk of loss to plan members, and to make available copies of the plan description and annual report to keep the public well informed.

Under this bill, a company offering a

pension plan would be required to extend coverage to every employee who has reached the age of 25 and completed one year of service; employers may choose one of three plans by which to convey increments; most employees would receive 100 percent vesting after 15 years of service. Adequate funding would be required for current and prior liabilities; and a Pension Benefit Guaranty Corp. would be created to provide insurance against termination in case a company folded before its employees began to receive their benefits. Both the Labor Department and the Internal Revenue Service are authorized to enforce various aspects of the legislation; and the bill has the sanction of both criminal and civil penalties to be imposed in the event of violations.

H.R. 12855, title 11 of the substitute bill, offers identical provisions for participation and coverage, vesting, and funding. In addition, this bill would also increase the tax deduction for retirement plans of self-employed persons; limit the amount companies can set aside as part of profit sharing and money purchase pension plans; and allows individuals not covered by any qualified private or Government pension plans to deduct up to 20 percent of their earned income up to $1,500 to be set aside in a special custodial account, in a credit union, a bank, a savings and loan account, or a life insurance company, whichever they choose. It mandates automatic joint and survivor annuities unless an individual, with full knowledge of the terms of the annuity, voluntarily in writing "opts out." Finally, title 11 would require the Social Security Administration to maintain records of retirement plans in which former employees who have not yet retired have vested benefits, and to provide this information to plan participants and their beneficiaries on request. This information reserve is a major step in the direction of instituting portability of pension rights, so that a person will one day be able to transfer benefits from job to job.

The repercussions of this extensive reform will be widespread indeed; retired persons in this country will have more money to spend, enabling them to live more comfortable lives in a more self-sufficient way, and providing them with the purchasing power necessary to contribute to the overall stability of the economy. Accumulated security plans appear to be gradually leading toward earlier retirements, enabling people to enjoy the middle and later years of their lives, exploring new ways in which to experience their leisure time. In addition, pension funds are themselves becoming a source of financial power, as a source of corporate capital and real estate investment. Finally, retirement programs will become an increasingly important component of the overall benefits package used by companies to attract and retain employees. They will provide an incentive for both union and nonunion industries to formulate pension plans where none presently exist and to improve existing benefits for the worker.

While H.R. 12481 and H.R. 12855 address themselves to a number of long overdue, much needed reforms, they represent only a beginning in solving some of the problems in our private pension system, especially as that system affects women. Private pension plans have not looked kindly on women who work and then leave their jobs temporarily to give birth or to raise a family, or women who work part time. Moreover, women generally receive less benefits than men simply because they are still discriminated against in employment and salary opportunities. We should not hesitate to do away with these inequities now.

The present pension bill provides for vesting at age 25. I would support a provision to set eligibility at age 25 or after 3 years of service, whichever occurs first. Many persons in this country begin to work upon graduation from high school, at age 18. A number of women who start to work at 18 leave the workforce for a couple of years to have children and then return—80 percent of all first births in this country occur before a woman reaches 25. If vesting is to be truly a nonforfeitable right, it should not be deferred for any arbitrary reason, particularly when this results in hardship to both blue collar workers and to working women.

While the legislation under consideration does mandate survivorship benefits to be automatic unless they are explicitly waived, I would support a plan whereby both the worker and the spouse are required to waive their rights to these benefits. Since it is the spouse who is directly affected, he or she should participate directly in the process of waiver.

Part-time employment is often a necessity for many women in this country, particularly those with family responsibilities or who are over the age of 65. One third of all working women work only part time or part of a year; yet, many private pension plans exclude employees whose customary employment is less than 24 hours per week. I would support a provision which would include pension credit for part-time work, reducing the baseline figure to 20 hours per week and allowing proportional credit for such employment on a pro-rata basis.

The Labor Department has declared pensions to be a form of salary; yet we know all too well, despite legislation to the contrary, that there exist gross discrepancies between male and female earning power in this country. Women are more apt to be white collar workers than men, but the jobs they hold usually pay far less than those of men. The existence of separate actuarial tables for men and women in the same jobs are discriminatory against women, for they include statistics for nonworking women and compute their figures to arrive at an average, not a median, age. The result has been that women in the same occupation as men are given a life span up to 10 years longer, a figure which is very misleading. It is imperative that we continue to fight to reverse the trend toward sex discrimination in employment by making explicit in this legislation the prohibition of such discrimination in granting benefits, implementing programs, and in any way administering the act. It is also important that we continue to give meaning to title VII of the 1964 Civil Rights Act by encouraging stronger enforcement of its provisions by the EEOC.

From board room to boiler room, working women have been deprived of financial security in this country. The patterns of employment for women are rapidly changing; let us pass legislation which both reflects these facts and protects these fundamental rights.

Mr. FRENZEL. Mr. Chairman, the measure we are considering this afternoon is one of utmost importance to the working people in this country. It is also extremely important to their employers who contribute funds into their pension plans. There are few bills which Congress will consider this year which will have such a direct effect on the well-being of both America's labor force and its management.

The bill, or rather two bills, which are before us today are the result of months of hearings by the House Education and Labor Committee and Ways and Means Committee, as well as many years of investigative hearings, studies, and legislative false starts. In spite of some of the obvious drawbacks with this legislation, and my objections to some of them, I support the bill with enthusiasm. The rule under which it is being brought to the floor is complicated, indicative of the complexity of the legislation itself, and the overlapping committee structure which conceived it. While I recognize the necessity of such a rule, I hope that we do not have to repeat it. It is confusing, unwieldly, and perhaps discriminatory. Nevertheless, for the purpose of passing pension reform today, it is essential.

As far as the legislation itself goes, I support most of it. The stronger minimum standards for vesting, funding, and participation are good building blocks for future pension plan stability. Working people who rely heavily on planned pension benefits, need that stability. The provisions increasing the allowable tax deductions for contributions by self-employed individuals to their own pension plans is only fair, and I will oppose amendments to reduce the allowable deduction. The concept of allowing deductions for pension plan contributions to individuals who are neither self-employed nor covered by a regular plan is also an innovative and worthy proposal by the Ways and Means Committee, which deserves much credit for reshaping a terrible Senate bill.

The major objection to this legislation, however, is the plan termination insurance contained in the education and labor title.

Plan termination insurance does provide protection for workers benefits should a plan be ended. But it does not provide the employer with any incentives to prevent the plan from terminating, because the employer knows he can escape the expense. The alternative of placing the entire cost of a plan termination on the employer might risk unnecessary failures of the firms themselves through such pitfalls as the loss of credit with the banks.

The proper course lies, I believe, somewhere in between. We cannot force well-managed pension plans to bail out the failure of poorly managed ones. Neither can we ruin companies, nor stifle the incentives to establish plans in the first place, by dumping it all on the employer. The idea of plan termination insurance obviously needs more study. We will have the basics for better and more financially sound plans with the vesting, funding, and participation standards already contained in the bill. Let us give them a chance to work while we figure out a better way to protect against plan termination. A sizable employer in my district terminated his business several years ago causing vast hardships to people already on pension, and to those who had expected and earned pensions. Termination insurance might have preserved those benefits or it might have provided disincentives so there would be no plan. Clearly we need a better proposal.

In spite of these objections, however, I intend to support the final version of the bill, unless it is substantially altered. Whatever its drawbacks, it is a significant achievement in our efforts toward providing safeguards for pension plan participants, whiel retaining incentives to create more plans. Some experts claim we will see widespread termination of smaller plans and even some major ones, because of the additional costs. But it is surely wiser to get the basics in place, rather than let plans fail, and let participants suffer, as they have in my district recently. On balance, the bill deserves support and it will get mine.

Mr. DONOHUE. Mr. Chairman, I earnestly urge and hope that this pending bill, the Employee Benefit Security Act, is resoundingly approved by the House this afternoon.

The basic purpose of this measure is to remedy the defects in the private retirement system which greatly limit, and in some instances negate, the effectiveness of the system in providing retirement income security to millions of American workers and their families.

Today, some 30 million employees in private industry or about one-half of all workers are covered by private pension plans.

However, and unfortunately, the experience of the last 10 to 15 years very clearly reveals that, despite the frequent attempts to enforce the reporting requirement and the criminal provisions of existing laws and regulations the fact is that the individual retirement protection intended by the Congress has not yet been achieved.

This pending bill is, therefore, designed to realistically accomplish the original congressional intent. In summary, this proposal will encourage the expansion of private retirement plans and increase the number of individuals receiving retirement benefits; insure the vested portion of unfunded liabilities against the risk of premature plan termination; raise the standards of fiscal responsibility by requiring the amortization of unfunded liabilities; set up minimum standards with respect to an employee's vesting eligibility; and establish equitable standards of plan administration.

In other words, Mr. Chairman, the adoption of this bill will encourage greater worker participation and enrollment in private pension plans, require a much higher degree of fiscal responsibility and accountability by those who are managing pension funds and practically guarantee, through the termination insurance program, that every worker entitled to a pension will not be deprived of it if, by any chance, his business fails or his employer becomes bankrupt.

Mr. Chairman, the adoption of this bill will represent the extension of but simple justice to the average American worker and his family; it will remove, especially during this most distressing economic period, the average worker's haunting fear of poverty if he has to change his employment or if he should lose it after many years of diligent production, and it will serve to reestablish the trust and confidence of millions of workers that the very, very great majority of business and Government leaders are truly and fairly concerned about their personal welfare and family progress.

Mr. Chairman, by any ordinary standard of judgment, the provisions and objectives of this measure are obviously in the national interest and I very earnestly believe they merit approval by the great majority of this House.

Mr. ANNUNZIO. Mr. Chairman, we all know that pension reform is necessary. The need is well documented and enough has already been said. Rather, I think now we should be asking ourselves whether the legislation we are considering today will provide the retirement security that this Nation's workers have been led to believe will be theirs on final passage.

I think this legislation is a giant step toward reforming the private pension system, although perhaps I am using the phrase too broadly. I would venture to say that a good number of workers will not notice or experience any significance change in the operation of their present pension plan; nor will many others wake up in the morning and suddenly find themselves participating in a pension plan. In all candor, this legislation—while of course highly significant—provides reasonable, not optimum standards. Most pension plans would already meet the participation, vesting, and funding standards called for. For instance, about 75 percent of covered workers are already permitted to start participating in their employer's plan by age 25—the age called for in the bill. Furthermore, although about 23 percent of covered workers are in plans without vesting provisions, something like four out of five workers in plans already providing some form of vesting would qualify for full vesting after 15 years of service.

The legislation before us would, however, have a noticeable and desirable effect on a significant minority of plans which have caused this legislation to be justified in the first place. What annoys me most, Mr. Chairman, is that the people who squawk the most about pension reform, are those who administer the plans which provide the least in the way of retirement security. It is with respect to these plans that the legislation is most welcomed and should have the greatest impact. The legislation will provide equity to thousands of individuals who spend their careers in useful and socially productive work, but who are unfortunately participating in plans which border on indentured servitude.

Mr. Chairman, the reason I have sponsored pension reform legislation myself stems from the years of experience that I gained as educational and legislative representative for the United Steelworkers of America after World War II and my subsequent position as director of the Illinois Department of Labor during Adlai Stevenson's governorship. I feel that I know and understand the problems of retirement security faced by our working men and women. Furthermore, I understand the importance of soundly run and administered pension plans.

I should like to point out to some of my younger colleagues that the original surge in the negotiations of pension plans came as a result of union demands for old-age security shortly after World War II. When I was with the steelworkers in 1947, the National Labor Relations Board issued the well-known Inland Steel case ruling which made pensions part of collective bargaining. The NLRB ruling went all the way to the Supreme Court in 1949. It took a nationwide strike by the steelworkers in 1949 to establish pensions for their members. We have all come a long way since then, but we can still go a long way forward from here.

I am glad to see we are finally establishing reasonable standards for private pension plans. I am particularly glad to see that the legislation before us embodies the substance of earlier bills that I have either sponsored or cosponsored.

But the provision which I am most happy to see incorporated is the termination insurance program. As far as I am concerned, the termination insurance program will provide the backbone of confidence that our workers must have in the private pension system—just as we have confidence in the safety of our personal savings in financial institutions as a result of FDIC and FSLIC. Termination insurance will eliminate the legitimate fears of thousands of our workers that the pension plan which they so desperately depend on will not pay off at retirement. It will also put an end to the actual losses which have been experienced by about 20,000 workers a year who unfortunately find out that their pension plan is unilaterally terminated without sufficient assets to pay all benefits due.

I think it is unconscionable that an employer is presently under no legal obligation to make good on his pension promise. With the exception of collectively bargained plans, an employer can alter, modify, or terminate a pension plan at any time—and for any reason. Moreover, he generally reserves the right to suspend, reduce, or discontinue payments to the plan—whether or not previous payments have been sufficient to provide all benefits earned to date. In other words, Mr. Chairman, if the pension plan is terminated, the participants and beneficiaries can only look to the accumulated assets in the pension fund for the satisfaction of their claims. Simply stated, if the assets are insufficient, claims cannot be met in full. Is that any way to run a retirement program?

Just as with vesting, the legislation before us would insure benefits earned before as well as after the effective date. I think this is extremely important in view of the uncertain economic climate, coupled with the fact that substantial numbers of workers have already "logged-in" their working careers and cannot start over again if their plan is terminated.

Mr. Chairman, there are a few other matters which I would like to briefly stress to explain why the pension reform bill we pass must include termination insurance. The general Subcommittee on Labor hearings in Chicago focused on pension plans that were terminated with insufficient funds to pay off all pension benefits. Needless to say, it was most disheartening to hear about the hardships experienced when a worker loses his pension. Responsible pension legislation must therefore include a Federal program of plan termination insurance similar to other successful Government programs which I have already mentioned, as well as those Government programs insuring housing mortgages, and protecting investors against difficulties experienced by brokerage houses.

Mr. Chairman, I do not feel that funding standards alone will adequately protect participants from a loss in benefits. For instance, the funding schedule called for in this legislation may not be met for any one of a number of reasons. Foremost among these may be the sheer inability of the employer to meet the funding schedule because of adverse business conditions. Furthermore, no funding standard alone could be expected to provide complete protection from the day of adoption or amendment of the plan since this would require full and immediate funding of all vested benefits. I should also add that we are being most generous in allowing present plans a period of 40 years to fund their past service liabilities. A lot can happen in 40 years to the financial well-being of any corporation, as we all know.

Lastly Mr. Chairman, I believe we have to reserve judgment on how effective this legislation will be. While it is of course landmark labor legislation, its true benefits will not be known for several years to come. I am glad we have had the foresight to include several studies aimed at examining the effectiveness of the legislation. One of the chief purposes of the research studies which are mandated under the bill is to ascertain the role that private pensions play in meeting the economic security needs of the Nation. The operation of private pension plans will also be studied, including the degree of reciprocity and portability, and methods of encouraging the growth of the private pension system.

But most important, Mr. Chairman, pension reform legislation will be a reality at last.

Ms. HOLTZMAN. Mr. Chairman, the bill which is before us today, the Employee Benefit Security Act of 1974, is an important and badly needed first step in the direction of pension reform. For that reason, I am supporting it. Our hardworking citizens forego higher salaries in the expectation of receiving promised pensions. They surely deserve a measure of security in their retirement years when they are no longer able to earn a living. Yet, I know I am not alone in testifying to the number of letters constituents have sent me, detailing "horror stories" of unfulfilled pension promises. Hopefully, the worst of these abuses will now become a thing of the past.

The bill will afford improved protection to long-service employees who are covered by pension plans. The vesting provisions of the bill assure an employee of full rights to this pension benefits after 10 or 15 years of employment, even if he leaves his company before retirement. In addition, the funding requirements contained in the bill will reduce the possibility of insufficient funds to pay benefits. And, as a final backup measure, the bill's termination insurance program will safeguard an employee's pension in the event that a plan is terminated due to a shut-down, mismanagement, or other cause.

We must not, however, leave the public with the impression that this bill will solve all pension problems or fulfill all pension promises. The pending legislation is an important step, but it is only one step—and a first one at that. Significant gaps remain. Certain aspects of pension promises are still a gamble, with the odds against the working man and woman. I think it is important to point out a few of these problems, both to inform the public and to begin looking down the road toward further pension reform.

First, the bill's improved vesting requirements, will not protect the large segment of our mobile work force which does not remain on the same job for 10 or 15 years. Earlier vesting rights will be required to protect these workers.

But even earlier vesting rights would not adequately protect mobile workers. Their pensions will be much lower than those received by persons who remain with the same employer until retirement. A nationwide transfer system is needed, whereby pension credits could be transferred to new employers' plans. Such a "portability" provision is sorely lacking in the pending bill and must be a key ingredient of further penison reform.

The bill does not require that participants be given access to specific information regarding investment transactions with pension funds. How, then, can they determine if their pension funds are being made in their interests?

The bill permits part-time employees to be excluded from pension coverage. This is particularly hard on women who must work part time and on our hard-pressed middle class who often work at part-time jobs in order to make ends meet.

Under the bill, an employee who takes a leave of absence or is laid off for less than 1 year may lose all accrued pension rights. This provision particularly affects workers who are periodically laid off as well as those women who must take time off for childbirth, but who cannot afford to take more than a year off.

Especially disturbing are the bill's provisions regarding survivors' benefits. Even though her husband's pension plan provides for survivors' benfits, a widow will receive those benefits only if she has been married to the participant for 5 years and if he dies after he reaches retirement age—regardless of how early his benefits were fully vested. Older widows comprise the poorest segment of our population—6 out of 10 have incomes below the poverty level. The bill does very little to correct the present, sad state of the law regarding widows' benefits.

The thousands of workers presently threatened with unemployment due to the energy crisis will derive very little comfort from this bill. Its vesting and insurance provisions will not become effective for between 2 and 3 years. Until these provisions become a reality, we will have to find ways of providing these workers with a measure of security.

These gaps in the legislation are almost impossible to detect behind the complex and technical language of the bill, and we cannot expect the public to be aware of them. The bill's disclosure provisions might have remedied this problem. But, in fact, the bill does not even require a plan manager to inform participants of gaps in coverage or how they might lose benefits. I think this kind of disclosure is important, and the bill's failure to require it is a significant omission.

Finally, it should be emphasized that three-fifths of the work force is not covered by any pension plan and will derive no benefits from today's legislation. Yet, these workers must bear the tax burden created by tax-deductible pension plans whose benefits are received by others. Future pension reform legislation must surely address itself to this problem.

Mr. SCHNEEBELI. Mr. Chairman, I have no further requests for time.

Mr. ULLMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHNEEBELI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The time of the Committee on Ways and Means has expired.

Under the rule, it shall be in order to consider, in lieu of the committee amendment now printed in the bill H.R. 2, as one amendment in the nature of a substitute for the bill H.R. 2 the text of the bill H.R. 12906 as title I of said substitute and the text of the bill H.R. 12855 as title II of said substitute. Said substitute shall be read as an original bill for the purpose of amendment under the 5-minute rule by parts instead of by sections, and title II of said substitute shall be considered as having been read for amendment.

The Clerk will now read by parts the text of the bill H.R. 12906 as title I.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Employee Benefit Security Act of 1974".

TABLE OF CONTENTS

## TITLE I—REGULATION OF EMPLOYEE BENEFIT PLANS

### Subtitle A—Policy; Definitions

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that the growth in size, scope, and numbers of employee benefit plans in recent years has been rapid and substantial; that the operational scope and economic impact of such plans is increasingly interstate; that the continued well-being and security of millions of employees and their dependents are directly affected by these plans; that they are affected with a national public interest; that they have become an important factor affecting the stability of employment and the successful development of industrial relations; that they have become an important factor in commerce because of the interstate character of their activities, and of the activities of their participants, and the employers, employee organizations, and other entities by which they are established or maintained: that a large volume of the activities carried on by such plans are affected by means of the mails and instrumentalities of interstate commerce; that owing to the lack of employee information and adequate safeguards concerning their operation, it is desirable in the interests of employees and their beneficiaries, and to provide for the general welfare and the free flow of commerce, that disclosure be made and safeguards be provided with respect to the establishment, operation, and administration of such plans; that they substantially affect the revenues of the United States because they are afforded preferential Federal tax treatment; that despite the enormous growth in such plans many employees with long years of employment are losing anticipated retirement benefits owing to the lack of vesting provisions in such plans; that owing to the inadequacy of current minimum standards, the soundness and stability of plans with respect to adequate funds to pay promised benefits may be endangered; that owing to the involuntary termination of plans before requisite funds have been accumulated, employees and their dependents have been deprived of anticipated benefits; and that it is therefore desirable in the interests of employees and their beneficiaries, for the protection of the revenue of the United States, and to provide for the free flow of commerce, that minimum standards be provided assuring the equitable character of such plans and their financial soundness.

(b) It is hereby declared to be the policy of this title to protect interstate commerce and the interests of participants in employee benefit plans and their beneficiaries, by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto, by establishing standards of fiduciary conduct, responsibility, and obligation upon all persons who exercise any powers of control, management, or disposition with respect to employee benefit funds or have authority or responsibility to do so, or have authority or responsibility in the administration of employee benefit plans, and by providing for appropriate remedies, sanctions, and ready access to the Federal courts.

(c) It is hereby further declared to be the policy of this title to protect interstate commerce, the Federal taxing power, and the interests of participants in private pension plans and their beneficiaries by improving the equitable character and the soundness of such plans by requiring them to vest the accrued benefits of employees with significant periods of service, to meet minimum standards of funding, and by requiring plan termination insurance.

DEFINITIONS

SEC. 3. For purposes of this title:

(1) The term "employee welfare benefit plan" means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, for the purpose of (A) providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services, or (B) in the case of a fund subject to the restrictions of section 302(c) of the Labor Management Relations Act, 1947, providing any other benefit which may be permitted by section 302(c)(5), 302(c)(6), or 302(c)(7) of that Act.

(2) The term "employee pension benefit plan" or "pension plan" means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, if by its express terms or as a result of surrounding circumstances such plan, fund, or program results in a deferral of income by participants for periods, extending to the termination of participation or beyond, regardless of the method of calculating the contributions made to the plan, the method of calculating the benefits under the plan or the method of distributing benefits from the plan.

(3) The term "employee benefit plan" or "plan" means an employee welfare benefit

plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

(4) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose in whole or in part, of dealing with employers concerning an employee benefit plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

(5) The term "employer" means any person acting directly as an employer or indirectly in the interest of an employer in relation to an employee benefit plan, and includes a group or association of employers acting for an employer in such capacity.

(6) The term "employee" means any individual employed by an employer.

(7) The term "participant" means any employee or former employee of an employer or any member or former member of an employee organization who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of such employer or members of such organization, or whose beneficiaries may be eligible to receive any such benefit.

(8) The term "beneficiary" means a person designated by a participant or by the terms of an employee benefit plan who is or may become entitled to a benefit thereunder.

(9) The term "person" means an individual, partnership, corporation, mutual company, joint-stock company, trust, unincorporated organization, association, or employee organization.

(10) The term "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone. The term "United States" when used in the geographic sense means the States and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

(11) The term "commerce" means trade, traffic, commerce, transportation, or communication between any State and any place outside thereof.

(12) The term "industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947, or the Railway Labor Act.

(13) The term "Secretary" means the Secretary of Labor.

(14) The term "party in interest" means any administrator, officer, fiduciary, trustee, custodian, counsel, or employee of any employee benefit plan, or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan or any person controlling, controlled by, or under common control with, such employer or officer or employee or agent of such employer or such person, or an employee organization having members covered by such plan, or an officer or employee or agent of such an employee organization having members covered by such plan, or a relative or partner of, or joint venturer with, any of the above described persons.

(15) The term "relative" means a spouse, ancestor, child, grandchild, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

(16) Except as used in section 111, the term "administrator" means—

(A) the person specifically so designated by the terms of the plan, collective-bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

(B) in the absence of such designation, (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, (iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintain the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, or (iv) in any case to which clause (i), (ii), or (iii) does not apply, such other person as the Secretary may prescribe.

For purposes of section 111, the term "administrator" means a person described in subparagraph (A) or (B) (i), (ii), or (iii), or any person who under the terms of the plan has been expressly given the authority to amend the terms of the plan or the authority to compel action under the terms of the plan on the part of any person named in subparagraph (A) or (B) (i), (ii), or (iii).

(17) The term "separate account" means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

(18) The term "adequate consideration" when used in section 111 means (A) in the case of a security for which there is a generally recognized market, either (i) the price of the security prevailing on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934, or (ii) if the security is not traded on such a national securities exchange, a price not less favorable to the plan than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of any party in interest; and (B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined, in good faith by the trustee or administrator pursuant to the terms of the plan.

(19) The term "nonforfeitable" when used with respect to a pension benefit or right means a claim obtained by a participant or his beneficiary to that part of an immediate or deferred pension benefit, which arises from the participant's service, which is unconditional, and which is legally enforceable against the plan under State or Federal law. For purposes of this paragraph, a right to an accrued benefit derived from employer contributions shall not be treated as forfeitable merely because the plan provides that it is not payable where the participant dies (except in the case of a qualified joint and survivor annuity as provided in section 204 (c)); that payment of benefits is supended during periods when the participant has resumed employment with the employer (or, in the case of a multiemployer plan, has resumed employment in the industry before normal retirement age); or that plan amendments may be given retroactive application as provided in section 203(f) or pursuant to section 501 of this Act.

(20) The term "security" has the same meaning as such term has under section 2 (1) of the Securities Act of 1933 (15 U.S.C. 77b(1)).

(21) (A) Except as otherwise provided in subparagraph (B), a person is a fiduciary with respect to a plan to the extent (i) he exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management of disposition of its assets, (ii) he renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (iii) he has any discretionary authority or discretionary responsibility in the administration of such plan.

(B) If any money or other property of an employee benefit plan is invested in shares of an investment company registered under the Investment Company Act of 1940, such investment shall not by itself cause such investment company or such investment company's investment adviser or principal underwriter to be deemed to be a "fiduciary" or a "party in interest" as those terms are defined in this title, except insofar as such investment company or its investment adviser or principal underwriter acts in connection with an employee benefit plan covering employees of the investment company, the investment adviser, or its principal underwriter. Nothing contained in this subparagraph shall limit the duties imposed on such investment company, investment adviser, or principal underwriter by any other law.

(22) The term "regular retirement benefit" means only that benefit payable under a pension plan at the normal retirement age in the event of service or age related retirement and excludes other benefits related to participant disability or plan termination.

(23) The term "accrued benefit" means—

(A) in the case of a defined benefit plan, the individual's accrued benefit determined under the plan and, except as provided in section 205(d)(3), expressed in the form of an annual benefit commencing at normal retirement age, or

(B) in the case of a plan which is an individual account plan, the balance of the individual's account.

(24) The term "normal retirement age" means the earlier of—

(A) the time a plan participant attains normal retirement age under the plan, or

(B) the later of—

(i) the time a plan participant attains age 65, or

(ii) the time a plan participant has completed 10 years of participation in the plan.

(25) The term "vested liabilities" means the present value of the immediate or defered benefits available at regular retirement age for participants and their beneficiaries which are nonforfeitable.

(26) The term "current value" means fair market value where available and otherwise the fair value as determined in good faith by the trustee or administrator, assuming an orderly liquidation as of the statement date.

(27) The term "present value", with respect to a liability, means the value adjusted to reflect anticipated events. Such adjustments shall conform to such rules and regulations as the Secretary may provide.

(28) The term "normal service cost" or "normal cost" means the annual cost of future pension benefits and administrative expenses assigned, under an actuarial cost method, to years subsequent to a particular valuation date of a pension plan.

(29) The term "present value of an annuity certain" means the single sum required to pay $1 monthly annually for "N" years, assuming interest is earned at the rate "i" per annum, which term may be expressed algebraically as follows:

$$1+\left(\frac{1}{1+i}\right)+\left(\frac{1}{1+i}\right)^2+\left(\frac{1}{1+i}\right)^3+\cdots+\left(\frac{1}{1+i}\right)^{N-1}.$$

(30) The term "accrued liability" means the excess of the present value, as of a particular valuation date of a pension plan, of the projected future benefit costs and administrative expenses for all plan participants and beneficiaries over the present

value of future contributions for the normal cost of all applicable plan participants and beneficiaries.

(31) The term "unfunded accrued liability" means the excess of the accrued liability, under an actuarial cost method which so provides, over the present value of the assets of a pension plan.

(32) The term "advance funding actuarial cost method" or "actuarial cost method" means a recognized actuarial technique utilized for establishing the amount and incidence of the annual actuarial cost of pension plan benefits and expenses. Acceptable actuarial cost methods shall include the accrued benefit cost method (unit credit method), the entry age normal cost method, the individual level premium cost method, the aggregate cost method, the attained age normal cost method, and the frozen initial liability cost method. The terminal funding cost method and the current funding (pay-as-you-go) cost method are not acceptable actuarial cost methods. The Secretary shall issue regulations to further define acceptable actuarial cost methods. Regulations for purposes of this paragraph, paragraph (27), and paragraph (38) shall be effective for a plan year beginning after December 31, 1975, only if approved by the Secretary of the Treasury.

(33) The term "governmental plan" means a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing. The term "governmental plan" also includes any plan to which the Railroad Retirement Act of 1935 or 1937 applies, and which is financed by contributions required under that Act.

(34)(A) Except as provided in subparagraphs (B) and (C), the term "church plan" means a plan established and maintained by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954.

(B) The term "church plan" does not include a plan—

(i) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Internal Revenue Code of 1954), or

(ii) which is a multiemployer plan, if one or more of the employers in the plan is not a church (or a convention or association of churches) which is exempt from tax under section 501 of the Internal Revenue Code of 1954.

(C) For the purposes of this paragraph, if—

(i) a plan described in subparagraph (A) was in existence on January 1, 1974, and

(ii) such plan on such date covered employees of any organization which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is an agency of the church or convention or association of churches which established and maintained the plan,

then the employees of such agency who are at any time covered by such plan shall be treated as employees whose employer is such church or convention or association of churches, as the case may be.

(35) The term "individual account plan" means a pension plan which provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account, and income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account.

(36) The term "defined benefit plan" means a pension plan other than an individual account plan.

(37) The term "supplementary plan" means a pension plan which covers only participants each of whom is covered by one or more primary plans to which parts 2 and 3 of subtitle B of this title apply. For purposes of this paragraph, the term "primary plan" means a pension plan which is designed to provide a life annuity (or equivalent annuity) as determined by the Secretary, which commences not later than age 65 and which provides an annual benefit (or the equivalent) in an amount not less than 2.0 percent of the final five-year average annual compensation for the participant times the number of his years of covered service (determined under regulations of the Secretary).

(38)(A) The term "multiemployer plan" means a plan—

(i) to which more than one employer is required to contribute,

(ii) which is maintained pursuant to a collective bargaining agreement between employee representatives and more than one employer,

(iii) under which the amount of contributions made under the plan for a plan year by each employer making such contributions is less than 50 percent of the aggregate amount of contributions made under the plan for that plan year by all employers making such contributions, and

(iv) which satisfies such other requirements as the Secretary may by regulations prescribe.

(B) For purposes of this paragraph—

(i) If a plan is multiemployer plan within the meaning of subparagraph (A) for any plan year, clause (iii) of subparagraph (A) shall be applied by substituting "75 percent" for "50 percent" for each subsequent plan year until the first plan year following a plan year in which the plan had one employer who made contributions of 75 percent or more of the aggregate amount of contributions made under the plan for that plan year by all employers making such contributions.

(ii) All corporations which are members of a controlled group of corporations (within the meaning of section 1563(a) of the Internal Revenue Code of 1954, determined without regard to section 1563(e)(3)(C) of such Code) shall be deemed to be one employer.

(9) The term "investment manager" means any fiduciary (other than a trustee or administrator) who has the power to manage, acquire, or dispose of any asset of a plan and who—

(A) is registered as an investment adviser under the Investment Advisers Act of 1940; or is a bank, as defined in that Act, and

(B) has acknowledged in writing that he is a fiduciary with respect to the plan.

### Subtitle B—Regulatory Provisions

### PART 1—FIDUCIARY RESPONSIBILITY AND DISCLOSURE

#### COVERAGE

SEC. 101. (a) Except as provided in subsection (b) this part shall apply to any employee benefit plan if it is established or maintained: (1) by any employer engaged in commerce or in any industry or activity affecting commerce, or (2) by any employee organization in which employees engaged in commerce or in any industry or activity affecting commerce participate, or (3) by both.

(b) This part shall not apply to an employee benefit plan if—

(1) such plan is a governmental plan (as defined in section 3(33));

(2) such plan is a church plan (as defined in section 3(34)) with respect to which no election has been made under section 201(c);

(3) such plan was established and is maintained solely for the purpose of complying with applicable workmen's compensation laws or unemployment compensation disability insurance laws;

(4) such plan is established and maintained outside the United States primarily for the benefit of persons who are not citizens of the United States, or

(5) such plan is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees.

#### DUTY OF DISCLOSURE AND REPORTING

SEC. 102. (a) The administrator of an employee benefit plan shall cause to be published in accordance with section 105 to each participant or beneficiary covered thereunder: (1) a description of the plan, and (2) the information described in sections 105 (b)(3) and 106(e). Such description and the annual report of the plan shall contain the information required by sections 103 and 104 of this Act, shall be published in accordance with section 105, and shall be in such form and detail as necessary to fully and fairly disclose all pertinent facts.

(b) The Secretary shall require the filing of special terminal reports respecting an employee pension benefit plan which is winding up its affairs, and he may require such a report respecting any employee welfare benefit plan which is winding up its affairs. Such reports shall be on such forms and filed in such manner as the Secretary may by regulation prescribe. A report respecting a pension plan shall be required to be filed regardless of the number of participants remaining in the plan.

(c) The Secretary may by regulation require that the administrator of any employee benefit plan furnish to each participant or his surviving beneficiary a statement of the rights of participants and beneficiaries under this title.

#### DESCRIPTION OF THE PLAN

SEC. 103. (a) A description of any employee benefit plan shall be published as required herein within one hundred and twenty days after the establishment of such plan or within one hundred and twenty days after such plan becomes subject to the part, whichever is later.

(b) The description of the plan shall be comprehensive and shall be written in a manner calculated to be understood by the average plan participant and shall include the name and type of administration of the plan; the name and address of the administrator; names, titles, and addresses of any trustee or trustees (if they are persons different from the administrator); a description of any relevant collective-bargaining agreement in which the plan is mentioned; the plan's requirements respecting eligibility for participation and benefits; the schedule of benefits; a description of the provisions providing for nonforfeitable pension benefits; the source of the financing of the plan and the identity of any organization through which benefits are provided; whether the records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. All amendments to the plan shall be included in the description on and after the effective date of such amendments.

#### ANNUAL REPORTS

SEC. 104. (a)(1) An annual report shall be published with respect to any employee benefit plan to which this part applies. Such report shall be published as required under section 105, within two hundred and seventy days after the end of the calendar, policy, or fiscal year on which the records of the plan are kept (hereafter in this title referred to as "plan year" or "fiscal year of the plan").

(2) If some or all the benefits under the plan are provided by an insurance carrier or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and eighty days after the end of the fiscal year of the plan, such information as is necessary to enable such administrator to comply with the requirements of this title. If some or all of the information necessary to enable the administrator to comply with the requirements of this title is maintained by one or more persons described in section 3(16)(B) (i), (ii), or (iii), such person or persons shall transmit such information to the administrator within one hundred and eighty days after the end of the fiscal year of the plan.

(3)(A) Except as provided in subparagraph (B), the administrator of an employee benefit plan shall engage, on behalf of all plan participants, an independent qualified public accountant, who shall conduct an examination of the financial statements of the plan as he may deem necessary to enable him to form an opinion as to whether the financial statements required to be included in the annual report by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards, and shall involve such tests of the books and records of the plan as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also submit a report as to whether the supplementary financial data specified in subsection (b)(3) of section 105 presents fairly in all material respects the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountant shall be made a part of the annual report.

(B) The opinion required by subparagraph (A) need not be expressed as to any statements prepared by a bank or similar institution or insurance carrier as required by subparagraph (G) of paragraph (b)(3) of this section if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(C) For purposes of subparagraph (A) of this paragraph, section 105(a)(3), and section 114(a), the term "qualified public accountant" means—

(i) a person who is a certified public accountant, certified by a regulatory authority of a State,

(ii) a person who is a licensed public accountant, licensed on or before December 31, 1973, by a regulatory authority of a State, or

(iii) with respect to audits performed before January 1, 1976, any other person who meets, in the opinion of the Secretary, standards of education and experience which are representative of the highest prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations;

except that if the Secretary deems it necessary in the public interest, he may prescribe by regulation higher standards than those required for the practice of public accountancy by the regulatory authorities of the States, and a person shall be considered a qualified public accountant for purposes of subparagraph (A), section 105(a)(3), and section 114(a) only if he meets such standards.

(4)(A) The administrator of an employee benefit plan subject to the reporting requirement of subsection (d) of this section shall engage, on behalf of all plan participants, an enrolled actuary who shall supervise the computation of the "present value of accrued benefits" and "accrued benefits" required under subsection (b)(2) of this section and shall supervise the preparation of the materials comprising the actuarial statement required under subsections (d) and (g) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are reasonably related to the experience of the plan and to reasonable expectations; and

(ii) utilize assumptions which in combination, offer his single best estimate of anticipated experience under the plan.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of, each annual report.

(C) For purposes of subparagraph (A) of this paragraph, section 105(a)(3), and section 114(a), the term "enrolled actuary" means an actuary enrolled under this subparagraph. The Secretary shall, by regulations, establish reasonable standards and qualifications for individuals performing actuarial services described in subparagraph (A) and section 105(a)(3). Upon application by any individual, the Secretary shall enroll such individual if the Secretary finds that such individual satisfies such standards and qualifications. With respect to individuals applying for enrollment before January 1, 1976, such standards and qualifications shall include a requirement for an appropriate period of responsible actuarial experience or of responsible experience in the administration of pension plans. With respect to individuals applying for enrollment on or after January 1, 1976, such standards and qualifications shall include—

(i) education and training in actuarial mathematics and methodology, as evidenced by—

(I) a degree in actuarial mathematics or its equivalent from an accredited college or university, or

(II) successful completion of an examination in actuarial mathematics and methodology to be given by the Secretary, or

(III) successful completion of other actuarial examinations deemed adequate by the Secretary, and

(ii) an appropriate period of responsible actuarial experience.

The Secretary may, after notice and an opportunity for a hearing, suspend or terminate the enrollment of an individual under this subparagraph if the Secretary finds that such individual does not satisfy the requirements for enrollment which were in effect at the time of his application for enrollment. Regulations prescribed for purposes of this subparagraph shall be effective after December 31, 1975, only if approved by the Secretary of the Treasury.

(b) A report under this section shall include a financial statement containing the following information:

(1) With respect to an employee welfare benefit plan: a statement of assets and liabilities; a statement of revenues and expenses for the period aggregated by general sources and applications; a statement of changes in fund balance; and a statement of changes in financial position. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: a description of the plan including any significant changes in the plan made during the period and the impact of such changes on benefits; a description of material lease commitments and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; a general description of priorities upon termination of the plan; information concerning whether or not a tax ruling or determination letter has been obtained; and any other matters necessary to fairly present the financial statements of a particular welfare benefit fund.

(2) With respect to an employee pension benefit plan: a statement of assets and liabilities including with respect to any employee benefit plan subject to the reporting requirements of subsection (d) of this section the estimated actuarially determined present value of accrued benefits to be paid under the plan as calculated by an enrolled actuary and aggregated by the termination distribution categories enumerated in section 112; and a statement of changes in net assets available for plan benefits which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: a description of the plan including any significant changes in the plan made during the period; the funding policy (including policy with respect to prior service cost), and any changes in such policies during the year; the most recent valuation date used to compute the present value of accrued benefits and the actuarial cost methods and assumptions; a description of any significant changes in plan benefits made during the period and the impact of such changes on the present value of accrued benefits; a description of material lease commitments, other commitments, and contingent liabilities; agreements and transactions with persons known to be parties in interest; a general description of priorities upon termination of the plan; information concerning whether or not a tax ruling or determination letter has been obtained; and any other matters necessary to fully and fairly present the financial statements of a particular pension benefit fund.

(3) With respect to all employee benefit plans:

(A) a statement of the assets and liabilities of the fund aggregated by categories and valued at their current value, as well as the same data, displayed in comparative form for the end of the previous fiscal year of the plan;

(B) a statement of receipts and disbursements during the preceding twelve-month period aggregated by general sources and applications;

(C) a schedule of all assets held for investment purposes aggregated and identified by issuer, borrower, or lessor or similar party to the transaction, maturity date, rate of interest, collateral, par or maturity value, cost, and current value;

(D) a schedule of each transaction involving a person known to be party in interest, the identity of such party in interest and his relationship to the plan, employer, employee, or other person, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain (or loss) on each transaction;

(E) a schedule of all loans made from the fund which were in default as of the close of the plan's fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule: the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof;

(F) a list of all leases which were in default or were classified during the year as uncollectable; and the following information with respect to each lease on such schedule: the type of property leased (and, in the case of fixed assets such as land, buildings, leasehold, and so forth, the location of the property), the identity of the lessor or lessee from or to whom the plan is leasing, the relationship of such lessors and lessees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost, the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

(G) if some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier or a separate trust maintained by a bank as trustee, the report shall include the most recent annual statement of assets and liabilities of such common or collective trust, and in the case of a separate account or a separate trust, such other information as is required by the administrator in order to comply with this subsection. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and eighty days after the end of each fiscal year of the plan the information necessary to enable the plan administrator to comply with the requirements of this part; and

(H) a schedule of each transaction (or transactions) involving an amount (or the aggregate amount resulting from multiple transactions with or in conjunction with a person during the plan year) which exceeds the lesser of $300,000 or 3 per centum of the value of the fund, the name of such person and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain (or loss) on each transaction.

(c) The administrator shall furnish as a part of report under this section the following information: the average number of employees covered by the plan; the name and address of each fiduciary; the name of each person who received compensation in excess of $5,000 from the fund during the preceding year for services rendered to the plan or its participants, the amount of such compensation, the nature of his services to the plan or its participants, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position, or employment he holds with any party in interest; and an explanation of the reason for any change in appointment of trustee, qualified public accountant, insurance carrier, actuary, administrator, investment manager, or custodian.

(d) With respect to an employee pension benefit plan (other than (A) a profit sharing, savings, or other plan, which is an individual account plan, or (B) a plan described in section 301(d)), a report under this section for a plan year to which part 2 or part 3 of this subtitle (or both) apply shall include an actuarial statement applicable to the plan year which shall include the following:

(1) The number of years the plan has been in effect, the date of the plan year, and the date of the actuarial valuation applicable to the plan year for which the report is filed. An actuarial valuation shall be made no less frequently than every three years.

(2) The date and amount of the contribution (or contributions) made by the plan for the plan year for which the report is filed and contributions for prior plan years not previously reported.

(3) A complete copy of the actuarial report, including the following information applicable to the plan year for which the report is filed: the amount of the minimum contribution, the normal costs, accrued liabilities, present value of accrued nonforfeitable benefits; value of assets; an identification of benefits not included in the calculations; and a statement of the other facts and actuarial assumptions used in the calculation of the minimum contribution required under section 302 and a justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries, both retired and nonretired covered by the plan.

(5) The current value of the assets accumulated in the fund, and the present value of the assets of the plan used by the actuary in any computation of the amount of contributions to the plan required under section 302 and a statement explaining the basis of such asset valuation.

(6) The present value of all of the plan's liabilities for nonforfeitable pension benefits allocated by the termination priority categories as set forth in section 112(b) and the actuarial assumptions used in these computations. The Secretary shall establish regulations defining (for purposes of this section) "termination priority categories" and acceptable methods, including approximate methods, for allocating the plan's liabilities to such termination priority categories.

(7) The ratio of (A) the current value of the assets (as set forth in paragraph (5)) allocated to each termination priority category as set forth in section 112(b) to (B) the liabilities (as set forth in paragraph (6)) allocated to each such termination priority category.

(8) In the case of a plan to which section 302 applies a statement of the amount, if any, by which the aggregate contributions made since section 302 first applied to the plan either exceed or fall below the aggregate contributions required in order for the plan to meet the funding requirements of section 302.

(9) A copy of the opinion required by subsection (a)(4).

(10) Such other information as may be necessary to fully and fairly disclose the actuarial positions of the fund.

The actuary shall make an actuarial valuation of the plan for every third plan year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a)(4) of this section.

(e) If some or all of the benefits under the plan are purchased from and guaranteed by an insurance company, a report under this section shall include a statement from such insurance company covering the fiscal year and enumerating—

(1) total premiums received from the plan;

(2) the amount paid in the form of benefits;

(3) the amount charged on account of administrative expense;

(4) the amount of any commissions or any other acquisition costs paid by the insurance company and to whom paid; and

(5) the amount held to pay future benefits.

(f) If the only assets from which claims against an employee benefit plan may be paid are the general assets of an employer or an employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation.

(g) In the event of termination of any employee pension benefit plan the annual report of such plan for the year shall include any supplementary information required to be filed with the Secretary by section 102(b).

PUBLICATION

SEC. 105. (a)(1) The administrator of any employee benefit plan subject to this part shall, within 270 days after the close of each fiscal year of the plan, file with the Secretary a copy of the plan description and each annual report. The Secretary shall make copies of such descriptions and annual reports available for inspection in the public document room of the Department of Labor. The Secretary—

(A) shall exempt from the annual filing requirement of this paragraph any employee benefit plan with fewer than twenty-six participants.

(B) may exempt from such filing requirement any other class or type of employee benefit plan with fewer than one hundred participants, if the Secretary finds that the application of such requirement to such other plans is not required to implement the purposes of this title, and

(C) may by regulation, as to any class or type of employee welfare benefit plan, grant an exemption from all or part of the reporting, disclosure, and publication requirements of this part.

(2) The Secretary may reject any filing under this section:

(A) after notice, hearing, and a determination on the record by the Secretary that such filing is incomplete for purposes of this part; or

(B) if he finds after notice and opportunity for presentation of views, that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 104(a)(3)(A) or section 104(a)(4)(B).

(3) If the Secretary rejects a filing of a report under paragraph (2), if a revised report satisfactory to the Secretary is not submitted within forty-five days after the Secretary makes his determination under paragraph (2) to reject the filing, and if the Secretary deems it in the best interest of the participants, he may take any one or more of the following actions:

(A) Retain an independent qualified public accountant (as defined in section 104(a)(3)(C)) on behalf of the participants to perform an audit.

(B) Retain an enrolled actuary (as defined in section 104(a)(4)(C) of this Act) to make an actuarial report.

(C) Bring a civil action for such legal or equitable relief as may be appropriate to account for or safeguard the assets of the plan.

The Administrator shall permit such accountant, auditor, or actuary to inspect whatever books and records of the plan are necessary for such audit. The plan shall be liable to the Secretary for the expenses for such audit or report; and the Secretary may bring an action against the plan in any court of competent jurisdiction to recover such expenses.

(b) Publication of the plan descriptions and annual reports required by this part shall be made to participants and beneficiaries of the particular plan as follows:

(1) The administrator shall furnish to each plan participant or his beneficiaries a copy of the plan description (including all amendments or modifications thereto). Such description shall be furnished—

(A) to a plan participant within thirty days after he commences covered employment (or in the case of a plan to which more than one employer is required to contribute, within ninety days after he commences covered employment), and

(B) to all plan participants at least once every five years.

If there is any material modification in the terms of the plan, a description of such modification shall be furnished not later than one year after the modification takes effect.

(2) The administrator shall make copies of the latest annual report (except the information described in sections 106(a) and (c)) and the bargaining agreement, trust agreement, contract, or other instruments under which the plan was established and is operated available for examination by any plan participant or beneficiary in the principal office of the administrator and in such other places as may be necessary to fully and fairly disclose all pertinent facts to all participants.

(3) Within two hundred and seventy days after the close of the fiscal year of the plan, the administrator shall furnish to each participant, or his beneficiaries, a copy of the statements and schedules for such fiscal year, described in subparagraphs (A) and (B) of paragraph 104(b)(3) and paragraphs (5), (6), and (7) of subsection 104(d), and such other material as is necessary to fairly summarize the latest annual report.

(4) The administrator shall, upon written request of any participant or beneficiary, furnish a complete copy of the latest annual report (except the information described in sections 106 (a) and (c)), the bargaining agreement, trust agreement, contract, or other instruments under which the plan is established and operated. The administrator may make a reasonable charge to cover the cost of furnishing such complete copies. The Secretary may by regulation prescribe the maximum amount which will constitute a reasonable amount under this paragraph.

REPORTING OF PARTICIPANT'S BENEFIT RIGHTS

SEC. 106. (a) Each pension plan which files a report under section 105(a) for a plan year beginning after December 31, 1975, shall include in such report the following information:

(1) The name and social security number of each participant in the plan—

(A) who, during such plan year, separated from the service covered by the plan,

(B) who is entitled to a deferred nonforfeitable benefit under the plan as of the end of such plan year, and

(C) with respect to whom retirement benefits were not paid under the plan during such plan year.

(2) The nature, amount, and form of the deferred nonforfeitable benefit to which such participant is entitled.

(3) Such other information as the Secretary may require.

At the time he files the information under this subsection, the administrator shall furnish evidence satisfactory to the Secretary that he has complied with the requirement contained in subsection (e).

(b) Any administrator required to submit information under subsection (a) shall also notify the Secretary, at such time as may be prescribed by regulations, of—

(1) any change in the name of the plan,

(2) any change in the name or address of the administrator,

(3) the termination of the plan, or

(4) the merger or consolidation of the plan with any other plan or its division into two or more plans.

(c) To the extent provided in regulations prescribed by the Secretary, the Secretary may receive from—

(1) any plan to which subsection (a) applies, and

(2) any other plan (including any governmental plan or church plan), such information (including information relating to plan years beginning before January 1, 1974) as the administrator may wish to file with respect to the deferred nonforfeitable benefit rights of any participant separated from the service covered by the plan during any plan year.

(d) The Secretary shall transmit copies of any statements, notifications, reports, or other information obtained by him under this section to the Secretary of Health, Education, and Welfare.

(e) Each plan administrator required to submit information under subsection (a) shall, before the expiration of the time prescribed for the filing of such information, also furnish to each participant described in subsection (a)(1) an individual statement setting forth the information with respect to such participant required to be contained in information submitted to the Secretary under subsection (a)(2).

(f)(1) The Secretary, after consultation with the Secretary of Health, Education, and Welfare, may prescribe such regulations as may be necessary to carry out the provisions of this section. Any such regulations shall be effective with respect to plan years beginning after December 31, 1975, only if approved by the Secretary of the Treasury.

(2) This section shall apply to a plan to which more than one employer is required to contribute only to the extent provided in regulations prescribed under this subsection.

REPORTS MADE PUBLIC INFORMATION

SEC. 107. (a) Except as provided in subsection (b), the contents of the descriptions and reports filed with the Secretary pursuant to this part shall be public information, and the Secretary shall make any such information and data available for inspection in the public document room of the Department of Labor. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

(b) Information described in section 106 (a) and 106(c) with respect to a participant may be disclosed only to the extent that information respecting that participant's benefits under title II of the Social Security Act may be disclosed under such Act.

RETENTION OF RECORDS

SEC. 108. Every person subject to a requirement to file any description or report or to certify any information therefor under this title or who would be subject to such a requirement but for an exemption under section 105(a)(1) (A), (B), or (C) of this title shall maintain records on the matters of which disclosure is required which will provide in sufficient detail the necessary basic information and data from which the documents thus required may be verified, explained, or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain, or six years after the date on which such documents would have been filed but for an exemption under section 105(a) (1) (A), (B), or (C).

RELIANCE ON ADMINISTRATIVE INTERPRETATIONS

SEC. 109. In any criminal proceeding under section 503 based on any act or omission in alleged violation of sections 102 through 110 of this Act, no person shall be subject to any liability or punishment for or on account of the failure of such person to (1) comply with sections 102 through 110 of this Act if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any regulation or written ruling of the Secretary, or (2) publish and file any information required by any provision of this part if he pleads and proves that he published and filed such information in good faith, and in conformity with any regulation or written ruling of the Secretary issued under this part regarding the filing of such reports. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this part.

BONDING

SEC. 110. (a) Every fiduciary of an employee benefit plan and every person who handles funds or other property of such a plan shall be bonded as provided in this section; except that—

(1) where such plan is one under which the only assets from which benefits are paid are the general assets of a union or of an employer, the administrator, officers, and employees of such plan shall be exempt from the bonding requirements of this section, and

(2) no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(A) is a corporation organized and doing business under the laws of the United States or of any State;

(B) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(C) is subject to supervision or examination by Federal or State authority; and

(D) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Secretary, which amount shall be at least $500,000.

The amount of such bond shall be fixed at the beginning of each fiscal year of the plan. Such amount shall be not less than 10 per centum of the amount of funds handled, determined as provided in this section; but except that any such bond shall be in at least the amount of $1,000 and no such band shall be required in an amount in excess of $500,000, except that the Secretary, after due notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of $500,000, which in no event shall exceed 10 per centum of the funds handled. For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by their predecessor or predecessors, if any, during the preceding reporting year, or if the plan has no preceding reporting year, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations of the Secretary. Such bond shall provide protection to the plan against loss by reason of acts of fraud or dishonesty on the part of such administrator, officer, or employee, directly or through connivance with others. Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Secretary, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any administrator, officer, or employee to whom subsection (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any employee benefit plan, without being bonded as required by subsection (a) and it shall be unlawful for any administrator, officer, or employee of such plan, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any such person, with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations such plan or any party in interest in such plan has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person, required to be bonded as provided in subsection (a) because he handles funds or other property of an employee benefit plan, to be bonded insofar as the handling by such person of the funds or other property of such plan is concerned.

(e) The Secretary shall from time to time issue such regulations as may be necessary to carry out the provisions of this section. When, in the opinion of the Secretary, the administrator of a plan offers adequate evidence of the financial responsibility of the plan, or that other bonding requirements would provide adequate protection of the beneficiaries and participants, he may exempt such plan from the requirements of this section.

FIDUCIARY RESPONSIBILITY

SEC. 111. (a) (1) Every employee benefit plan shall be established pursuant to a written plan, which shall identify and appoint (or provide for the identification and appointment of) an administrator or administrators. The administrator (in the case of a plan with a single administrator) or the administrators (in the case of a plan with more than one administrator) shall be deemed to have full authority and responsibility for the operation of such employee benefit plan including the authority (i) to establish a funding policy and method consistent with the objectives of the plan, and (ii) to amend such plan (except with respect to contribution rates) where such an amendment is necessary to meet the requirements of this title or where such an amendment is necessary to protect the interests of the participants. Except as provided in section 112 of this title or in paragraph (2) of this subsection, the assets of such a plan shall never inure to the benefit of any employer and shall be held for the exclusive purposes of providing benefits to participants in the plan and their beneficiaries and defraying reasonable expenses of administering the plan. Nothing in this title shall prohibit any person or group of persons from serving as both trustee and administrator for any plan. Notwithstanding any provision of this paragraph, a plan may provide that—

(A) an administrator or trustee may employ any person to provide investment advice with regard to any assets of a plan; and

(B) an administrator, or a trustee at the written direction of the administrator, may appoint an investment manager or managers to manage (including the power to acquire and dispose of) any assets of a plan. Where an investment manager or managers have been so appointed—

(i) no trustee shall be liable for the acts or omissions to act of such investment manager or managers, or be under an obligation to invest or otherwise manage any asset of the plan which is subject to the management of the investment manager; and

(ii) no administrator shall be liable for the acts or omissions to act of such investment manager or managers if such administrator meets the requirements of subsection (b) (1) of this section in selecting and retaining such investment manager.

Nothing in this subparagraph shall relieve any trustee or administrator of any liability under this section for any act of such trustee or administrator.

(2) A contribution—

(A) which is made by an employer as a mistake of fact, or

(B) which is conditioned upon approval by the Secretary of the Treasury or his delegate of the deduction of the contribution under section 401 of the Internal Revenue Code of 1954, in a case in which the deduction is not approved,

may be returned to the employer within one year after the payment of the contribution.

(b) (1) A fiduciary shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of:

(i) providing benefits to participants and their beneficiaries; and

(ii) defraying reasonable expenses of administering the plan;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments so as to minimize the risk of large losses unless under the circumstances it is prudent not to do so; and

(D) in accordance with the documents and instruments governing the plan insofar as is consistent with this title.

(2) Except as permitted under subsection (a) (2) of this section, a fiduciary with respect to a plan shall not—

(A) deal with the assets of the plan for his own account,

(B) in his individual or any other capacity act in any transaction involving the plan on behalf of a party whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries,

(C) receive any consideration for his own personal account from any party dealing with such plan in connection with a transaction involving the assets of the plan,

(D) permit the transfer of any property of the plan to or its use by any person known to be a party in interest, except in return for no less than adequate consideration, or

(E) permit the acquisition of any property or services from any person known to be a party in interest, except in exchange for no more than adequate consideration.

(3) In the case of an individual account plan which is a profit-sharing, stock bonus, or thrift and savings plan, the diversification requirement of subparagraph (C) of paragraph (1) of this subsection and the prudence requirement (to the extent that it requires diversification) of subparagraph (B) of paragraph (1) of this subsection is not violated by acquisition or retention of:

(A) Parcels of real property if:

(i) a substantial number of the parcels are dispersed geographically;

(ii) each parcel of real estate and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use;

(iii) even if all of such real property is leased to one lessee (which may be a party in interest); and

(iv) such acquisition and retention otherwise complies with the provisions of this part; or

(B) Securities issued by an employer or a corporation controlling, controlled by, or under common control with the employer.

The preceding sentence shall only apply if such plan explicitly provides for acquisition or retention of such real property or securities, except that it shall apply until the expiration of one year from the effective date of this part to such plans which are in existence on the date of enactment and which acquire or retain such real property or securities without explicit provision in the plan.

(c) Nothing in this section shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the plan under which the fund was established, so long as the benefit is computed and paid on a basis which is consistent with the terms of the plan as applied to all other participants and beneficiaries;

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund; except that no person so serving who already receives full-time pay from an employer or an association of employers, whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

(d) Any person who is a fiduciary with respect to a plan who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such plan any losses to the fund resulting from each breach, and to restore to such plan any profits of such fiduciary which have been made through use of assets of the fund by the fiduciary and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary. A fiduciary may also be removed for a violation of section 113 of this Act.

(e) All assets of any employee benefit plan (other than any contract for the payment of annuities which is guaranteed by an insurance company and not issued to a trustee of the plan) shall be held in trust by one or more trustees. Such trustee or trustees shall either be named in the trust instrument or appointed by the administrator or administrators and, upon acceptance of their appointment, shall have exclusive authority and discretion to manage, and exclusive control of, the assets of the plan (subject to proper directions of the administrator which are made under the terms of the plan and which are not contrary to this title and except to the extent that authority to manage, acquire, or dispose of assets of the plan is delegated to one or more investment managers). If the assets of a plan are held by two or more trustees—

(1) each shall use reasonable care to prevent a cotrustee from committing a breach, notwithstanding language to the contrary in the trust agreement; and

(2) they shall jointly manage and control the assets of the trust, except that nothing in this paragraph (2) shall preclude any agreement authorized by the trust instrument allocating specific responsibilities, obligations, or duties among trustees, in which event a trustee to whom certain responsibilities, obligations, or duties have not been allocated shall not be liable by reason of this paragraph (2) either individually or as a trustee for any loss resulting to the fund arising from the acts or omissions to act on the part of another trustee to whom such responsibilities, obligations, or duties have been allocated, unless the trustee to whom the responsibilities, obligations, or duties were not allocated participated knowingly in the activities constituting a breach of the specific responsibilities, obligations, or duties allocated to any other trustee.

(f) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

(g) Except as provided in subsections (a) (1)(B) and (e)(2) of this section, any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility, obligation, or duty under this part shall be void as against public policy.

(h) No action may be commenced under subsection (d) of this section with respect to a fiduciary's breach of any responsibility, duty, or obligation, or with respect to a violation of section 113, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation, or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the breach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Secretary under this part.

(i) Each pension plan to which this part of this subtitle applies shall provide that benefits provided under the plan may not be assigned or alienated. For purposes of the preceding sentence, there shall not be taken into account any voluntary and revocable assignment of not to exceed 10 percent of any benefit payment, or any irrevocable assignment or alienation of benefits executed before June 1, 1974.

PLAN TERMINATION

SEC. 112. (a) Subject to the authority of the Secretary under section 501 of this Act to prescribe an alternative method for satisfying this section (which method shall take into account the requirements of section 401 (a)(4) of the Internal Revenue Code of 1954)—

(1) upon the complete termination of a pension plan (except to the extent that such plan is an individual account plan), the net assets of the plan shall be distributed as provided in subsection (b) through (h) of this section; and

(2) upon a partial termination of a pension plan (except to the extent that such plan is an individual account plan), a portion of the net assets shall be distributed as provided in subsection (1).

(b) Subject to subsections (c) and (e), the net assets of the plan shall be applied in accordance with the following priorities:

(1) First, to refund to each participant in the plan the amount of contributions (less withdrawals) made by him, less the amount of any benefits received by him under the plan prior to termination,

(2) Second, to pay to each participant (or his beneficiaries) in the plan who (A) has been receiving benefits under the plan or (B) on the date of such termination, has reached the earliest age on which he could, under the terms of the plan, elect to receive retirement benefits (other than on account of disability) under the plan, the present value of his nonforfeitable benefits, reduced (but not below zero) by the amount of contributions distributed under paragraph (1),

(3) Third, to pay to each participant in the plan, other than a participant described in paragraph (2) who had acquired nonforfeitable benefits under the plan prior to termination of the plan, the present value of such nonforfeitable benefits reduced (but not below zero) by the amount of contributions distributed under paragraph (1),

(4) Fourth, to pay to any participant in the plan, to the extent his accrued benefit is not payable under paragraphs (2) and (3), the present value of such benefit reduced (but not below zero) by the amount of contributions distributed under paragraph (1).

(c)(1) If the net assets of a plan are insufficient to meet all the liabilities for the participants described in subsection (b) and the level of benefits under the plan has been increased within the five-year period preceding termination by reason of a plan amendment affecting the benefit schedule, then the net assets shall be distributed as follows (except as otherwise provided in regulations of the Secretary in cases (i) where a change in the benefit schedule during such period resulted in a decrease in benefits for any class of participant, (ii) where the amount of the present value of the benefits of any class of participant cannot be determined under this subsection, or (iii) where the distribution of assets to participants described in subsection (b)(4) of this section would result in the payment of deferred pension benefits of less than $10 per month to such participants):

(A) After satisfying the first priority class in subsection (b), any remaining assets shall be distributed to the participants from the second through the fourth priority classes using the earliest benefit formula in effect during the past five years (but using vesting and eligibility provisions in effect on date of plan termination).

(B) Any remaining net assets shall be distributed to each participant in the second through the fourth priority classes using the increment (over such earliest benefit formula) of the second earliest benefit formula in effect during the past five years (but using vesting and eligibility provisions in effect on date of plan termination) until all net assets have been distributed.

(C) Any remaining net assets shall be distributed as above using each successive increment of each successive benefit formula in effect in such period (but using vesting and eligibility provisions in effect on date of plan termination) until all net assets have been distributed.

(2) If after the application of paragraph (1) of this subsection, the aggregate amount of distribution of assets of the plan available for distribution to any class of participants specified under subsection (b) does not satisfy the aggregate liabilities to such participants (determined after the application of paragraph (1)), then an amount shall be distributed to each such participant which bears the same ratio to the liabiliy to him under this section (after the application of paragraph (1)) as the aggregate of such aggregate amount of assets bears to the aggregate liability to all participants in such class; except that the plan may provide that the claims of a part of any such class (established on the basis of age or length of service or both) will receive priority over the remainder of such class.

(d)(1) Any assets remaining after the satisfaction of the liabilities described in subsection (b) which are attributable (under regulations of the Secretary) to accumulated investment earnings on employee contributions shall be ratably distributed to the employee contributors according to their rate of contribution.

(2) Any assets remaining after satisfaction of liabilities described in subsection (b) and paragraph (1) of this subsection shall be used to satisfy any such liabilities (other than those described in subsection (b) and paragraph (1)) as the plan may set forth as being payable only if the plan terminates.

(3) Any assets remaining after the satisfaction of all the liabilities described in subsection (b) and paragraphs (1) and (2) of this subsection may, upon application to the Secretary and after notice, hearing, and a finding that the purposes of this subsection has been complied with, be distributed as provided in the plan. If the plan has no provision for such distribution, such assets shall be distributed pro rata to each person otherwise receiving a distribution under this section.

(e)(1) The aggregate reductions which are made in amounts distributed to a participant under subsections (b) (2), (3), and (4) or under subsection (c) and which are attributable to contributions returned under subsection (b)(1) may not exceed the aggregate contributions returned to such participant under subsection (b)(1).

(2) In the case of a plan to which only participants contribute, subsection (b) shall be applied by reversing the priorities set forth in paragraphs (1) and (2) of such subsection and by deducting amounts received under pargaraph (2) from amounts otherwise due under paragraph (1).

(f) For purposes of this section, the term "net assets" means the assets of a plan less (1) reasonable administrative expenses of termination, and (2) assets of the plan which are irrevocably allocated to accounts of individual participants in accordance with a plan provision which has been in effect for at least two years prior to plan termination.

(g) The Secretary shall issue regulations to define acceptable methods for paying to each participant the value of his account, as determined under the priority distribution of assets in this section. Such methods shall provide (to the extent feasible) for the payment of the value of the participant's account as a monthly pension.

(h) Any plan which provides that participants may elect to have retirement benefits paid in the form of one of several types of annuities and which terminates under this section shall permit all participants who have terminated service under the plan to make such an election.

(i)(1) In the event of a complete or partial termination of a plan, the plan shall file a special report on such forms and in such manner as the Secretary may prescribe to carry out the purposes of this section.

(2)(A) A plan shall file a report (as required in paragraph (1)), and the Secretary shall make a determination as to whether or not a partial termination has occurred, if the present value of the accrued benefits (whether forfeitable or nonforfeitable, but excluding the present value of any benefit to the exent that the employee had an immediate right to receive such benefit upon exclusion from coverage) for all employees excluded from coverage (for any reason) in any period of five consecutive plan years equals or exceeds 25 per centum of the present value of the accrued benefits for all plan participants determned as of the close of any plan year in such five-year period.

(B) In the event the Secretary determines a partial termination has occurred, the net assets shall be distributed to the participants and beneficiaries giving rise to the partial termination in accordance with subsections (b) through (h) of this section as if a complete termination had occurred.

(3) The term "partial plan termination" for purposes of this section shall be defined by the Secretary by regulation. Such regulations shall provide that whether or not a partial termination of a pension plan occurs when a group of participants who have been covered by the plan is subsequently excluded from such coverage either by reason of an amendment to the plan, or because of any event or circumstance substantially beyond their control, shall be determined on the basis of all the facts and circumstances; and whether or not a partial termination occurs when benefits or employer contributions are reduced, or the eligibility or vesting requirements under the plan are made more restrictive shall be determined on the basis of all the facts and circumstances.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING OFFICE

SEC. 113. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), or a violation of any provision of this title, or a violation of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186), or a violation of chapter 63 of title 18, United States Code, or a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, or a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee welfare or pension benefit plan, or

(2) as a consultant to any employee welfare or pension benefit plan,

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) or (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, trustee, custodian, counsel, agent, or employee of any employee benefit plan or as a consultant to any employee, welfare, or pension benefit plan without a notice, hearing, and determination by the Secretary that such service would be inconsistent with the intention of this section.

(b) Any person who intentionally violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section:

(1) A person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event.

(2) The term "consultant" means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment of operation of such plan.

(3) A period of parole shall not be considered as part of a period of imprisonment.

(d) This section shall not apply to a conviction for a crime committed before the date of enactment of this Act.

ADVISORY CONDUCT

SEC. 114. (a) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the "Council") which shall consist of fifteen members to be appointed in the following manner: One from the insurance field, one from the corporate trust field, one qualified public accountant (as defined in section 104(a)(3)(C) of this Act), one enrolled actuary, three from management, three from labor, one from the investment management field, and one from the multi-employer benefit plan field, all appointed by the Secretary from among persons recommended by organizations in the respective groups; and three representatives of the general public appointed by the Secretary.

(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of his functions under this title, and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least twice each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under this title for the preceding fiscal year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and this title's operation and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties.

(d)(1) Members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

(2) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(e) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

REPEAL AND EFFECTIVE DATE

SEC. 115. (a)(1) The Welfare and Pension Plans Disclosure Act is repealed; except that such Act shall continue to apply to any conduct which occurred before the effective date of this part.

(2)(A) Section 664 of title 18, United States Code, is amended by striking out "any such plan subject to the provisions of the Welfare and Pension Plans Disclosure Act" and inserting in lieu thereof "any employee benefit plan subject to any provision of title I of the Employee Benefit Security Act of 1974".

(B)(i) Section 1027 of such title 18 is amended by striking out "Welfare and Pension Plans Disclosure Act" and inserting in lieu thereof "title I of the Employee Benefit Security Act of 1974"; and by striking out "Act" each place it appears and inserting in lieu thereof "title".

(ii) The heading for such section is amended by striking out "Welfare and Pension Plans Disclosure Act" and inserting in lieu thereof "Employee Benefit Security Act of 1974".

(iii) The table of sections of chapter 47 of such title 18 is amended by striking out "Welfare and Pension Plans Disclosure Act" in the item relating to section 1027 and inserting in lieu thereof "Employee Benefit Security Act of 1974."

(C) Section 1954 of such title 18 is amended by striking out "any such plan subject to the provisions of the Welfare and Pension Plans Disclosure Act, as amended" and inserting in lieu thereof "any employee welfare benefit plan or any employee pension benefit plan, respectively, subject to any provision of title I of the Employee Benefit Security Act of 1974"; and by striking out "sections 3(3) and 5(b) (1) and (2) of the Welfare and Pension Plans Disclosure Act, as amended" and inserting in lieu thereof "sections 3(4) and 3(16) of the Employee Benefit Security Act of 1974".

(b) Except as provided in subsection (c), this part (including the amendments and repeal made by subsection (a)) shall take effect six months after the date of enactment of this Act.

(c) The provisions of this title authorizing the Secretary to promulgate regulations shall take effect on the date of enactment of this title.

(d) In order to provide for an orderly disposition of any investments held on the date of enactment of this Act, the retention of which would be prohibited by section 111(b)(1)(C), and in order to protect the interest of the fund and its participants and beneficiaries, a fiduciary may in his discretion effect the disposition of such investment within three years after the date of enactment of this Act or within such additional time as the Secretary may be rule or regulation allow, and such action shall be deemed to be in compliance with section 111(b)(1)(C).

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that part 1 of title I be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DENT. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2) to revise the Welfare and Pension Plans Disclosure Act, had come to no resolution thereon.

## GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks and include extraneous matter on the pension bill, and that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on this bill.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

## PROHIBITING USE OF COUNTERFEIT AND LOST OR STOLEN AIRLINE TICKETS

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLYNT. Mr. Speaker, on behalf of Mr. Moss, Mr. EDWARDS of California, Mr. MCCLORY, and myself, I have today introduced legislation to amend title 18 of the United States Code to prohibit the transportation or use in interstate or foreign commerce of counterfeit, fraudulent, altered, lost, or stolen airline tickets.

This Nation's scheduled airline industry has become a national target for organized crime which is making a flourishing business in the trafficking of stolen and counterfeit ticket stock. During 1973 over 12,000 tickets were stolen from travel agents in the United States. This does not include the thefts from individual scheduled airlines. During 1973 one carrier alone had approximately 49,000 tickets stolen, and approximately 8,000 have been recovered. Since each carrier is responsible for its own ticket stock, an industry total is not now available. However, it is estimated that during the last several years there have been as many as 150,000 carrier tickets lost or stolen in transit, presenting a tremendous potential for airline loss. It is estimated that the dollar loss to the scheduled airlines could be in excess of $20,000,000 for 1974, at a time when many airlines are already in a difficult financial position.

Latest reports indicate one airline had an operating loss of $55 million and another $42 million in their most recent accounting period. Additional losses from stolen or counterfeit tickets would increase these operating losses and cause other airlines operating near the break-even point to join those already suffering net operating losses.

The problem involves theft from the many thousands of individual travel agencies plus the thefts from scheduled airlines.

The investigation and prosecution of stolen and counterfeit ticket stock poses a severe problem for the police officials in State jurisdictions. Stolen ticket stock is seldom utilized where the theft occurs—tickets being transferred quickly from one jurisdiction to another, with the prosecution beginning where the stolen ticket is first utilized, often in a State far removed from the initial point of theft.

Organized crime has developed many complex and devious methods for utilization of stolen or counterfeit ticket stock. And because of the multijurisdictional nature of the criminal operation, local law enforcement personnel are handicapped when investigating stolen ticket operations and seeking prosecution.

The legislation I am introducing will redefine the term "security" in title 18 and thus include airline ticket stock, which does not presently qualify as a security under title 18. The theft or fraudulent use of airline ticket stock does not presently qualify as a Federal crime. It is absolutely necessary that airline ticket stock be redefined and included under the Criminal Code as a thing of value so that the travel agents and the scheduled airline industry can seek the assistance of the Federal Bureau of Investigation in combating the burgeoning national black market industry in airline tickets.

Introduction and subsequent passage of this amendment to title 18 would clearly provide the Federal Bureau of Investigation the authority to investigate, prosecute, and prevent the mass black marketing of stolen and counterfeit tickets.

## SOCIAL SECURITY TAX REDUCTION PROPOSAL

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, at this time I would like to advise my colleague of the rapidly increasing media coverage which is being afforded to my social security tax reduction proposal that now numbers more than 65 cosponsors. Many publications have communicated the merits of this legislation, among them, the Boston Globe and the Boston Herald American, both of which in editorial columns implore this Congress to alleviate the gross injustices involved in the social security system. I believe that these messages in the press are indicative of a public mood, expressing a desire that this burdensome and unfair tax be reduced. I, therefore, summon my colleagues in the House and Senate to respond to this public plea. We now have a chance to ease the financial hardship which is visited upon the low- and middle-income segment of our work force in the form of the regressive social security tax. I urge you to join with me in a real effort to correct this grievance.

Various newspaper articles follow:

[From the Boston Globe, Feb. 11, 1974]

### BURKE TRYING TO EASE INJUSTICES OF SOCIAL SECURITY SYSTEM

(By David Wilson)

Massachusetts' Rep. James A. Burke, who is one of the best friends elderly people have in Washington, has decided to try to do something about the gross injustices involved in the Social Security system, and one can only wish him luck.

Burke, with three other Democratic members of the House Ways and Means Committee and at least the benign attention of its chairman Rep. Wilbur D. Mills, wants low-income working people—and their employers—to carry less of the burden.

His proposal, embodied in legislation, is so sensible and humane that it is hard to think up any argument against it or figure out why it has not already been put into effect.

By redistributing the impact of the tax up the income scale, it is possible to put more money in the pockets of working people in a time of severe inflation and at the same time lower the cost of doing business for employers.

The bill would cut the payroll tax from its present employer-matched 5.85 percent to 3.9 percent and increase the wage base subject to the tax from the current $13,200 to $25,000.

A person earning $13,200 now has a total of $722.20 deducted from salary annually. If the Burke bill passed, the tax would drop to $514.80.

A person earning $25,000 now pays the same $722.20. His annual tax would rise to $975.

In addition, the revenues flowing from the application of the reduced tax rate to the larger wage base would help make it possible to reduce the employer's matching contribution from one-half to one-third of the total.

Economists generally agree that most of the employer contribution would be paid out to workers in wages if the money did not have to be sent to Washington.

The bill also implies appropriation of some $20 billion in general tax revenues to support the funding of Social Security, according to Burke's staff.

It is not generally perceived that persons who derive their income from rents, dividends, capital gains, etc., make no contribution to the approximately $80 billion annual pay-out of Social Security. Nor do Federal corporate income taxes or other sources of government cash have any input. The thing is entirely funded through the flat-rate payroll deduction.

By placing some of the burden on the progressively graduated income tax and other Federal revenue sources, the bill would take a step toward restoring Social Security to its original role as income guarantor for old people and placing the cost of its compassionate social service function on general government revenues, where it belongs.

Reducing the employer contribution to one-third would, in Burke's view, have the effect of reducing the employer's cost of doing business, thereby making American manufactured goods more competitive with those of this country's trading partners.

It seems unconscionable that a citizen attempting to support a family on $10,000 a year now has the equivalent of $1070 removed from his earnings before he even gets them.

It is generally agreed that for more than half the working population—and that half whose income is below the median—Social Security taxes are more burdensome than personal income taxes.

It is particularly unfair, I think, that persons with large numbers of children to support—and birth rates are higher down the economic scale—receive no relief from the payroll tax. They are certainly the folk who need it the most.

The Burke bill represents a compromise between those who fear or oppose any change in the system and those who would finance it entirely from general funds. Because it is not radical, it may not get the attention it merits.

"It is high time," Burke said in announcing the bill, "that the burdens of the program were spread more evenly throughout the population. The obligation . . . falls to heavily on the lower and middle income people of the working force. The regressive features of the present Social Security tax actually penalize their working, and it is a long time before they reap the benefits of their labor."

If you don't believe it, check the stub on your pay check.

[From the Boston Evening Globe, Feb. 13, 1974]

### NOW IS TIME FOR SOCIAL SECURITY REFORM FIGHT

(By Joseph Levin)

This second session of the 93d Congress, in an election year, is an ideal moment politically to fight for reform of the Social Security tax structure.

A strong move in that direction has been mounted by Rep. James A. Burke of Massachusetts and three of his colleagues on the tax-writing House Ways and Means Committee which would have to pass on the measure before it gets to the House floor. Burke's allies are Rep. James C. Corman of California, William J. Green of Pennsylvania and Charles A. Vanik of Ohio.

Their bill would reduce the SS withholding tax (which is matched by an employer payroll tax) to 3.9 percent from the present 5.85 percent. The wage base subject to the withholding and payroll taxes would rise from the present $13,300 to $25,000. In addition, the bill would provide for a three-way split of the overall cost of the SS program among the US Treasury General Fund, the employer and the employee.

This bill would go far towards ironing out the inequities in the SS tax system. But to call these inequities "injustices," as some writers do habitually beclouds the issue. An injustice would be for the SS Administration to refuse to pay a benefit for which one is eligible, or connive with an employer or worker to help them escape their tax burden.

The present SS tax structure is not "injustice" but simply inequitable and regressive. The state income tax is also regressive, but you could hardly call it unjust when the state's voters in the recent referendum refused to approve a graduated income tax.

What the Burke bill needs if it is to pass Congress is overwhelming grassroots support—personal letters to your own Congressmen do the most good. Support from organizations likewise helps.

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[From the Herald Advertiser, Feb. 24, 1974]

ELDERLY MALIGNED WHEN BLAMED FOR INCREASED COSTS

(By Wendell Coltin)

We do a "slow burn" everytime we see and hear the elderly being maligned whenever Social Security benefits and taxes are increased.

There are people who are either unaware of things with which they should be familiar, or they ignore them in their writings and mouthings.

Take, for example, this single paragraph which appeared in a prestigious business paper:

". . . They (new benefits) go to 29.3 million retirees who have stopped contributing to the system, as well as those who will soon retire."

Those 29-million beneficiaries are not all retirees!

Furthermore, retirees who continue to work pay Social Security taxes—contributions—on their earnings.

Oh, you can be sure that when Social Security benefits are raised, elderly persons who labored a lifetime will be put in a bad light, made to look like parasites living off the contributions of others who have come behind them in the labor market.

Indeed, cash benefits are raised for the elderly, who are on limited fixed incomes, generally—and safely—speaking; but overlooked by those who "put it all" on them in their writings and oral commentaries is the fact many others share the increases, too. Would you believe 10-million; one-third of the beneficiaries?

Why, some of the beneficiaries are just infants! Some are students who are able to continue their education beyond high school with the help of monthly checks payable on the earnings' records, under Social Security, of deceased, disabled, or retired parents. Some are even adopted children collecting on earnings' records of parents or grandfathers who are raising them. Wonderful, isn't it?

We have a dear little friend—an adopted girl now 10 years of age—whose father was a victim of sudden death, by natural causes, three years ago. The little girl and her mother are receiving monthly cash benefits under Social Security on the account of the deceased husband-father. The mother has said frankly she doesn't know how they could manage without Social Security.

The little girl will continue to receive benefits until she is 22, if she continues with her schooling after age 18 and remains unmarried; just as there are many students in college today—and others before them—who were able to complete higher education with the assistance of benefits on the accounts of deceased, disabled, or retired parents.

The mother of the little girl, now receiving mother's benefits because she has in her care a child entitled to benefits, will be able after the child reaches 18—and her benefits as a mother are terminated—to switch to a widow's account, because she will then be in her 60's.

We know of several young men and women who would have had to drop out of school, or college, upon the sudden death of Social Security-covered parents, but for the benefits.

We are familiar with cases of disabled persons, who have been able to qualify for Social Security benefits. Fortunately, a long overdue change in the Medicare law was enacted in October, 1972—put into effect July 1, 1972—qualifying those disabled beneficiaries under age 65 for Medicare in the 25th month of their receiving cash benefits under Social Security.

Like elderly retirees, these disabled persons are on limited fixed incomes, with high medical expenses. They are not getting a public handout. Certainly, the money they contributed to Social Security helped finance benefits for older persons who retired ahead of them, but at the same time they were providing insurance for themselves against disability and also survivors' insurance for their families, in the event of their death.

This recalls a conversation recently with a man in a high Social Security position in Baltimore. He related a conversation he had with a young woman on the staff of a New York TV outlet.

She pulled out that old chestnut of how much money a person would have at 65 if he banked every week the amount of money taken out of his wages for Social Security. Our friend told her he has a brother with seven children and he "can't save a nickel," but if he should become disabled, his family would be financially protected. Furthermore, he is providing for retirement and building an earnings' record for survivors insurance.

On occasions someone has mentioned to us this matter of how much he—or another contributor to Social Security might have—if he were to put into the bank every week the amount being deducted from his check and we have come up with a stopper, when we have inquired, "Can you save a $2 Christmas Club every week?"

All the Social Security benefits go to retirees and persons soon to retire, do they? How about the wife and nine children, ages 7 to 17, of a wage-earner, who died at age 47 after a long illness. Also the three young children of a woman who died as a result of a kidney ailment? She had sufficient credits for them to benefit.

Strange how cases come so quickly to mind; such as that of the young father killed in an automobile crash. His widow and two children, under age five, qualified for benefits of $495 a month. The 11 percent increase this year will be welcomed in that household.

The need for reforming the Social Security tax structure has been for many years. It has been pointed up in this column and in special Social Security-Medicare sections we have published. We expect the Social Security tax burden to be given serious attention in Congress this year and recently in our news columns, we mentioned that U.S. Rep. James A. Burke (D-Mass.), and three other high-ranking members of the Ways and Means Committee have recommended the current rate of 5.85 for employer and employes be reduced to 3.9 percent and the base lifted from $13,200 to $25,000.

The Social Security tax burden has been getting heavier for the lower and middle income wage-earners. Burke has long advocated that instead of the 50-50 split of the tax—with the employe's contributions matched by his employer—the program be financed with one third of the tax being paid by the employer, one third by the worker and the remaining third paid from general revenue. There are persons who don't feel there should be contributions from general revenue, despite the need for relief from the increasingly heavy tax burden.

The employe and employer's share would be 3.9 percent for the years 1975 through 1977; and the proposed rates for self-employed persons, now 7.90 percent, would be 5.40 percent for 1975 through 1977.

One can sympathize with retirees on limited fixed incomes, who contributed to Social Security over many years. One can also sympathize with young people trying to purchase homes and raise families in the face of astronomical costs of living and having to pay what has been called a regressive (Social Security) tax; but let's not make the elderly Social Security-receiving retiree look like a villian, or parasite. Along with being a cash beneficiary on merits, he deserves to be a beneficiary of fair reporting.

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## GASOLINE SHORTAGE

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, over the last few days and weeks I have received a great many letters from my constituents concerning the energy situation. My staff and I have tried to decide how best to respond to the hundreds of letters and the 200 to 300 phone calls we receive everyday regarding the gasoline crisis. Each letter and call is as different as the individual with whom it originated—and yet they all have a great deal in common—a sincere concern about the inconveniences and serious repercussions of our current gasoline shortages.

I have talked on several occasions with Mr. Simon of the FEO, with independent service station owners, with oil company executives and on literally hundreds of occasions with individual citizens. In trying to fit the pieces of all this together, the one thread that runs throughout the mail and the conferences is frustration. "Why can't someone do something?" "Why can't we pinpoint the problem and, therefore, solve it?" "Who is responsible?"

The shortage of gasoline is a unique problem to a unique society; it is felt immediately by everyone. This is a psychological and sociological phenomenon amounting to cultural shock. An imminently personal inconvenience, felt at once, by 200 million people in a society almost totally dependent on mobility for our livelihood, as well as the preservation of our way of life, in a country with instant mass media.

The oil industry runs the length and breadth of the country—a dozen major oil companies—service stations on every corner in the smallest village and largest city and scattered along roadways in between; a distribution system involving countless thousands of trucks; a Federal Government, renowned for its bureaucratic redtape. The brutal fact is that trying to solve a problem of this magnitude and complexity, involving a giant industry in a country of the size of the United States, the citizens of which own and operate over 60 million cars, is an almost staggering challenge to all parties involved—including the individual.

How to solve this crisis as quickly as possible and as equitably as possible? The possible solutions and corresponding disadvantages are:

SOLUTION

Free gasoline market in which the law of supply and demand raises the price of gasoline so as to cause individuals to be very frugal with its use.

DISADVANTAGE

Individuals on fixed and low incomes will suffer the most, with increased costs adversely affecting our already excessive inflationary rates.

SOLUTION

Rationing.

DISADVANTAGE

Almost impossible to administer in an equitable and efficient manner. During World War II, when rationing was in effect, there were black markets and other criminal activities which resulted from a situation that was found even then, before the growth of our suburban society, to be impossible to control. In addition, any authorized amount of fuel now being considered would make it impossible for many of our citizens to continue to commute to and from their places of employment if all of their individual allocation was used solely for that purpose.

SOLUTION

Present system of allocation.

DISADVANTAGE

Some States apparently have no shortage while others have gas lines miles long. Again, we see tangible evidence of the problems of administration and efficiency of such a program. Clearly the present allocation program, based on figures that are 2 years old, has simply not worked and is, in fact, magnifying the problem. The allocation formulas are currently being revised and in the event they do not prove effective in bringing the available supplies from the oil fields to the pumps at the local station in the near future, alternative programs or the termination of the present system must be considered.

Is there a solution that has not been considered?

It is my opinion that there is no question that the oil industry benefits from unusual tax benefits which must be immediately reexamined, particularly since they are poorly designed to meet the Nation's current needs in this time of shortage. As you know, the principal tax benefits that have been granted as a unique advantage to the oil industry are: Allowances for intangible drilling costs deductible from taxable income; depletion allowances of 22 percent of gross revenues as compensation for the decreasing value of an oil property as it is pumped out; and foreign tax credits permitting a company to deduct from U.S. taxes due the taxes which it pays to a foreign government. These measures are simply not designed to promote the real solution to our problems—additional supplies—as a result of increased domestic exploration.

The question of excess, or "windfall" profits for the petroleum industry is one which is receiving priority attention by the Congress and the administration. However, this is a hotly debated issue and is one of the primary reasons for the failure to date of Congress to approve the emergency energy bill. One must consider profits "excess" if they result not from a corporation's efficiency or inventiveness, but from outside circumstances that remove the normal restrictions of the free market and allow unreasonable profits at the expense of the public.

The current shortage establishes a set of circumstances under which oil companies have an opportunity to obtain higher prices for their products than normal conditions would justify. Some modestly increased prices may be justified and may have to be tolerated to provide capital for industry expansion and additional supplies and production—the oil industry estimates that financing the costs of additional exploration, leasing new oil fields, building refineries and distribution systems will require an awesome $800 billion between now and 1985—but Goverment policy should insure that abnormal profits generated by those prices are returned for the public good—by capturing them through additional taxation. Simple justice demands that no company or individual profits unconscionably from a national crisis.

One of the major problems which the Government now faces in dealing with the energy crisis is the fact that under existing law, there is no authority to demand of the oil industry those facts and figures necessary for proper governmental planning to compensate for the shortages we face today and in upcoming months. I might add that without this authority, there is currently no means to insure that the price increases requested by oil companies are actually justified.

Accordingly, I recently sponsored legislation to require the petroleum industry to report all oil and gas reserves, refinery capacity and current production, and inventories on all petroleum products on hand to assist in dealing with the energy crisis. In addition, my bill would authorize the General Accounting Office to investigate, audit, and verify the accuracy of all information required by the Federal Government and would subject anyone failing to provide the required information or submitting inaccurate information to heavy fines. The Federal Energy Office is actively seeking the enactment of this type of legislation, and I have great hopes that the Congress will approve the bill in the near future.

The end-of-the-month allotments now being authorized by the Federal Energy Office, and the additional allotment of 5 percent amounting to some 7.5 million gallons of gasoline that we were successful in obtaining for the Commonwealth of Virginia recently, will help a little; but represents only a temporary relief. Although permanent additional supplies can be expected in the future, allotment shortages on a month-by-month basis under the current program can be expected. The rest of the problem is the lack of adequate information, on which to base intelligent allocation decisions; the fact that allocations are inherently arbitrary; and in giving more to some, you must give less to someone else.

Americans have made many sacrifices in this and other situations that have faced this Nation over the period of our history. The simple fact is, however, that most Americans do not understand how or why this particular situation exists or the suddenness in which it arose. The endless lines and traffic jams at the stations that serve our daily community and business requirements must be eliminated. Our citizens are looking to us for a solution to this problem, and soon. Simple justice and the preservation of our way of life require that we take affirmative and early action to satisfy their demands, regardless of what those steps may be or how extraordinary these actions may seem. To do less would be unsatisfactory and irresponsible.

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## COUGHLIN ANNOUNCES SIX-POINT PLAN TO COPE WITH ENERGY CRISIS

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. COUGHLIN. Mr. Speaker, I would like to bring to the attention of my colleagues the following letter which I sent on Friday, February 22, to Mr. William E. Simon, Administrator of the Federal Energy Office.

At that time I proposed to him a six-point program requiring both legislative and executive action to help alleviate the energy crisis. It is clear that both the Congress and the administration have failed to act decisively on this matter, and critical shortages have been felt not only in my own State of Pennsylvania, but in many other areas of the country as well. I feel that the six proposals I have made will provide a significant step forward in encouraging domestic fuel production and making additional fuel supplies available to the general public.

It is important to note that one of my recommendations already has met with positive results. Shortly after the issuance of my letter on Friday, Mr. Simon announced the release of 24.39 million gallons of gasoline to Pennsylvania in recognition of severe emergency shortages in certain areas of the State. This extra supply was in addition to 6 million gallons which Pennsylvania had been allotted on February 19.

While I am gratified by these recent actions, these immediate results must not overshadow the need for more long-range and all-encompassing measures. I commend your attention to my program and urge your active cooperation and participation toward its enactment and implementation. Although I realize that my proposals will not solve the energy crisis, I feel they do provide a cornerstone on which to build, and I encourage all Members of Congress to continue their work toward making this country energy self-sustaining.

The letter follows:

FEBRUARY 22, 1974.

Mr. WILLIAM E. SIMON,
*Administrator, Federal Energy Office,*
*Washington, D.C.*

DEAR BILL: The fuel shortage and spiraling costs have reached disastrous proportions in my Congressional District as in many others. At the same time, I have come away from meeting after meeting with you and other representatives of the Administration with an increasing sense of frustration.

As a result, I would propose the following six point program involving both legislative and executive action to alleviate the immediate effects:

1. We have had an impossible time getting information on allocation formulas and figures. Can we not be told what percentage of 1972 usage is allocated to Pennsylvania and to other states? Can we not be given the absolute figures as to the total number of barrels and gallons allocated to Pennsylvania? Can we not be told the basis for granting Pennsylvania a two percent increase in allocations whereas some other states received a five percent increase?

Within Pennsylvania itself there is an urgent need to reallocate fuel from surplus areas to shortage areas. The three percent allocation to the state for emergency purposes is not sufficient to cover geographic disparities because of different growth rates in different parts of the state and the fast growing suburban areas are particularly short-changed. Until this is corrected and in view of the admitted shortcomings of the original allocation plan, I urge you to release immediately to hard-pressed Pennsylvania additional supplies of gasoline which are reported to be more than adequate in storage facilities.

2. As a result of substantial savings of fuel by the American people, I understand that the originally predicted 2.7 million barrels a day projected shortfall for 1974 has been reduced to one million barrels a day or less. This shortfall could be made up from the following sources all of which are estimated to be available within from three months to one year:

A total of 300,000 barrels a day from the Elk Hills Reserve. I voted to appropriate the funds to tap this reserve last year but the proposal is still being held up by the Armed Services Committee. I ask you to join in impressing upon the Committee the urgency of releasing these reserves.

A total of 300,000 barrels per day savings from 42 power plants now using petroleum which could be easily converted to coal. These plants have all been identified by the Environmental Protection Agency as providing a minimal risk to the environment if converted. I supported this move in Congress. The authority for this is in the Energy Emergency Act still before the Congress and I urge your assistance in retaining this provision in the measure.

A total of 500,000 barrels per day could be available within a year from the West Coast of California.

These two sources and one savings would more than make up the shortfall projected by your office, and the program should be implemented immediately.

3. Encourage importation of foreign crude in particular by the independents. It appears that such crude is available on the world market, even though the cost of such crude might translate into a price of 75 cents per gallon of gasoline. This would help allow an individual who must have gasoline for his livelihood to at least be able to obtain it.

4. Independent service station dealers must be allowed to take into account increased costs. Early action is needed to avoid shutdowns by dealers who are being forced to absorb these costs. If they cannot receive a price increase to avoid such shutdowns, I suggest they be permitted to add a service charge to each bill in a percentage sufficient to cover this.

5. The tax credit for foreign royalties received by the international oil companies would appear to have the unfortunate effect of encouraging the oil companies to cooperate with the producing nations to increase the royalties and consequently the cost of oil to the American consumer. The higher the royalties, the greater the tax credit and the larger the profit to the international oil company. This has at least been a substantial factor in the soaring profits of the international oil companies at the consumer's expense. Although I know that this is a legislative matter, encouragement from your office could help to alleviate this situation. This provision must be eliminated or modified.

6. While I realize that the President already has some authority to curtail exports of petroleum products from the United States, I am cosponsoring legislation to clarify that authority. I would urge that the President exercise existing authorities to curtail exports where that action would not create a retaliatory action that would have an adverse effect on fuel supply in the United States.

I would appreciate your attention to and comments on these proposals on a high priority basis. We need answers—and quickly.

With all best wishes,

Cordially,

LAWRENCE COUGHLIN.

## SENATOR GOLDWATER HAS NOW BEEN PROVEN RIGHT

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, Columnist James J. Kilpatrick has sounded a note of interest to which many Americans now probably subscribe; that is, that BARRY GOLDWATER, in 1964, stated many truths. At that time people were not willing to listen, but he has now proven to be correct. It is unfortunate that there sometimes has to be a passage of time before we can properly evaluate statements of truth that are given to us by leaders who try to explain their honest thoughts and convictions. I urge my colleagues to read carefully the remarks of James J. Kilpatrick which appeared in yesterday's Washington Star-News as they relate to the senior Senator from Arizona who bore the standard of the Republican party in 1964:

IN MANY HEARTS BARRY'S STILL RIGHT

(By James J. Kilpatrick)

The text of a speech delivered in Washington on Feb. 6 has just come to hand. It was a honey of a speech, and it prompts me to wonder aloud if its author, Sen. Barry Goldwater, could be talked into running for president once more.

A prudent columnist knows better than to ask the senator himself about this, for the senator would only say "no," or maybe "hell, no." And there's no point in drowning a nice warm idea in cold water. The proposition ought not to be brushed aside.

When the senator ran as the Republican nominee in 1964, every conceivable political factor counted against him. He himself was little-known; he came from a small state with no political clout; from the very night of his acceptance speech, partly through his own fault, he was unable to shake an image of right-wing extremism. John Kennedy had been killed in November 1963; Lyndon Johnson still commanded enormous support; the country was not about to vote for a third president in barely a year. Goldwater polled a respectable 27 million votes, but he got swamped in the electoral college.

The situation is vastly different now. Goldwater is "Mr. Republican." He has grown in the country's respect and affection. He is untouched by Watergate. He was born in 1909, which would make him 68 at inaugural time in 1977. It would be pretty old for an incoming president—but we hear much talk of Nelson Rockefeller (1908), Ronald Reagan (1911), and Henry Jackson (1912). It would be interesting to see Dr. Gallup test Goldwater's name in an iffiness poll: If the election were being held tomorrow, how would Goldwater do against Ted Kennedy? He might do remarkably well.

Goldwater began by criticizing the typical performance of an ill-prepared businessman before a congressional committee. He warned the industrialists that they must expect tough questions prepared by "brilliant young staff members who mistrust or totally disbelieve the attributes of the enterprise system."

Turning to broader themes, Goldwater took note (by implication) of recent legislative trends affecting railroads, health care, communications, and petroleum: "I believe that competitive enterprise is now face to face with one of the greatest threats in this country's 100-year history."

Determined forces are working toward nationalization, Goldwater said, though they call it something else. "You can butter up the term, sweeten it, pour syrup on it, do anything you want with it—but it is nothing but socialism, and that is the system that has never done anything for any people."

Goldwater urged the industrial leaders to promote the profit system in their own communities, to compete in the intellectual marketplace of ideas, and to employ all the legitimate means at their disposal in support of candidates who believe in private enterprise. He wound up with a ringing defense of economic freedom, which he termed "the essential freedom." What good is the right to life, Goldwater asked, "if a man does not control the means to life?"

It was a real bell-ringer of a speech, clear and clean. It recalled Goldwater's fine little book, "The Conscience of a Conservative," written 15 years ago, and it echoed the best of his campaign speeches of 1964. The Republican slogan in that election was, "You know in your heart that he's right." Ten years later, Barry Goldwater is still right, and a great many concerned Americans still know it in their hearts.

## PRIVACY FOR AMERICAN CITIZENS

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, it has been revealed by the media that the FBI has made available files on Members of Congress and the public for the purposes of intimidation. The New York Times on February 25 stated:

The source recalled one Senator who had been told of an investigation concerning his daughter, a college student who had "gotten involved in demonstrations and free love", and a Republican Representative who had been told the Bureau possessed evidence indicating that he was a homosexual.

"We had him in our pocket after that," the source said of the Representative. He added that he could not recall the Senator, a liberal Democrat, ever criticizing the F.B.I. in public

The President just established a Cabinet-level White House committee "to draw up safeguards for protection of the privacy of individual citizens against misuse of information about them stored in computers." The names of "over 150 million Americans" are now in computer banks "scattered across the country" he said. "Data banks affect nearly every man, woman, and child in the United States", he added, and the result is often that the citizen's right to privacy is "seriously damaged—sometimes beyond repair."

He further said:

Frequently, the side effect is financial damage but it sometimes goes even further. Careers have been ruined, marriage have been wrecked and reputations built up over a lifetime have been destroyed by the misuse or abuse of data technology in both private and public hands.

I would like to point out to the President and others interested in this subject that this is not a new matter. While I am pleased that there is new concern about this matter, legislation has already been drafted. No new commissions or studies are needed. In fact the Department of Health, Education, and Welfare released a report on the need to provide safeguards to protect the citizens of this country from the overzealous collection of information now going on in both the public and private sectors. This report was the result of a study conducted by the Secretary's Advisory Committee on Automated Personal Data Systems, and was released July 1973.

It was on February 19, 1974, 5 years to the date after I first introduced the first privacy bill in Congress, H.R. 667, that hearings were held on that legislation. Today the administration chose to testify against the bill.

What must be avoided is an attempt to defer legislation by calling for new studies which are unnecessary.

When I ascertained that the FBI had been accumulating dossiers on Members of Congress, I along with Congressmen BENJAMIN ROSENTHAL and JONATHAN BINGHAM asked the Director of thet FBI to provide us with our respective files. The FBI did not do so and so the three of us initiated a lawsuit to compel the opening of those files to us. Subsequent to the lawsuit, FBI Director Kelley announced he was modifying his prior refusal to make our files available to us. I have received my file which includes newspaper clippings, a flyer which lists my opposition to the Vietnam war, my correspondence with the FBI on the subject of dossiers, my testimony against Acting Director Patrick Gray's confirmation before the Senate Judiciary Committee and a fact sheet which opened my file with the FBI when I was elected. That fact sheet is very interesting and I am setting forth the information exactly as it appears.

NOVEMBER 7, 1968.

U.S. GOVERNMENT MEMORANDUM

Mr. Bishop.
Mr. A. Jones.
Edwin I. Koch (D-New York), Congressman-elect—17th District.

DETAILS

On 11-5-68 Democrat Edwin I. Koch of New York City, was elected to the 17th Congressional District seat held by retiring Repr. Theodore R. Kupferman (R). Koch who was born in 1924 in New York City attended the College of the City of New York and received his LL.B. degree from New York University. He is a former councilman and has been a Democratic leader since 1963.

INFORMATION IN BUFILES

A check of Bureau indices reflects no reference identifiable with Koch.

RECOMMENDATION

None. For information.

If the FBI failed to ascertain correctly what my name was, it has always been Edward and never Edwin, one cannot help but speculate on what other inaccuracies its voluminous dossiers contain. There is no question but that the FBI and every other agency has a legitimate interest in collecting certain kinds of information needed for Government business. There is also no question that there must be limitations on the kind of information collected and how it is used. There is a balance to be maintained, however between the need for information and the need for personal privacy.

I have introduced two principal bills to regulate the collection and maintenance of information on individuals. The first is H.R. 667, as amended, which I have mentioned earlier. It affects all Federal data collections. Basically it would permit an individual to inspect a file maintained on him by a Federal agency, supplement and correct information in his records, and remove erroneous material. Regulations for data collection and maintenance would be published for public review by each agency. Exceptions to the disclosure rule would be made only for files held for national defense and foreign policy purposes and law enforcement investigations.

A complementary bill, H.R. 9759, would provide similar protection to individuals from abuses by private and non-Federal public data banks. The provisions of this bill, now before the Judiciary Committee, would be implemented by a Federal Privacy Board which it would establish.

I hope that the Judiciary Subcômmittee on Civil Rights and Constitutional Rights will schedule this bill for early hearings.

The problems have been recognized. Now we must make certain we deal with them, not with more studies, but with legislation long overdue.

## COAL STRIP MINING BILLS COMPARED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOSMER) is recognized for 30 minutes.

Mr. HOSMER. Mr. Speaker, tomorrow the House Interior and Insular Affairs Committee will decide between H.R. 11500 and H.R. 12898 as the vehicle for marking up its proposed legislation regulating surface coal mining operations.

COMMENT ON BASIC DIFFERENCES

The basic difference between H.R. 11500 and H.R. 12898 is the philosophy underlying their respective approaches to regulating strip mining to the end that unconscionable abuses of the environment characteristic of the past will not be the pattern of the future.

H.R. 11500 is Federal control and hard-nosed in its approach. It overweighs environmental values and underweighs energy values, seeming almost to tackle the surface mining problem by imposing such severe and detailed regulations that coal mining will be driven underground.

H.R. 12898 relies on the States to regulate and do so strictly. It brings in the Feds when they won't. It weighs environment and energy values evenly, recognizing some limited deterioration of the environment as the price for availability of coal from surface mines as an essential energy resource. Thus its demands are comparatively less rigid and inflexible while still preserving essential environmental values.

ADMINISTRATION POSITION

The Nixon administration in its February 6, 1974, letter to Mr. Haley objects to H.R. 11500, saying that the bill goes too far toward the environmentalist viewpoint and will make it very expensive and quite difficult to dig the coal needed to replace petroleum which is either unavailable or for other reasons can no longer be depended upon to meet the Nation's energy demands. No suggested amendatory language is supplied.

The Nixon administration in its February 22, 1974, letter to me says that H.R. 12898 goes too far in its weighing of energy values in relation to environmental values, but recommends it as a superior vehicle for markup purposes. The letter lists 12 recommended changes toward the direction of H.R. 11500 and supplies the suggested amendatory language.

COMMENT ON MAJOR SPECIFIC DIFFERENCES BETWEEN THE TWO BILLS

DOWNSLOPE PLACEMENT OF SPOIL

H.R. 11500 dictates that the only spoil allowed to go downslope is that from the initial cut necessary to gain access to the seam. Thereafter additional spoil must be placed behind the initial and subsequent cuts, no matter what, and that can be a difficult or prohibitive way to mine. H.R. 12898 allows some flexibility. When environmental damage can be avoided, the regulatory authority can permit other spoil from uncovering the seam to be placed downslope if it is shaped, graded and revegetated. No other or additional spoil is allowed downslope. More than 100 million tons of current coal production per year comes from steep slopes. Much of it is unlikely to be mined unless this difficulty with H.R. 11500 is removed by H.R. 12898.

RETURN TO ORIGINAL CONTOUR

The demand in H.R. 11500 for the return of the land after mining it to its approximate original contour also would impede, and in many cases, prohibit access to this same 100 million tons of current coal production and future increases in the production. H.R. 11500 requires the return even though in some cases it may stand in the way of slope stability and erosion control. H.R. 11500's meager discretion for relaxing this requirement is unrealistically rigid. H.R. 12898 sensibly says that you have to protect streams against siltation and acid runoff, insure the stability of slopes, and guarantee that revegetation does occur—but it also sensibly says that you do not have to go to all the trouble and expense of returning to original approximate contour in cases where, after mining, the land can be put to an equal or better use without doing so.

Note: 100 million tons of coal displaces about 400 million barrels of oil.

OPEN PIT MINES

Strip mines and open pit mines are two vastly different things requiring totally different treatment. H.R. 11500 attempts to deal with these and does so badly.

H.R. 12898 recognizes the problem, does not complicate this bill with it, but leaves the matter open to a separate legislative approach, where it belongs.

COVERAGE OF UNDERGROUND MINES

H.R. 12898 is clearly limited to surface activities of underground mines. H.R. 11500 is ambiguous as to whether subsidence caused by underground activities is also covered, thus unnecessarily opening up an area for litigation and disputation.

TIMING OF THE REGULATORY PROGRAM

H.R. 11500 directs the Secretary of the Interior to develop a regulatory program within 18 months, and new mining starts on Federal land would be prohibited in the meantime. By the time impact statements are drafted and circulated, administrative hearings and court actions concluded and leases issued, 2½ to 3 years could go by before anyone could get a license to open a new surface coal mine on public land. Alternatively, H.R. 12898 puts its interim performance standards in effect 90 days and does not prevent the licensing and opening of new mines complying with these standards. The Nation's need for coal to replace petroleum is not ignored.

DESIGNATION OF LANDS UNSUITABLE FOR MINING

Both bills require States to designate areas unsuitable for strip mining. Both base it upon the suitability of land for reclamation after mining. H.R. 11500, however, goes into considerable details as to the definition of such lands and locks them up permanently. H.R. 12898 applies a much simpler test: it says lands which cannot be reclaimed under applicable standards are unsuitable for mining. If at sometime thereafter, new techniques emerge for reclamation which do meet the standards, then permits can be issued.

ENFORCEMENT

Both bills provide for Federal enforcement if States fail to act. H.R. 11500 gets the Federal Government in quicker and deeper and out slower. It also threatens Federal injunctive action at an earlier time and otherwise generally undermines the philosophy of State responsibility and State accountability.

MINING ON CERTAIN FEDERAL LANDS

H.R. 12898 provides for existing laws as to where mining can take place on Federal lands to remain in effect. But, H.R. 11500 would set up a new series of "no-no" mining areas, such as within national park boundaries, national forests the national wildlife refuges and preservation system and wild and scenic river systems.

CONFIDENTIALITY OF DATA

H.R. 12898 gives protection against unauthorized disclosure or use of proprietary data. H.R. 11500 contains no such provision except as to information on mineral seams.

CITIZENS SUITS

H.R. 12898 limits them to persons aggrieved by action or inaction of a regulatory authority. H.R. 11500 allows anybody, aggrieved or not, to sue—as such it is a wide open invitation for endless litigation.

CESSATION ORDERS

Federal inspectors under H.R. 12898 can shut down operations when the operator is alleged to be in violation of the act. Under H.R. 11500 the order can be issued whenever the operator is alleged to be in violation of any requirement of the act or any permit condition.

RECLAMATION OF ORPHAN LANDS

No provision in H.R. 12898.

MINERAL EDUCATION INSTITUTES

No provision in H.R. 12898.

ADMINISTRATION OBJECTIONS TO BOTH BILLS

Although preferring H.R. 12898 as a markup vehicle, the Nixon administration wants a number of changes whichever bill is selected for markup. It puts its recommendations for changes in H.R. 11500 in a letter to the chairman of the House Interior and Insular Affairs Committee under date of February 6 and for changes in H.R. 12898 in a letter to me as ranking member under date of February 22. The salient objections to each bill involved the following subjects:

OBJECTIONS TO H.R. 11500

1. Interim program.
2. Designating lands unsuitable for surface coal mining.
3. Protection of public areas.
4. Performance criteria.
a. Restoring original contour.
b. Hydrologic.
c. Impoundments.
d. Underground mine buffer.
e. Explosives.
f. Augering.
5. Underground mining.
6. Public notice and hearings; Decisions of Regulatory Authority and Appeals.
7. Federal enforcement.
8. Abandoned mine reclamation fund.
9. Responsibility for surface mining reclamation program.
10. Program for non-coal mine environmental impact control.
11. Procurement.
12. Continuing Federal Grants to States.
13. Surface owner protection.
14. Mining and mineral research centers.

OBJECTIONS TO H.R. 12898

1. Spoil on downslope.
2. Surface disturbance incident to underground mining.
3. Open pit coal mining.
4. Air and water quality-concurrence of EPA.
5. Citizens suits.
6. Impoundments.
7. Exception to interim performance standards.
8. Time limits for actions on permits.
9. Steep slope definition.
10. Judicial review.
11. Federal enforcement.
12. Performance standard departures for developing new technology.

MINING INDUSTRY POSITION

Insofar as I can ascertain, the mining industry is unalterably opposed to H.R. 11500 on the basis that no one can dig much coal under it and that it would hardly be worth while to try doing so, considering the detailed and oppressive regulatory pattern of the bill, the exposure to harassing lawsuits and criminal penalties and its other deterrents to enterprise. On the other hand, the industry seems to be alterably opposed to H.R. 12898, hoping some of the strictness of its regulation will be toned down, but possibly willing to swallow the thing if it passes, in which event they would make an honest effort to dig coal under it.

CONCLUSIONS

From the foregoing it is almost impossible to make any definitive conclusions about what is likely to happen. Too many people are sour about too many things. The parliamentary position Wednesday is that of taking a vote on substitution of H.R. 12898 for H.R. 11500 as the markup vehicle.

My guess is that, should the substitution be approved, considerable by way of amendments along lines proposed by the administration will ensue and the amended H.R. 12898 will eventually make its way past the Interior Committee, past the Rules Committee, and past the House, all by small margins

If, on the other hand, the environmental coalition insists on having its way and H.R. 11500 is the markup vehicle, then I think these people will be able to vote down most amendments to the bill and that there will be sufficient objection to it from enough sources to insure that it will never see the black of print.

These zealous people will have won their battle and lost their war. All the people of this Nation will have to wait another year for reasonable legislation to protect the country from the depredations of such operators in the surface coal mining industry as are unconscionable and callous to the legitimate environmental objectives of our society. That will be too bad.

## CLEAN WATER PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GROVER) is recognized for 5 minutes.

Mr. GROVER. Mr. Speaker, reference is made to my remarks of February 13, 1974, in which I discussed the implementation of the Water Pollution Control Act Amendments of 1972.

In view of the numerous typographical errors which appeared in the reprint in the RECORD of February 14, 1974, I ask unanimous consent that the RECORD be corrected accordingly and that I be permitted to resubmit my remarks in their entirety:

Mr. GROVER. Mr. Speaker, the chairman of the Subcommittee on Investigation and Review of the Committee on Public Works, my good friend from Texas, JIM WRIGHT, and the ranking minority member, my good friend from New Hampshire, JIM CLEVELAND, deserve a full measure of credit for initiating hearings on our clean water program.

Just over 2 years ago, the Congress passed over the President's veto of the 1972 amendments to the Federal Water Pollution Control Act. This massive new approach toward providing the quality of water that our Nation needs and deserves was hailed as the finest piece of environmental legislation ever passed by the Congress. Even so, those of us who served on the committee of conference on the part of the House were concerned at that time that control requirements by specific dates may have been too strict. The agreement reached with the representatives of the other body, however, was embraced by all, and we expected great progress in our water pollution control efforts.

I recognize that the Congress set out many and varied, new and difficult requirements in the legislation. However, we did not expect that our requirements would become stumbling blocks and excuses for not making the water pollution control progress which we expected and required. The bill set requirements that were stringent. We expected, however, that a new, dedicated, energetic agency would seize every opportunity to move ahead rather than delay the effort.

It seems to me from what I heard during the 3 days of hearings held to date that there has been a strong tendency to use opportunities to delay rather than forthrightly to develop techniques and methods consistent with the law for moving ahead. We heard one witness state that the Environmental Protection Agency tended to adopt a rigid interpretation of the law when a rigid interpretation would add delays, and that the Environmental Protection Agency tended to adopt a flexible interpretation when a flexible interpretation would cause delays. I certainly hope this has not been the case, because I know there are many able and dedicated people within the Environmental Protection Agency. Unfortunately, one who had the opportunity to participate in the subcommittee's hearings, as I did, is led to believe that where there is smoke there must be fire. There have been delays, and they all do not have a reasonable excuse.

One overriding aspect of the 1972 amendments was clearly defined in section 101(b):

> It is the policy of the Congress to recognize, preserve, and protect the primary responsibility and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use . . . of land and water resources and to consult with the Administrator in the exercise of his authority under this Act.

We meant what we said.

As we have learned from our hearings, it is obvious, neither this policy as declared by the Congress nor the spirit of the law that was enunciated has been carried out.

Some States, certainly not all, have had, do have, and will continue to have superior capabilities to handle water pollution control programs. It is incumbent upon the Environmental Protection Agency to recognize the capability of the States, to coordinate with the States, to turn over as much as possible to the States, and then to depend upon the States to do the job.

I urge the Environmental Protection Agency to concentrate their efforts in the next few months on determining how they may lawfully structure the grant program and operate it in a manner to start more new construction projects. I urge the Environmental Protection Agency to work with the States and municipalities to get more new construction underway. On the other hand, I urge the Congress, and particularly the other body, to recognize that it is more important to get new construction projects started, consistent with the intent of the law, than it is to dot every "i" in every regulation and requirement.

I, at this time, would like to urge the Subcommittee on Investigation and Review to continue these most worthwhile hearings on the water pollution control program throughout the next 5 or 6 months or more. I would suggest that the Members and staff consider at least 3 days of hearings each month to review various aspects of the water pollution control program. For example, I believe it will be useful to devote our scrutiny to the questions of industrial effluent limitations; the impact of the user fee requirements; the research and development program; the planning program, or lack of it; the enforcement program; control of toxic materials; and last but not least, the results in the way of clean water that have been achieved to date.

An important and laudatory effort has been started by Chairman Jim Wright and Jim Cleveland and the subcommittee. There is a lot more to do, Mr. Speaker, and I look forward to the coming months.

## LABOR—FAIR WEATHER FRIEND, NO. 1

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I come from a State where not very long ago organized labor was only slightly more respectable than communism. Decades into the 20th century, labor organizers would be hounded and even run out of Texas towns by overzealous local sheriffs—not because they had violated any law, but simply because the local panjandrums wanted nothing to do with labor. Indeed, my State still has as comprehensive a set of antilabor statutes as you can find anywhere.

When I first began to get involved in politics the worst thing that you could do was admit that labor had a right to organize and bargain collectively. It was the kiss of death to be endorsed by a labor union. Politicians in those not-so-distant days scrambled to see who could be the most antilabor, just as then Dick Nixon made it a contest to see who could be the most anti-Communist.

But I believed that labor had a right to organize. I admired the courage and tenacity of those who worked against incredible odds, and even at personal danger, to organize labor unions. And when they succeeded, I was happy that at least some of those unions worked hard to uplift their members—by offering them courses in citizenship, by teaching them their rights, and defending them, and by countless other small efforts that only the truly dedicated would undertake. So I defended the right of labor to organize, and made it plain that I would never deny that right.

People told me that this was a liability, and in a sense, it was. There was no voting power of any consequence in organized labor; I got no money from the unions, except what a few members could spare; and I had to bear the brunt of attacks equating me with what my opponents were pleased to call labor goons. There was no such thing as COPE. So my support of organized labor did not come painlessly, or without cost, but I was glad to do it, because I believe that workers have a right to organize and act in their own behalf.

All during my career, organized labor has looked with favor on my voting record—as good as any, they would say. I was glad to have the praise, and glad too when labor in Texas started to become respectable, if not yet strong in terms of membership.

In short, without detailing the story, I think that by any standards, including those of labor itself, I have been a steadfast friend of labor and the workingman.

But I am like anyone else. I have my share of enemies in labor. That is understandable. What has surprised me is that the great movers and shakers of organized labor seem to think these days that Henry Gonzalez is one steadfast friend they can do without.

This painful discovery came about when not very long ago I was attacked by something called the Labor Council for Latin-American Advancement. As it turned out this organization had not at the time even been established, except in name, and to this day has no real structure. The attack was engineered by a few of my more dedicated enemies, for reasons that they alone can understand.

What surprised me was that these fellows have access to all the organs and instruments of the AFL–CIO. And when I aked the AFL–CIO what I had done to deserve this slander from an unheard of instrumentality of theirs, I got no answer at all, not even the courtesy of a reply. I tried again, but without any success. Only a few of my friends in the labor movement have asked to hear the facts, or spoken out in my defense.

With this experience I can better understand how the great chieftains of the AFL–CIO have been able to cozy up to their heretofore mortal enemy, Richard Nixon, and how they have turned on him again. It seems that they were much more interested in obtaining some momentary, elusive advantage than in defending the real interests of their friends and members. It is hard to stand for truth and right when the tables of the powerful and wealthy are laid before you.

So here I am, after years of being a steadfast friend of labor, unable to be heard in the councils of its mighty, apparently unworthy for them to speak a word in response to my questions.

My principles have not changed. I still believe in the right of the workingman to organize and bargain collectively. But I can only wonder now if labor will stand by those who have stood by them. It does not change my principles, offended though I have been. But I have seen the shadow of a fair-weather friend, and only wonder today if it means anything to labor that it does have friends of long standing.

I can only wonder if labor today deserves the epitaph of the great Inca historian Garcilοso de la Vega, who mournfully wrote of the fallen Inca, centuries ago:

> Who is to counsel the willful and powerful, confident of themselves . . . Such a person does not seek advice, does not want to receive it, and cannot abide those who are willing to give it.

## DEVELOPMENTS IN SOUTH ASIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 5 minutes.

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an important, recent event that serves well the cause of peace in one strife-torn region of the world. I refer to Pakistan's decision to recognize its former eastern province, Bangladesh, as an independent and sovereign state.

While this recognition has only been announced and has not been backed up by deeds, it has caused some criticism in Pakistan, but it does represent an important move on the part of the Government of Pakistan. We should credit Pakistan for helping to advance the cause of peace in South Asia and for trying to help resolve some of the complex problems that divided and brought conflict and misery to the subcontinent in 1971.

A lot was heard at the recent Lahore Islamic Conference about Muslim unity and oil prices and availability problems, but the most significant product of that conclave had little to do with the meeting itself. The simple arrival of Shiekh Mujibur Rahman, Prime Minister of Bangladesh, in a country where he was a prisoner less than 30 months ago, evidences a will on the part of both Bangladesh and Pakistan to turn a new page in their relations. Whether this recognition move was long overdue or not is not the issue. The issue is that peace in South Asia is essential so that these poor states can get on with the business of development and away from the arms business.

It is hoped that this breakthrough in South Asia coupled with the Delhi Agreement allowing for the exchange of populations will lead to further reconciliation and more steps in the normalization of the relationships between India, Pakistan, and Bangladesh. The United States should help as best it can and with its limited resources available to aid this process.

## H.R. 13019 WOULD PROVIDE TAX RELIEF FOR LOW- AND MODERATE-INCOME TAXPAYERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, I introduced yesterday for appropriate reference H.R. 13019, to provide income and payroll tax relief for low- and moderate-income taxpayers.

The bill does two things:

First, benefits all taxpayers who use the standard income tax deduction—mainly those with incomes under $15,000—by raising the low income allowance—minimum standard deduction—from $1,300 to $1,800, the standard deduction rate from 15 to 20 percent, and the standard deduction ceiling from $2,000 to $2,200.

Second, eliminates or reduces payroll taxes for families with wage income below the poverty threshold by allowing personal exemptions and a liberalized minimum standard deduction of $1,800 per family. The deductions are phased out dollar for dollar for wages earned in excess of the deduction total.

The combined effect of the income and payroll tax provisions of this bill would affect families of varying sizes and incomes as follows—assuming married couple filing jointly, single wage-earner:

Four-person families:

Income of $4,800—this family currently pays combined income and payroll taxes of $350.80. Under H.R. 13019, this family would pay no income or payroll tax.

Income of $6,000—this family currently pays total payroll and income taxes of $596 a year. The bill would reduce their tax burden to $310.40.

Income of $10,000—at present, this family has to pay $1,490 in taxes. Under the proposal, the family would pay only $1,395.

Income of $15,000—under current law, this family pays $2,592.20 in taxes. The bill would reduce the load to $2,548.20.

Six-person families:

Income of $4,800—under current law, this family pays $280.80 in taxes, under the proposal, nothing.

Income of $6,000—at present, this family pays payroll and income taxes of $379, under the bill, nothing.

Income of $10,000—this family now pays taxes of $1,205, under the proposal, $967.90.

Income of $15,000—this family pays $2,262.20 currently, under the bill, $2,218.20.

Tax relief for low- and moderate-income families—particularly for the often overlooked $3,000–$13,000 families—is desperately needed, not just for simple equity but for the overall economic health of this country.

Simple justice: Families with $15,000 a year or less have steadily lost ground, before taxes, under President Nixon. From 1947 through 1968, Census Bureau data show that the income shares—percentage of pre-tax total income—of poor and middle-income families increased, while the share of the richest one-fifth declined. In 1969, the trend began to reverse. By 1972—the most recent Census figures—over $8 billion had been redistributed from the bottom three-fifths of American families to the richest one-fifth.

PERCENTAGE SHARE OF AGGREGATE INCOME RECEIVED BY EACH 5TH OF FAMILIES

| | Lowest (under $5,000) | 2d (under $8,500) | 3d (under $13,000) | 4th (under $17,000) | Highest ($17,000 and over) |
|---|---|---|---|---|---|
| 1972.. | 5.4 | 11.9 | 17.5 | 23.9 | 41.4 |
| 1971.. | 5.5 | 12.0 | 17.6 | 23.8 | 41.1 |
| 1970.. | 5.4 | 12.2 | 17.6 | 23.8 | 40.9 |
| 1969.. | 5.6 | 12.4 | 17.7 | 23.7 | 40.6 |
| 1968.. | 5.6 | 12.4 | 17.7 | 23.7 | 40.5 |
| 1967.. | 5.1 | 11.8 | 16.2 | 23.2 | 43.3 |

Source: Bureau of the Census, "Money Income in 1972 of Families and Persons in the United States," December 1973.

While the real income of the very poorest families has been boosted by Federal in-kind transfers—food stamps, housing subsidies, medicaid—which do not appear in the census figures, the next lowest two-fifths are generally not eligible for these programs and are suffering greatly. The administration's proposed guaranteed minimum income will not benefit moderate-income families.

The shift in income shares is particularly rough for these below-$15,000 families because they are hardest hit by inflation. They spend a higher proportion of their income on basic necessities than do the wealthy, and the soaring costs of food, fuel, and housing make sharp inroads on their real income.

Tax increases must be added to rising prices as the special burden of the moderate-income family. The only general tax increases of the last few years have been payroll tax increases. On January 1, 1973, the OASDHI rate was increased from 5.2 to 5.85 percent, and the wage base on which the tax is computed raised from $9,000 to $10,800. On January 1, 1974, the wage base was again raised from $10,800 to $13,200. A family earning $12,000, for example, in 1972 paid a payroll tax of $624. Today, on that same earnings, the family must pay $702—a 12.5 percent increase in a little over 15 months.

As a result of tax increases and inflation, real spendable weekly earnings—computed by adjusting gross weekly earnings for inflation and taxes—actually declined 2.8 percent during the first 9 months of 1973. Thus, simple justice demands that we provide tax relief to low- and moderate-income families to make up for the ravages of the last 5 years.

Averting a depression: January figures show that production is down, not only in petroleum-dependent industries, but across the board. And dollar weekly earnings also declined in every sector—construction, manufacturing, and retail—by an average 2.2 percent in January.

It is an ominous sign when not only real income but even dollar income goes down. The implications are clear. Americans are in hock to the highest interest rates and the largest consumer debt ever. Unless demand can be expanded to take goods off the shelves and stimulate production, we face a serious recession.

We also face increased cost-push inflation, unless we can give the average wage-earner, who has been left way behind by spiralling prices, some reason to moderate his demands for a wage increase.

H.R. 13109 would give approximately $10 billion in tax relief to low- and middle-income taxpayers. The cost of the program would be recouped, so far as necessary, by plugging loopholes such as the foreign oil tax laws, which encourage exploration and production abroad, the failure to tax capital gains at death, which distorts the securities market, and hobby farm tax losses, which bid up farmland prices—loophole-plugging desirable both for equity and to eliminate economic inefficiency. Raising the wage base on which the payroll tax is computed to $20,000 could also provide $5.7 billion in additional revenues.

There are many different proposals designed to give tax relief—raising the personal exemption, lowering the payroll tax rate, or lowering income tax rates. But these measures would waste scarce revenues by distributing benefits to others than those who need help. H.R. 13019 gives relief where it is most needed. The section-by-section analysis of the bill follows:

SECTION-BY-SECTION ANALYSIS OF H.R. 13019

Section 1 amends the Internal Revenue Code of 1954 to increase the standard deduction and low income allowance (minimum standard deduction), as follows:

1. The standard deduction rate is raised from 15 to 20 percent.

2. The standard deduction ceiling is raised from $2,000 to $2,200.

3. The low income allowance is raised from $1,300 to $1,800.

The standard deduction was designed to simplify the complexity of the income tax for most taxpayers. From 1944 to 1969, the standard deduction was 10 percent. The Tax Reform Act of 1969 raised it to 13 percent in 1970, 14 percent in 1971, and 15 percent in 1972. Since then, rising prices, state and local taxes, and interest rates have created an incentive to more taxpayers to itemize deductions.

Raising the rate to 20 percent will do two things. First, it will give tax relief to moderate income taxpayers who find it difficult to itemize deductions. Second, it will reduce the growing disparity between itemized deductions and the standard deduction.

Not only the rate, but also the standard deduction ceiling should be raised to reflect the higher cost of deductible items.

The low income allowance was created in 1969 to exempt income below the poverty level from income tax. However, the poverty threshold has risen substantially since the provision was enacted, and now families below the poverty level are paying income taxes. In the following table, column two shows income exempt from income tax by application of the existing low income allowance and qualified personal exemptions, column three shows projected 1974 nonfarm poverty thresholds based on Bureau of Labor Statistics data, and column four shows income exempt from income tax under H.R. 13019.

INCOME EXEMPT FROM FEDERAL INCOME TAX BY APPLICATION OF LOW INCOME ALLOWANCE AND PERSONAL EXEMPTIONS

| | Income exempt: current law | Projected 1974 poverty thresholds | Income exempt: H.R. 13019 |
|---|---|---|---|
| Number of persons in family: | | | |
| 1 | $2,050 | $2,370 | $2,550 |
| 2 | 2,800 | 3,060 | 3,300 |
| 3 | 3,550 | 3,751 | 4,050 |
| 4 | 4,300 | 4,804 | 4,800 |
| 5 | 5,050 | 5,668 | 5,550 |
| 6 | 5,800 | 6,374 | 6,300 |
| 7 or more (and so forth) | 6,550 | 7,846 | 7,050 |

Under H.R. 13019, families of three or fewer members would find slightly more than poverty level income exempt from taxation, families of four would have poverty level income exempted, and families of five and more persons would receive tax-free very slightly less than poverty level income. This is clearly a necessary change.

Section 1 would cost an estimated $3 billion annually. Approximately 95 percent of the tax relief would accrue to taxpayers earning less than $15,000 a year.

Section 2 amends the Internal Revenue Code of 1954 and the Social Security Act to allow personal exemptions and an $1,800 low income allowance per family to be deducted from wages subject to OASDHI withholding (limited by a dollar-by-dollar phase-out for wages in excess of the total deduction), and to provide that the revenues lost to the Social Trust Funds through application of this section be transferred to the Trust Funds from the general fund of the Treasury.

Payroll taxes, even more than federal income taxes, fall heavily upon low- and moderate-income families. Permitting wage-earners to deduct personal exemptions and the low-income allowance from their taxable wage base ensures that income below the poverty threshold will not be taxed, while the phase-out provision ensures that only those with such income will receive the maximum relief.

Here is how the payroll tax relief provision works (assuming one earner per family):

1. Four person families:

a. $4,800—instead of $280.80 in OASDHI under current law, under H.R. 13019, this family would pay nothing.

b. $6,000—this family now pays $351 in payroll taxes, under H.R. 13019, $140.40.

c. $8,000—this family now pays $468, under the proposal, $432.90.

d. $10,000—this family now pays $585, under the proposal, there would be no change in liability.

2. Six person families:

a. $4,800—this family now pays $280.80 in payroll taxes, under the proposal, nothing.

b. $6,000—this family now pays $351, under the proposal, nothing.

c. $8,000—this family now pays $468, under the proposal, $198.90.

d. $10,000—this family currently pays $585, under the proposal, $432.90.

The deductions are permitted only from contributions paid by self-employed workers and by employees—the employer's contribution remains the same. In order that no wage-earner's benefits be reduced as a result of his lessened contribution, an amount equal to the reduction in contributions is transferred from the general fund of the Treasury to the Federal Old Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, as applicable.

Section 2 is estimated to cost approximately $7 billion annually.

## VOICE OF DEMOCRACY CONTEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 5 minutes.

Mr. FULTON. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conducts a Voice of Democracy Contest. The winning contestant from each State is brought to Washington, D.C., for the final judging in this contest. It is always a source of pride when young students are cited for making valuable contributions to their community and their country and it is for this reason, that I would like to call to the attention of my colleagues the winning speech from my State written by David Scott Harron, 4840 Briarwood Drive, Nashville, Tenn.:

SPEECH BY DAVID SCOTT HARRON

I can remember several years ago when my favorite piece of music was a folk song describing the costs of freedom. I can especially recall one line, "You've got to pay the price, you've got to sacrifice, for your liberty." Although at the time, I was too young to grasp the true meaning, I see now how the thought pertains to each persons responsibilities to his nation. Most people my age tend to believe that until they are eligible for the draft, and the right to vote, that they have no responsibilities. But I have found that electing one's leaders and fighting for one's country are not the only responsibilities with which a citizen is faced, nor are a ballot and a gun the only way to fulfill those two. I feel that my responsibilities as a citizen, even if only a young one, are extensive, stretching into every phase of our nation. First, the way in which our government is run, the way it operates and what it does. Secondly, the manner in which the people are governed, our system of laws and their enforcement. And lastly in preparing myself, others, and the nation as a whole for the future.

I suppose that my definition of responsibility centers around the word involvement, because getting involved means taking an actve part, which I believe to be the responsibility of each citizen. The vast majority of my friends seem to think that since they are too young to run for office, or to vote, that there is no way for them to become involved. What they don't seem to realize is that the ballot box is not the only way to influence government or that the vote is not the only way to influence a ballot. Last year several of my friends and I spent time as campaign workers for the various candidates and in doing so we possibly influenced some decisions of those who could vote. But just because a candidate is elected doesn't mean that he stops listening to the people. I have found that elected officials do not ignore the wishes of their young constituents, the problem is usually that the youth do not brother to make their opinions clear. In this respect it can well be said that the mail box may prove as powerful as the ballot box in the shaping of policy. An even more powerful tool than the mail box is often a direct representation of our opinions to those in charge, not like a demonstration, a sit-in, or a riot, but in a constructive form. I belong to an interhigh school student council, one which takes its views directly to the school board. And to the surprise of many, we are not scorned as a group of over-ambitious teen agers. Instead, the board seems to realize that, as students, we know more about student problems and student opinions than anyone else. Thus by getting ourselves involved in a constructive manner, and by cooperating with the school board, we have done much to improve the type and quality of education we receive. By accepting our responbilities and becoming involved in government, we improve that which needs improvement.

Through government we can change laws, but while a law is still in effect it is our duty as citizens to obey that law. Laws are created to protect individuals and the freedoms of individuals, therefore we should do more than merely obey the laws, we should aid in their enforcement. Recently, in my city, a young woman was assaulted and severly beaten, and her cries for help went ignored by passing pedestrians and motorists. Later, those who admitted to hearing the woman's screams said that they didn't help her mainly because they "didn't want to get involved". Our laws must be enforced or else civil chaos would result, and our under staffed and under-equipped police cannot be expected to bare the entire burden. This leaves a great deal of responsibility to the individual, to you and me.

Of course, all this involvement would be a waste if we could not guarantee that it would continue in the future. By setting a good example of citizenship now, perhaps those who are younger than myself would develop a desire to meet their responsibilities also. They, in turn, may be expected to teach the following generation, and so on. As we grow older, we will be the ones fighting our country's wars while others, by meeting their responsibilities, will protect the nation from internal collapse.

As we gain in years, our responsibilities increase in number. We gain the right to vote as we wish and the duty to serve our country in time of war. To keep pace with our growing responsibilities we are going to have to become better informed, and practice good citizenship until it is first nature to us. Josiah C. Stamp once wrote "It is easy to dodge our responsibilities but we cannot dodge the consequences of dodgeing our responsibilities." We must all pay the price, we must all become involved lest we encounter the consequences, which in a case such as this could only mean the fall of government by the people, liberty.

## SPEAKING OUT FOR FREEDOM

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to bring to my colleagues attention two very significant events which are currently taking place in the Soviet Union. One event demonstrates the tremendous courage of the Soviet Jews, and the other reminds us to what lengths the Soviet Union will go to silence its critics and those who have expressed a desire to emigrate to Israel.

Three Soviet Jews are courageously in the process of conducting a hunger strike to dramatize their plight and that of the thousands of Soviet Jews who have been denied the right to emigrate to Israel. The three men—David Azbel, a retired physicist; Vitaly Rubin, a sinologist; and Vladimir Galatsky, an artist—have submitted applications for visas for Israel, and have repeatedly been denied permission for "state interests." They have been the victims of arrest, harassment and intimidation by Soviet authorties, tactics commonly used against Soviet Jews who have expressed a desire to emigrate to Israel. David Azbel, who spent 16 years in Stalinist labor camps, cannot easily be broken and in spite of his age, continues to protest and demand his right, and that of other Soviet Jews, to emigrate to Israel.

Concerned Americans have remained in communication with David Azbel and other Soviet Jews by means of the telephone and telegrams. To the Soviet Jew who in all likelihood has lost his job, and faces constant harassment and possible imprisonment for "parasitism", a telephone call or a telegram from our friends in the West is a vital source of hope and encouragement.

To cut off this source of hope is to further isolate the Soviet Jew, and this is precisely what the Soviet authorities are attempting to do. I have just been informed that approximately 100 telephones belonging to Soviet Jewish activists residing in Moscow have been disconnected, thereby eliminating virtually all outside communication with these activists. I have also learned that $3,000 worth of telegrams were sent to David Azbel from the West this past week, expressing support for his courageous hunger strike. Unfortunately, David Azbel has never received any of these telegrams, and is not aware that friends in the West have heard about and support his efforts.

It is unconscionable that, while out of one side of the collective mouth, the Soviet Union pledges its commitment to détente and better understanding among our peoples, and at the same time, it denies its own citizens the very basic right of communicating with one another and with friends in the West. I would urge my colleagues to protest this blatant disregard for individual freedom.

## ESTONIA

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, it is a pleasure for me to join Estonian-Americans throughout the country in recognizing the 56th anniversary of the Declaration of Estonian Independence. It is particularly important that this event be commemorated in 1974 and especially just 1 week following the exile of Alexandr Solzhenitsyn. For the rising tide of international protest directed toward Soviet oppression can find lasting inspiration in the Estonian achievement of self-determination a half-century ago. Indeed, it is Solzhenitsyn who has written that his disillusionment with the Soviet system was fed by the recollection of the Estonian democracy established in 1918. He writes:

> I had never before dreamed that I would become interested in Estonia or bourgeois democracy. It was not clear why, but I began to like it all, and the new information was stored away.

The Estonian experience yields not only the symbolic vision of liberty, but the real, continuing struggle to regain the freedom that was lost. The community of nations has long condemned the illegal Russian occupation of the Estonian nation in 1940 and the continued Soviet control of Estonia represents a gross contravention of international law. But the issue is not simply one of political sovereignty. It has become a question of the right of a people to ethnic and cultural identity. For 50 years, the Soviet Union has made a concerted effort to destroy the Estonian nation by the systematic diffusion of its population.

It has been estimated that 140,000 Estonians were deported from 1940 to 1954. Since then, the Soviet Government has conducted a massive settlement of Russians in Estonia and a corresponding dispersal of Estonians over the hinterlands of the U.S.S.R. Stalinist terror tactics have been replaced by the application of administrative and economic pressure, but the policy remains methodically effective. According to U.S.S.R. census statistics for 1970, Estonians constituted only 68.2 percent of the population of Estonia, as opposed to 88.2 percent in 1939. Demographic studies published in 1973 show that the proportion of Estonians has declined even further since the 1970 U.S.S.R. census. The Estonian struggle has truly become one for national survival.

In many ways, Alexandr Solzhenitsyn has given voice to the Estonian cause. Whether directed toward an individual or an ethnic group, Soviet policy ultimately contains one message—that freedom of diversity, whether in the intellectual or cultural realm, will not be tolerated. The continued destruction of freedom-loving groups like the Estonians can only enhance the strength of that policy. Mr. Speaker, I submit that we are faced with a basic moral imperative to lend our active support to the cause of intellectual and national freedom in the Soviet Union. It is appropriate that tribute be paid to the oppressed of the Russian nation. But, in this case, our words are given meaning by our actions. Our accolades will be empty if we are willing to forget the plight of the Russian people in our quest for détente with the Soviet Government. To honor the Estonian people would be to act as a nation according to the message of Alexandr Solzhenitsyn:

> The salvation of mankind lies only in making everything the concern of all.

## TOWARD A MORE BALANCED TRANSPORTATION SYSTEM

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, if the current crisis teaches us anything, it is that we no longer have unlimited drawing rights on what we once naively regarded as an inexhaustible energy bank. We must, instead, move toward new and more innovative patterns of growth and development especially in our urban areas where most Americans, not without some difficulty, live, breathe, and move about.

As a longtime advocate of improved rail and bus transit to create a more balanced transportation system, I was delighted to learn recently that New York City and Los Angeles have proposed to purchase a small number of double-decker buses to test their usefulness in this country. One of these buses, I am told, can carry half again as many people in the same amount of road space as our regular bus with almost no difference in fuel consumption or exhaust emissions. And, if my experience with these buses in New York during their first tour there some years ago is any indication, I suspect that most people will find the double-decker a far more pleasant way to ride.

Mr. Russell Train, Administrator of the Environmental Protection Agency, commented on this proposed project during a recent speech before the Annual Congress of Cities as follows:

> This is just one promising idea worth pursuing. I have no doubt that a nation as innovative as ours can come up with many more. There are some, I know, who say that anything that discourages auto traffic in cities will only drive more customers and businesses out. I am convinced on the contrary, that as mass transit improves and offers people a real alternative, as the city air becomes crisp and clean again, as the streets are no longer clogged with cars—that cities can take advantage of the opportunity to become the centers of activity and excitement that they are, in fact, supposed to be.

The New York Times recently ran the following article on the proposed double-decker bus project in New York City. I commend it to the attention of readers of the RECORD who are interested in alternative and innovative means of transportation.

DOUBLE-DECKER BUSES RETURNING

(By Robert Lindsey)

The double-decker bus, a venerable New York institution that vanished 21 years ago, is coming back—with a British flavor.

Federal sources in Washington said yesterday that the Department of Transportation would finance a trial program to test the performance, economics, safety and public acceptance of double-decker buses here and in Los Angeles.

FOUR BUSES IN TEST

Under the plan, four British-built buses—larger versions of the big red buses that are as much a symbol of London as Big Ben—will be put into use here. And two German-built double-decker buses will be put into trial service in Los Angeles.

Transit industry sources said the two-level buses would probably be carrying passengers here by late this year, although the exact timetable was not available yesterday.

Bringing back the double-decker bus was first suggested more than two years ago by Dr. William J. Roman, chairman of the Metropolitan Transportation Authority, as a way to increase the number of people that could be carried on M.T.A. express bus lines from Queens and other points into Manhattan.

Federal officials said the possibility of being able to increase the productivity of buses and bus drivers—had taken on new importance recently because of what is expected to be a resurgence of public transit ridership in some cities because of gasoline shortages and price increases.

Government sources said the cost of the buses and the research studies evaluating their performance and acceptance would be financed by a grant of more than $1-million from the Urban Mass Transportation.

They said the grant application had been approved within the transit agency and was awaiting the signatures of Frank C. Herringer, the transportation administrator, and Claude S. Brinegar, Secretary of Transportation. The research aspects of the program will be conducted by the National Transportation Center of Pittsburgh.

The double-decker bus was a fixture of life in Manhattan for 46 years—from 1907, when the motorbus replaced horse-drawn buses, until 1953, when "economics" finally did them in. Until 1946, many of the buses had open tops, and for generations of young people a ride on the top deck of such a bus along Fifth Avenue and Riverside Drive was part of the essence of growing up here.

It was not just a bus ride that New Yorkers got for a nickel or a dime, but an experience—a place to spend an hour or two, to go courting, a place to cool off a bit on hot summer nights.

LAST BUS HERE IN 1953

The last two-decker bus was retired in April, 1953, largely, city officials said then, because of economics. The buses required two crewmen—a driver and a conductor who collected fares. Compared with one-man buses, the double-deckers cost too much to operate. Besides, the big buses were not as easy to maneuver in traffic as the smaller one-level buses.

The F.T.A. has decided to give double-decker buses a second chance because of changes in mass transit, particularly the growing popularity of the nonstop express runs into Manhattan. Although the agency said it had not ruled out a revival of the double-decker buses on Fifth Avenue or other main thoroughfares, the main goal at first is to experiment with them to increase the capacity of express bus lines.

M.T.A. officials said that it should be relatively easy to run express buses with only one crewman because, in most cases, passengers are picked up at a single point, and therefore a driver could collect fares before he started a run.

EXACT FARE NEEDED

The regulation imposed in 1969 that bus passengers must have the exact fare before boarding buses—drivers no longer carry change to deter robberies—also reduces some of the previous shortcomings of double-deckers, according to M.T.A. officials.

The buses to be used here will be purchased from British Leyland Motors Corporation, which manufactures the London bus, as well as similar buses used in many other cities in Europe. Those to be used in Los Angeles—probably on an express lane reserved for buses on a city freeway—will be built by Neo-Plan Corporation, a major bus manufacturer in West Germany.

Federal officials said European companies had been selected because no American manufacturers had the capability to build double-decker buses.

The double-decker buses that will be used for the experiment here will have at least 70 seats. Conventional buses now operating in the city have 45 to 49 seats.

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## LITHUANIAN INDEPENDENCE DAY

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, last February 16 was Lithuanian Independence Day, the 56th anniversary of the independence of that brave nation and people.

As we pause again this year to pay tribute to the people of Lithuania, who have kept alive their deep devotion to freedom in spite of a quarter century of Soviet domination, there are some significant new developments that not only demonstrate dramatically the pervasive nature of Soviet suppression, but also give real proof that the fires of freedom still burn strongly in peoples under the Soviet heel and so hold out real hope for the day when all these people will once again be free.

Three years ago it was the brutal treatment of Simas Kudirka, the Lithuanian seaman virtually kidnaped by Soviet police in American waters. This year it is the incredibly crude treatment of the Soviet Nobel Laureate Alexandr Solzhenitsyn, forcibly dragged by Soviet police from his home in the middle of the night and sent into exile without trial or even explanation.

Both events have stimulated a tremendous outpouring of world opinion against these repressive actions. The vote in the House on the trade bill was one clear demonstration of how the people of America feel about Soviet citizens in this case her Jewish citizens. All of a sudden even the Soviets realize that even the new policy of détente will not prevent the American people from protesting these acts of barbarism and inhumanity.

Another reflection of this deep feeling is the continuing concern of the American people, 3 years later, over the fate of Seaman Kudirka. Recently I joined with other Members of the House in cosponsoring a concurrent resolution which would direct the State Department to bring to the immediate attention of the Soviet Government the deep and growing concern among citizens of the United States over the plight of Mr. Kudirka.

More than anyone else, Mr. Kudirka exemplifies the courage and spirit of the Lithuanian people in their quest for liberation. On November 23, 1970, he jumped from his Soviet fishing trawler onto the U.S. Coast Guard cutter, *Vigilant*, seeking political asylum in the United States. Due to a series of misjudgments, crew members of the Soviet ship were allowed to board the *Vigilant*, seize Kudirka, beat him, and forcibly remove him to the Soviet ship. All this took place while both ships were moored in U.S. territorial waters.

Shortly thereafter Mr. Kudirka was sentenced to imprisonment in Russia, and there has been no official word on his welfare or the welfare of his family since that sentencing. Is he rotting in jail, in Siberia, or what?

Since Kudirka is just one Lithuanian caught in the iron grip of the Russian bear, but on the aniversary of Lithuanian independence he symbolizes the resolve of all Lithuanians throughout the world who still thirst for freedom and independence in their homeland.

So I urge this House to move swiftly to adopt the concurrent resolution as a pledge to the people of Lithuania that we fully support their continuing battle for independence. Freedom is the birthright of every man and its denial in whole or in part, in any place in the world, including the Soviet Union, is absolutely intolerable. This is the basic lesson to remember on this Lithuanian Independence Day, 1974.

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## CONGRESSMAN STRATTON MAKES PUBLIC A STATEMENT OF HIS NET WORTH AND A SUMMARY OF HIS 1972 TAX RETURN

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, I have long supported the idea that public officials should be required to make a much fuller disclosure of their personal finances than is presently mandated by the rules of the House. The need for such fuller disclosure has been pointed up in recent months by all the many revelations associated with what now goes under the heading of the Watergate affair. Public officials must make it clear that they are not involved in any financial conflicts of interest and are not profiting personally from their positions of public trust.

In this vein the New York Times recently requested every Member of the House and Senate from New York, New Jersey, and Connecticut to furnish them with a statement of the Member's current net worth and a copy of his most recent income tax return. In compliance with that request I have forwarded to the New York Times a statement of my estimated net worth and copies of pages 1 and 2 of my Federal and State income tax returns for 1972.

Since I believe that this information, if it is to be disclosed, should be disclosed generally and not just to one newspaper, I am, therefore, including here for the RECORD a full statement of the material presented in response to the request of the New York Times:

JOINT 1972 FEDERAL TAX RETURN OF SAMUEL S. AND JOAN H. STRATTON, 244 GUY PARK AVENUE, AMSTERDAM, N.Y.

(Four dependent children: Debra, Kevin, Kim, and Brian)

| | |
|---|---|
| Wages, salaries | $42,500.00 |
| Dividends | None |
| Interest income | 103.56 |
| Other income: | |
| (Net gain on matured life insurance policy | 272.82 |
| Excess of travel reimbursement over travel costs | 3.00 |
| | 275.92 |
| Total of above | 42,879.38 |
| Less adjustments to income: | |
| (Net impact of congressional reimbursements and congressional busines expenses) | 2,689.68 |
| Adjusted gross income | 40,189.70 |
| Itemized deductions: | |
| Medical | 150.00 |
| Taxes | 4,583.19 |
| Contributions | 305.00 |
| Interest exp | 2,397.39 |
| Misc. (congressional office expenses over allowances) | 833.54 |
| Total of above | 8,269.12 |
| Subtract | 31,920.58 |
| Exemptions (6) | 4,500.00 |
| Taxable income | 27,420.58 |
| Federal tax due | 6,891.41 |
| Federal tax withheld | 9,012.91 |
| Tax refund | 3,121.50 |
| Other taxes paid 1972: | |
| N.Y. State income tax | 3,042.28 |
| Md. real estate tax | 974.33 |
| Subtotal | 4,016.81 |
| Plus Federal tax | 6,891.41 |
| Total taxes paid | 10,908.42 |

*Net worth as of February 18, 1974*

| | |
|---|---|
| Assets: | |
| Cash on hand and in bank accounts | 517.77 |
| Cash value of VA Life Insurance | 473.53 |
| Accumulated dividends in SBLI policy | 356.66 |
| Home, Bethesda, Md. (estimated market value) | 65,000.00 |
| Government bonds (cash value) | 1,225.00 |
| Furniture, clothes, etc. (est) | 3,500.00 |
| Automobiles (est): | |
| 1970 Ford | 1,200.00 |
| 1969 VW | 900.00 |
| Horse (est) | 300.00 |
| Sailboat (est) | $300.00 |
| Accumulated contributions to congressional retirement fund available only for retirement purposes) | 36,026.73 |
| Total assets | 109,768.69 |

Notes on assets: *Home:* Purchased in 1965. *Cost* $42,600. Term Life Insurance Held: $55,000 (Federal Employees Term Life Insurance). Amsterdam residence is a rented apartment.

| | |
|---|---|
| Liabilities: | |
| Accounts payable | $1,000.50 |
| Notes (National Bank of Washington) | 5,615.00 |
| (salary advance loans) | |
| Mortgage on Bethesda Home | 29,220.00 |
| Total liabilities | 36,085.50 |

| | |
|---|---|
| Computation of net worth: | |
| Assets | 109,768.69 |
| Less Liabilities | 36,035.50 |
| Net worth | 73,733.19 |

## THE RIGHT-TO-LIFE AMENDMENT

(Mr. MAZZOLI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MAZZOLI. Mr. Speaker, following the Supreme Court's 1973 decision restricting the right of the States to regulate abortion, I cosponsored House Joint Resolution 261, known as the right-to-life amendment. This resolution would amend the Constitution so as to nullify the Court's decision.

This proposal—along with many other similar measures—was referred to the House Judiciary Committee where, for months, it has been denied a hearing.

In view of this, I today signed a petition to discharge the Judiciary Committee from further consideration of House Joint Resolution 261, so that measure can come to the House floor for a vote.

Although the "discharge petition" is a legitimate and necessary legislative tool, long provided for by the rules of the House, it has been my general policy not to employ this means of bringing a measure to the House's attention. Thus, I have not heretofore signed any discharge petitions.

In this instance, however, the evident unwillingness of the Judiciary Committee even to hold hearings—much less to take definitive action—on this profoundly important topic leaves me no choice but to join—with no little reluctance—those who are petitioning to bring House Joint Resolution 261 to the floor for a vote.

## "HOT MEALS AND SOCIABILITY FOR ELDERLY": PROPOSED 3-YEAR EXTENSION TO SERVE 500,000 MEALS DAILY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, our distinguished colleague and chairman of the House Select Education Subcommittee, Representative JOHN BRADEMAS, recently informed me that his subcommittee recommended the increases in authorization which I and others urged before his subcommittee for title VII, providing a nutrition program for the elderly under the older Americans services amendments.

The evidence justifying the extension and expansion of this program is overwhelming. None of us dispute the terrible impact that inflation and other social ills have on older Americans; and we are aware of all the benefits that have been provided to thousands of the elderly during the first year's implementation of the nutrition program.

I am pleased to learn that in addition to the benefits we anticipated, several marriages have resulted from the program. According to a front page story appearing in the Christian Science Monitor for Monday, February 25, 13 marriages resulted in a group of 400 people taking part in the nutrition program sponsored by the Washington Urban League in the District of Columbia.

Miss Louise Sweeney, staff correspondent of the Monitor, describes many other benefits that are being provided in the nutrition program, and at this point in the RECORD, I wish to insert the full text of the story:

HOT MEALS AND SOCIABILITY FOR ELDERLY: PROPOSED 3-YEAR EXTENSION TO SERVE 500,000 MEALS DAILY

(By Louise Sweeney)

WASHINGTON.—They drift slowly into the church basement, but they are all there by one o'clock, seven men in well-worn but neat suits and shirts and ties, eight women in cheerful dresses and an occasional burst of rouge.

The men and women—all over 60—sit patiently, chatting a little over the striped tablecloths about the new minister, then lapsing into polite silence as a Red Cross volunteer makes a first aid speech. Then what they have all been waiting for arrives:

Two large tan sacks stacked with meals on trays: They are twice the size of airline trays, full of seafood loaf, mashed potatoes, broccoli, a relish grouping of carrots, celery, and olives, bread and butter, coffee, milk, orange juice, and mixed fruit.

These trays are part of the 212,000 hot meals for the elderly being dished up five days a week under "Title VII" of the Older Americans Act.

To continue this $100 million project for older citizens past its present cutoff date of late June, U.S. Reps. Claude Pepper (D) of Florida, and John Brademas (D) of Indiana, have introduced a bill to extend the Nutrition Program for the Elderly Act three years.

A parallel Senate bill was introduced earlier by Sens. Charles H. Percy (R) of Illinois, and Edward M. Kennedy (D) of Massachusetts. Both bills call for identical funding: $150 million the first year (about 319,277 daily meals), $200 million for the second year (425,702 meals), and $250 million for the third year (532,128 meals). There is apparently no opposition to the bills in their present form.

Under the provisions of Title VII the meals are to be hot, nutritious, served five days a week, and contain at least one-third of the normal adult daily food requirement. The provisions also stipulate that older Americans are to be employed as much as possible in the program.

MORE THAN HOT LUNCHES

"The impact of inflation on the budgets of elderly Americans has made the hot meal program a virtual necessity for vast numbers of elderly Americans," Senator Kennedy noted in introducing the bill.

It is estimated that there are nearly four million older Americans who need these nutritionally balanced meals, often because their incomes are near the poverty level.

"It's called a hot lunch program, but it's not," says Mrs. San Juan Barnes, director of the Senior Neighbors and Companions Clubs of the Washington Urban League, which runs some of the programs here. "It's a leisure program for senior citizens living alone, not involved, to bring them out of that one room into the mainstream of life. . . ."

The program is designed to include "auxiliary services," such as recreational, educational, and counseling programs, and to provide them in a group or social setting.

TO FIGHT LONELINESS

"As great as the nutritional need is the need to overcome loneliness. Loneliness can be a serious illness," says an aide to Senator Pepper, underling the importance of older citizens' contact with the world outside. "Often they're living on such little income that there's no money for a bus or a daily newspaper," said the aide.

Most of the sites for the nutrition program are chosen for their neighborhood accessibility: schools, churches, senior citizens' groups. Some of the money in the program does go for "meals on wheels"—hot meals to elderly shut-ins like the 91 year-old Washington woman who has not been out of her walk-up for two years.

But the emphasis of the program is on "congregate" feeding with its social benefits so that no more than 10 percent of the money goes to meals-on-wheels, with the exception of far-flung rural areas where that ratio is not practical.

SEVERAL MARRIAGES RESULTED

There are indications that in some areas the social aspect of the program is particularly successful: Mrs. Barnes estimated that 13 marriages resulted in a group of 400 people taking part in the nutrition program via the Washington Urban League.

Senator Pepper's aide notes that the program offers information on consumer protection, nutrition, help with things like income tax and social security questions, as well as movies and socializing. But she adds it is all on a voluntary basis for the citizens who participate. Instances like the one cited earlier, in which a mandatory lecture prefaced a meal, are isolated and not typical or intended as part of the program, she added.

The nutrition for the elderly program is still in its infancy (it did not get rolling till last fall). But there are a few early signs of popularity. In congressman Pepper's Dade County in Florida word has gotten out at senior citizens clubs, and an aide says, "We're having to turn people away every day."

The program calls for allotment of the present $100 million state-by-state on the basis of each state's 60-plus population, with the federal government underwriting the cost on a 90:10 matching formula with the states.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PRICE of Texas (at the request of Mr. RHODES), for today and tomorrow, on account of official business.

Mr. JONES of Tennessee (at the request of Mr. O'NEILL), for today and the balance of this week, on account of illness in his family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered was granted to:

(The following Members (at the request of Mr. DU PONT) and to revise and extend their remarks and include extraneous matter:)

Mr. MCKINNEY, for 5 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. HOSMER, for 30 minutes, today.
Mr. HOGAN, for 30 minutes, today.
Mr. GROVER, for 5 minutes, today.

(The following Members (at the request of Mr. BRECKINRIDGE), to revise and extend their remarks, and to include extraneous matter:)

Mr. MATSUNAGA, for 10 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. HAMILTON, for 5 minutes, today.
Mr. REUSS, for 20 minutes, today.
Mr. FULTON, for 5 minutes, today.
Mr. MURPHY of New York, for 10 minutes, today.
Mr. ALEXANDER, for 60 minutes, on February 28.
Mr. FLOOD, for 60 minutes, on March 5.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DU PONT), and to include extraneous matter:)

Mr. BROOMFIELD.
Mr. DU PONT.
Mr. WYMAN in two instances.
Mr. CONLAN in five instances.
Mr. BELL.
Mr. NELSEN.
Mr. BROTZMAN.
Mr. GILMAN.
Mr. SKUBITZ in five instances.
Mr. DELLENBACK.
Mr. BROYHILL of Virginia in two instances.
Mr. COHEN in five instances.
Mr. ARCHER in two instances.
Mr. ANDERSON of Illinois in two instances.
Mr. WHALEN.
Mrs. HOLT.
Mr. WALSH.
Mr. MCCLORY.
Mr. FROEHLICH.
Mr. MCCLOSKEY.
Mr. ASHBROOK in two instances.
Mr. ROBISON of New York.
Mr. DERWINSKI.
Mr. HOGAN.
Mr. SYMMS.
Mr. ROUSSELOT.
Mr. BAFALIS.

(The following Members (at the request of Mr. BRECKINRIDGE) and to include extraneous matter:)

Mr. HARRINGTON in two instances.
Mrs. BOGGS.
Mr. FORD.
Mr. TEAGUE in seven instances.
Mr. BRINKLEY in two instances.
Mr. WON PAT in six instances.
Mr. ASPIN in 10 instances.
Mr. CULVER in 10 instances.
Mr. BYRON in 10 instances.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. CAREY of New York in two instances.
Mr. BENITEZ.
Mr. FULTON.
Mr. HAMILTON.
Mr. COTTER.
Mr. REES in two instances.
Mr. GIBBONS.
Mr. STOKES in three instances.
Mrs. SCHROEDER in 10 instances.
Mr. SIKES in two instances.
Mr. JAMES V. STANTON.
Mr. BOLAND in two instances.
Mr. VANIK in three instances.
Mr. STUDDS.
Mr. CONYERS.
Mr. BURKE of Massachusetts.
Mr. ASHLEY.
Mr. WOLFF in three instances.
Mr. REUSS in five instances.
Mr. ST GERMAIN in 10 instances.
Mr. WALDIE.
Mr. MANN in 10 instances.
Mr. TIERNAN.

## SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2394. An act to authorize the acquisition of certain lands for addition to Rocky Mountain National Park in the State of Colorado, and for other purposes; to the Committee on Interior and Insular Affairs.

S. Con. Res. 70. Concurrent resolution relating to supply of wheat for domestic consumption during the remainder of the 1973-74 marketing year; to the Committee on Agriculture.

## BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on February 25, 1974, present to the President, for his approval, a bill of the House of the following title:

H.R. 10203. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

## ADJOURNMENT

Mr. BRECKINRIDGE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 27, 1974, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1940. A letter from the Adjutant General, Veterans of Foreign Wars of the United States, transmitting the proceedings of the 74th National Convention of the Veterans of Foreign Wars of the United States, pursuant to Public Law 88-224 (H. Doc. No. 93-222); to the Committee on Armed Services and ordered to be printed with illustrations.

1941. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the authority for the program known as Project Headstart to provide comprehensive services to aid disadvantaged preschool children in order to enable such children to attain their full potential; to the Committee on Education and Labor.

1942. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize appropriations for the saline water program for fiscal year 1975, and for other purposes; to the Committee on Interior and Insular Affairs.

1943. A letter from the Assistant Secretary of the Interior, transmitting the 1973 annual report of the Office of Water Resources Research, pursuant to the Water Resources Research Act of 1964, as amended; to the Committee on Interior and Insular Affairs.

1944. A letter from the Assistant Secretary of the Interior, transmitting notice of receipt of an application for a loan from the Gering Irrigation District, Gering, Nebr., pursuant to section 10 of the Small Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

1945. A letter from the Secretary of Commerce, transmitting the annual report of the activities of the Department of Commerce during fiscal year 1973 under the Fair Packaging and Labeling Act, pursuant to section 8 of Public Law 89-755; to the Committee on Interstate and Foreign Commerce.

1946. A letter from the Administrator, Federal Energy Office, transmitting a draft of proposed legislation to authorize coordination of acquisition and analysis of energy information, to provide for acquisition of accurate, timely energy information necessary of the formulation of public policy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1947. A letter from the Governor of the Canal Zone, transmitting a draft of proposed legislation to amend title 6 of the Canal Zone Code to permit, under appropriate controls, the sale in the Canal Zone of lottery tickets issued by the Government of the Republic of Panama; to the Committee on Merchant Marine and Fisheries.

RECEIVED FROM THE COMPTROLLER GENERAL

1948. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in managing nonexpendable end-item equipment in the Air Force; to the Committee on Government Operations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOLIFIELD: Committee on Government Operations, H.R. 11143. A bill to provide the authorization for fiscal year 1974 and succeeding fiscal years for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, and for other purposes; with amendment (Rept. No. 93-808). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOLIFIELD: Committee on Government Operations. House Joint Resolution 905. Joint resolution extending the filing date of the 1974 Joint Economic Committee report (Rept. No. 93-809). Referred to the House Calendar.

Mr. HAYS: Committee on Foreign Affairs. H.R. 12341. A bill to amend the Foreign Service Buildings Act, 1926, to authorize sale of a property in Venice to Wake Forest University; with amendment (Rept. No. 93-810). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS: Committee on Foreign Affairs. H.R. 12465. A bill to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations for the fiscal year 1974 (Rept. No. 93-811). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS: Committee on Foreign Affairs. H.R. 12466. A bill to amend the Department of State Appropriations Authorization Act of 1973 to authorize additional appropriations for the fiscal year 1974, and for other purposes; with amendment (Rept. No. 93-812). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee of Conference. Conference report on S. 386; (Rept. No. 93-813). Ordered to be printed.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 929. A resolution providing for the consideration of H.R. 8053. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service. (Rept. No. 93-814). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN (for himself and Mr. BROWN of California):

H.R. 13030. A bill to amend the Securities and Exchange Commission Act of 1933 to authorize the Securities and Exchange Commission to regulate the structure of certain corporations and other firms engaged in petroleum refining; to the Committee on Interstate and Foreign Commerce.

By Mr. BYRON:

H.R. 13031. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs and to reduce the foreign tax credit allowed with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. DOWNING:

H.R. 13032. A bill to amend title 10, United States Code, to provide severance pay for regular enlisted members of the U.S. Armed Forces; to the Committee on Armed Services.

By Mr. FLYNT (for himself, Mr. MOSS, Mr. EDWARDS of California, and Mr. MCCLORY):

H.R. 13033. A bill to amend title 18 of the United States Code to prohibit the transportation or use in interstate or foreign commerce of counterfeit, fictitious, altered, lost or stolen transportation tickets; to the Committee on the Judiciary.

By Mr. FROEHLICH:

H.R. 13034. A bill to prohibit for a temporary period the exportation of ferrous scrap, and for other purposes; to the Committee on Banking and Currency.

By Mrs. GRASSO:

H.R. 13035. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

H.R. 13036. A bill to establish identification and reporting procedures to determine the existence and causes of shortages of products in interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. HANLEY:

H.R. 13037. A bill to amend section 1201 of title 18 of the United States Code to clarify the intent of the Congress by creating a presumption that a person who voluntarily agrees to travel with another to a particular destination, but does not arrive at such destination after a reasonable period of time, is inveigled or decoyed, within the meaning of such section; to the Committee on the Judiciary.

H.R. 13038. A bill to amend title 5, United States Code, to protect civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights, to prevent unwarranted governmental invasions of their privacy, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KYROS:

H.R. 13039. A bill to provide for establishment of a national advisory commission to develop a natonal plan for the control of epilepsy and its consequences; to the Committee on Interstate and Foreign Commerce.

H.R. 13040. A bill to amend section 902 of the Federal Aviation Act of 1958 to prohibit smoking aboard certain aircraft opreating in air transportation; to the Committee on Interstate and Foreign Commerce.

By Mr. McDADE:

H.R. 13041. A bill to amend title II of the Comprehensive Employment and Training Act of 1973 (to provide that an area is deemed an area of substantial unemployment for purposes of such title if such area has a rate of unemployment of at least 6 percentum; to the Committee on Education and Labor.

H.R. 13042. A bill to amend the Clean Air Act for Energy Conservation and Conservation Requirements; to the Committee on Interstate and Foreign Commerce.

By Mr. OBEY (for himself, Mr. DOMINICK V. DANIELS, Mrs. SCHROEDER, Mr. RIEGLE, and Mr. MOAKLEY):

H.R. 13043. A bill to amend the Internal Revenue Code of 1954 to provide that interest shall be paid to individual taxpayers on the calendar year basis who file their returns before March 1 if the refund check is not mailed out within 30 days after the return is filed, and to require the Internal Revenue Service to give certain information when making refunds; to the Committee on Ways and Means.

By Mr. PATMAN:

H.R. 13044. A bill to amend the Defense Production Act of 1950; to the Committee on Banking and Currency.

By Mr. PRICE of Texas:

H.R. 13045. A bill to amend title 18 of the United States Code to provide in certain circumstances the death penalty for kidnapping, and to establish a rebuttable presumption with respect to certain unexplained disappearances; to the Committee on the Judiciary.

By Mr. SARASIN:

H.R. 13046. A bill to amend title 5 of the United States Code with respect to the observance of Veterans Day; to the Committee on the Judiciary.

By Mr. THOMSON of Wisconsin:

H.R. 13047. A bill to support the price of milk at 90 percentum of the parity price for the period beginning April 1, 1974, and ending March 31, 1976; to the Committee on Agriculture.

By Mr. ZWACH:

H.R. 13048. A bill to amend the Internal Revenue Code of 1954 to increase to $1,200 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for dependents, and the additional exemptions for old age and blindness); to the Committee on Ways and Means.

By Mr. BAFALIS:

H.R. 13049. A bill to amend section 1201 of title 18 of the United States Code to impose penalties on the acceptance of a benefit extorted through kidnaping and on assisting in the distribution of such a benefit; to the Committee on the Judiciary.

By Mr. EILBERG (for himself and Mr. FISH):

H.R. 13050. A bill to clarify the authority of the Attorney General of the United States to exclude and deport aliens for fraudulent entry; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

H.R. 13051. A bill to provide for additional Federal financial participation in expenses incurred in providing benefits to Indians, Aleuts, Native Hawaiians, and other aboriginal persons, under certain State public assistance programs established pursuant to the Social Security Act; to the Committee on Ways and Means.

By Mr. REES:

H.R. 13052. A bill to provide that the number on a person's American passport and his social security account number shall be the same; to the Committee on Foreign Affairs.

By Mr. ROGERS (for himself, Mr. STAGGERS, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT):

H.R. 13053. A bill to amend the Public Health Service Act to improve the National Cancer program and to authorize appropriations for such program for the next 3 fiscal years, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY of Pennsylvania (for himself and Mr. MCCLORY):

H.R. 13054. A bill to eliminate discrimination based on sex in the youth programs offered by the Naval Sea Cadet Corps; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 13055. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. JAMES V. STANTON (for himself, Mr. ROSTENKOWSKI, Ms. HOLTZMAN, Mr. OWENS, and Mr. STOKES):

H.R. 13056. A bill to amend the Internal Revenue Code of 1954 to provide for income averaging in the event of downward fluctuations in income; to the Committee on Ways and Means.

By Mr. TALCOTT:

H.J. Res. 916. Joint resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

H.J. Res. 917. Joint resolution to authorize the President to proclaim April 9, 1974, as "Bataan-Corregidor Day"; to the Committee on the Judiciary.

By Mr. BROOMFIELD:

H. Con. Res. 437. Concurrent resolution expressing the sense of the Congress with respect to the imprisonment in the Soviet Union of a Lithuanian seaman who unsuccessfully sought asylum aboard a U.S. Coast Guard ship; to the Committee on Foreign Affairs.

By Mr. DU PONT:

H. Con. Res. 438. Concurrent resolution to express the sense of the Congress with respect to certain vocational and career student organizations; to the Committee on Education and Labor.

By Mr. KING:

H. Con. Res. 439. Concurrent resolution commending the American Song Festival as an important addition to the cultural life of the United States and paying tribute to the songwriters of the world; to the Committee on the Judiciary.

By Mr. CHAPPELL:

H. Res. 919. Resolution disapproving the recommendations of the President with the respect to the rates of pay of certain Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. EVINS of Tennessee:

H. Res. 920. Resolution to provide funds for the expenses of the investigations and studies authorized by H. Res. 19; to the Committee on House Administration.

By Mr. GUNTER (for himself, Mr. LEHMAN, Mr. MADDEN, Mr. STEELE, Mr. STOKES, Mr. SISK, and Mr. GAYDOS):

H. Res. 921. Resolution creating a select committee to conduct an investigation and study of the role of the oil and gas industry in contributing to the current energy crisis; to the Committee on Rules.

By Mr. HANRAHAN:

H. Res. 922. Resolution disapproving congressional pay raises; to the Committee on Post Office and Civil Service.

By Mr. HAYS:

H. Res. 923. Resolution providing additional compensation for services performed by certain employees in the House Publications Distribution Service; to the Committee on House Administration.

By Mr. HECHLER of West Virginia:

H. Res. 924. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. THOMSON of Wisconsin:

H. Res. 925. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

H. Res. 926. Resolution relative to consideration of H. Res. 807; to the Committee on Rules.

By Mr. TOWELL of Nevada:

H. Res. 927. Resolution disapproving the recommendations of the President with respect to rates of pay of Members of Congress transmitted to the Congress in the appendix to the budget for the fiscal year 1975, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. YATES (for himself, Mr. MITCHELL of Maryland, Mr. BINGHAM, Mr. STOKES, Mr. CLEVELAND, Mrs. COLLINS of Illinois, Mr. PEPPER, Mr. FASCELL, Mr. FRENZEL, and Mr. DIGGS):

H. Res. 928. Resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

358. By the SPEAKER: A memorial of the Legislature of the State of Ohio, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

359. Also, memorial of the Legislature of the State of South Dakota, relative to energy crisis revenue sharing; to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. REES introduced a bill (H.R. 13057) for the relief of Jack and Susan Soll; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

394. The SPEAKER presented a petition of the Maui County Council, Hawaii, relative to the preservation as a National Historic Site of the Kalaupapa Settlement; to the Committee on Interior and Insular Affairs.

# EXTENSIONS OF REMARKS

## OGONTZ FIRE COMPANY HONORS 50-YEAR VETERAN

### HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

*Tuesday, February 26, 1974*

Mr. SCHWEIKER. Mr. President, like all States, Pennsylvania is greatly dependent upon its force of volunteer firemen. There are some 245 volunteer fire departments in Pennsylvania, and approximately 165,000 of the State's 170,500 firemen are volunteers.

One of those volunteers, John Gottschalk, has served the Ogontz Fire Department in Cheltenham Township for 50 years, having joined it on his 17th birthday in 1924. He will be honored at a March 2 banquet as the first member of the Ogontz Department to complete 50 years of continuous, active service.

Mr. President, I join with the members of the Ogontz Fire Company in wishing John Gottschalk congratulations on his half a century of dedicated public service, and I ask unanimous consent that a Philadelphia Bulletin article describing his career be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIRE COMPANY WILL HONOR 50-YEAR, DEAF VETERANS

(By Judy Tucker)

If John Gottschalk couldn't read lips, he would not have found out about the party. Or about the watch that will be presented to him next month by the Ogontz Volunteer Fire company, Cheltenham township.

Gottschalk just happened to be looking when some of the firehouse crew were discussing plans to honor him for his 50 years of active service.

Gottschalk, 67, doesn't seem to mind that the surprise was spoiled. He is enjoying the anticipation.

Born deaf, Gottschalk attended special schools so he could learn to read lips and to make the guttural sounds which his close friends and family have come to understand.

During an interview last week, Gottschalk used sounds and motions to tell the story of his fire company service to his wife.

Mrs. Gottschalk repeated it to a reporter. "From the time he was five years old, he says he wanted to be a fireman," Mrs. Gottschalk said. "His father was chief at Ogontz and his four brothers were all firemen there . . . all of them officers and one of them was Cheltenham Township fire marshal."

Mrs. Gottschalk said the women's auxiliary of the fire company had been founded by her mother-in-law and the fire training center, on Tookany Creek Parkway, named in memory of his brother William.

On John Gottschalk's 17th birthday, in 1924, he joined the Ogontz Fire Company—then located on Old York road, just north of the Reading Railroad overpass. At that time, however, no one under the age of 21 could serve as a fire fighter. So Gottschalk had to satisfy himself with the chores of a "junior fireman"—polishing the trucks at the firehouse and working as a "runner," or message carrier.

Since his 21st birthday, however, he has been an active member of the Ogontz Com-