The Senate will convene at 11 a.m. on Monday next. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business not to extend beyond the hour of 11:30 a.m., with statements therein limited to 5 minutes, at the conclusion of which the Senate will proceed to the consideration of Senate Resolution 293.

Between the hours of 11:30 a.m. and 3:30 p.m. on Monday next, debate will ensue on the two amendments, the one by Senator McGee and the other by Senator Fong, with the debate to be equally divided and controlled, with 2 hours on each of the amendments.

A vote will occur at the hour of 3:30 p.m. on the amendment by Senator Fong, which will be an amendment in the second degree; followed immediately, without any intervening quorum call, by a vote on the amendment by Senator McGee to Senate Resolution 293.

The vote on the McGee amendment will be a 10-minute rollcall vote.

Immediately following the disposition of the McGee amendment, the Senate will proceed to the consideration of the amendment in the nature of a substitute to be offered by th Senator from Idaho (Mr. Church) and the Senator from Colorado (Mr. Dominick).

Further perfecting amendments to Senate Resolution 293 will be in order at that time.

The distinguished majority leader (Mr. Mansfield) will offer a cloture motion tomorrow on Senate Resolution 293. He may do this at any time, whether or not the resolution is before the Senate—under the unanimous consent order that was entered.

A vote on the motion to invoke cloture will occur at 11 a.m. on Wednesday next.

Mr. President, I ask unanimous consent that when the Senate completes it business on Tuesday next, it stand in adjournment until the hour of 10 a.m. on Wednesday next.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the motion to invoke cloture on Wednesday next be equally divided and controlled by the majority leader (Mr. Mansfield) and the minority leader (Mr. Hugh Scott) or their designees.

Tomorrow the Senate will resume the consideration of the minimum wage bill.

It is my understanding that the Committee on Rules and Administration has today reported resolutions for the funding of committees. It is quite possible that some or all of the resolutions may be considered tomorrow, depending upon the circumstances.

I do not know whether the Committee on Rules and Administration needs time to file further reports today on such money resolutions; in any event, I ask unanimous consent that the Committee on Rules and Administration may have until midnight tonight to file reports on various resolutions and or bills coming from that committee.

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

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 the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 6:20 p.m. the Senate adjourned until tomorrow, Friday, March 1, 1974, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate February 28, 1974:

U.S. Assay Office of New York

Allan Stephen Ryan, of New York, to be Assayer of the U.S. Assay Office at New York, N.Y., vice Paul J. Maguire, resigned.

Department of Justice

Robert W. Rust, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years. (Reappointment.)

Stanley B. Miller, of Indiana, to be U.S. attorney for the southern district of Indiana for the term of 4 years. (Reappointment.)

In the Army

The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general (Medical Corps)

Brig. Gen. Robert Wesley Green, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Marshall Edward McCabe, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general (Medical Corps)

Col. Philip Augustus Deffer, [redacted], Medical Corps, U.S. Army.

Col. Floyd Wilmer Baker, [redacted], Army of the United States (lieutenant colonel, Medical Corps, U.S. Army).

The following-named officer for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3307:

To be major general (Medical Corps)

Maj. Gen. Edward Henry Vogel, Jr., [redacted], Army of the United States (brigadier general, Medical Corps, U.S. Army).

The following-named officers for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general (Medical Corps)

Maj. Gen. George Joseph Hayes, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Marshall Edward McCabe, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Robert Wesley Green, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general (Medical Service Corps)

Brig. Gen. John Edward Haggerty, [redacted], Army of the United States (colonel, Medical Service Corps, U.S. Army).

CONFIRMATIONS

Executive nominations confirmed by the Senate February 28, 1974:

Department of Justice

Laurence H. Silberman, of Maryland, to be Deputy Attorney General.

Duane K. Craske, of Guam, to be U.S. attorney for the district of Guam for the term of 4 years.

Wayman G. Sherrer, of Alabama, to be U.S. attorney for the northern district of Alabama for the term of 4 years.

Thomas F. Turley, Jr., of Tennessee, to be U.S. attorney for the western district of Tennessee for the term of 4 years.

J. Keith Gary, of Texas, to be U.S. marshal for the eastern district of Texas for the term of 4 years.

Lee R. Owen, of Arkansas, to be U.S. marshal for the western district of Arkansas for the term of 4 years.

John W. Spurrier, of Maryland, to be U.S. marshal for the district of Maryland for the term of 4 years.

William M. Johnson, of Georgia, to be U.S. marshal for the southern district of Georgia for the term of 4 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Thursday, February 28, 1974*

The House met at 12 o'clock noon.

Dr. Samuel Lindsay, Royal Poinciana Chapel, Palm Beach, Fla., offered the following prayer:

Gracious God, we rejoice because we live in the best part of the best continent on this planet. May we justify Thy goodness by striving to create the best form of government for Thy people.

Remind us that moral excellency means national well-being, and that moral decadence means national disintegration.

Remind us that it is the will of God that nations should solve their problems by conference rather than by conflict.

Remind us might does not make right; that only right makes right.

Remind us that history has to be repeated for those who do not read history.

Remind us that God expects nations, like individuals, to practice the Golden Rule.

Remind us that good laws should be respected, and foolish laws corrected.

For the Nation's sake. 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 bills of the following titles, in which the concurrence of the House is requested:

S. 2343. An act to authorize the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands in Coeur d'Alene, Idaho, in order to eliminate a cloud on the title to such lands; and

S. 2957. An act relating to the activities of the Overseas Private Investment Corporation.

HARRY S. TRUMAN MEMORIAL VETERANS' HOSPITAL

(Mr. DORN asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, I rise today to pay tribute to our late and beloved President Harry S. Truman and to give my wholehearted endorsement and support of H.R. 10212, legislation now pending before my Committee on Veterans' Affairs, which would designate the Veterans' Administration hospital in Columbia, Mo., as the "Harry S. Truman Memorial Veterans' Hospital." Mr. Speaker, we wish to commend the Missouri congressional delegation, one of the most outstanding delegations in the Congress, for introducing this bill. It is an honor for me to join them in honoring our late President, Harry S. Truman, who will go down in history as one of our greatest Presidents.

Mr. Speaker, a resolution has been passed by the American Legion Department of Missouri expressing their unanimous support of this legislation. Legionnaires and veterans' organizations from throughout the Nation have also indicated their strong support of H.R. 10212 and have joined Mrs. Bess W. Truman and the distinguished Missouri congressional delegation in urging final passage of this legislation. Given the support of these organizations, Mrs. Truman and the Missouri delegation, it gives me great honor to support enactment of such a memorial to President Truman's active leadership in veterans' affairs, his advocacy of a strong America and his illustrious Presidency.

The veterans' hospital at Columbia, Mo., is a splendid facility and one which President Truman would indeed be proud to have named in his honor.

Mr. Speaker, I pledge my efforts for enactment of H.R. 10212.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE REPORTS ON SEVERAL PRIVILEGED RESOLUTIONS

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight tonight to file reports on several privileged resolutions.

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

There was no objection.

ANNOUNCEMENT OF PROPOSAL TO SPEAK OUT OF ORDER

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

Mr. PODELL. Mr. Speaker, shortly after we proceed to conduct business this morning, I am going to ask unanimous consent to proceed out of order on a matter which I think affects every single Member of this House.

I respectfully request my colleagues to try to remain on the floor, because I think this is a matter which is most important to the future of the Congress and to the future of the Members of the House.

FEDERAL SALARY INCREASE

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

Mr. ZWACH. Mr. Speaker, I rise today to express my deep-rooted feelings on the salary increases for Members of Congress.

Due to the provisions of the Federal Salary Act of 1967, a 7½-percent increase for each of the next 3 years will automatically go into effect March 10 unless Congress disapproves the recommendation.

All of you remember the impact our last raise had on our taxpayers back home. How can we pretend to fight inflation when we ourselves will not tighten our belts? How can we face those on fixed incomes, when we agree to a 22½-percent raise in our own salaries?

No amount of finagling will get Congress off the hook on this issue. Rest assured on this. It is time to stand up and be counted.

This is hardly the way Congress should handle pay raises. We should be debating this on the floor, not fighting to keep it from coming out of committee. Why can't Congress face the issue squarely and vote "yes" or "no," instead of using this parliamentary maneuvering to keep the recommendation bottled up in committee?

On February 6, I introduced House Resolution 833, a resolution disapproving the salary increase recommendation. I had refrained from signing a discharge petition because I wanted the House Post Office and Civil Service Committee to have the opportunity to report out legislation to disapprove the increase. But, headlines like those in the Washington Star-News on February 22 which stated, "Non-Quorum Brings Congress Raise Step Nearer," made me decide to sign the discharge petition.

Hiding from committee meetings is certainly not responsible action on the part of legislators. This irresponsibility is unbecoming to a Congressman and is indeed not the way to handle this important question.

With action like this it is no wonder Congress popularity is even lower than the President's. If we keep it up, we may end up below zero, like the Minnesota winter weather.

THE END OF THE WAGE AND PRICE CONTROLS

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

Mr. PRITCHARD. Mr. Speaker, I join with my colleagues in urging that wage and price controls come to an end on April 30. We have moved full circle, and controls now are counterproductive. When first instituted in August 1971 it was hoped that controls would slow the growth of inflation and restore order to our economy. Through phase II, the magic seemed to be working, but the implementation of phase III was not successful, resulting in a wholesale price index increase of 24.4 percent and a Consumer Price Index increase of 8.3 percent. Phase IV has reduced the WPI increase to 14.3 percent, but has produced a 9.6 percent increase in the CPI. The controls as administered simply have not worked, and now is the time to terminate them and return to a freer market. I use the term "freer market" as opposed to "free market," because there is no such thing as a "free market" in today's society. We are part of an international economy, and the marketplace is buffeted by variables beyond the control of supply and demand. However, now we must do all we can to promote competition, reduce monopoly power and increase production, thus developing a situation where the consumer will dictate price. To achieve this, an end to wage and price controls must be accompanied by the stringent application of our antitrust laws.

DISAPPROVAL OF PAY INCREASES FOR MEMBERS OF CONGRESS, ETC.

(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 am pleased to announce to the House that the House Committee on Post Office and Civil Service just reported, by a vote of 19 to 2, a resolution disapproving any pay increase for Members of Congress, the Federal judiciary, and the elite corps in the executive branch of the Government.

I hope and believe that the chairman of the House Committee on Post Office and Civil Service will report this resolution to the Committee on Rules immediately and that the Committee on Rules will in turn promptly report the resolution to the House floor.

ADA THRIFTY?

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

Mr. DERWINSKI. Mr. Speaker, along with the gentleman from Iowa, I worked on that measure that he just discussed this morning, but I would like to turn to a much more important subject.

Mr. Speaker, I have in my hand a National Broadcasting Co. envelope with a handwritten label addressed to my legislative assistant which contained voting records compiled and published by the Americans for Democratic Action. At first glance I thought I had uncovered a major scandal connecting NBC with the ADA. At the very least, I felt I had evidence of a relationship between the two which would probably be embarrassing to each.

However, upon investigation, we reasoned that NBC had evidently mailed material to the ADA office and some efficient ADA staff member had evidently placed labels over the address and a metered postage and used it to mail their publications to my office. So the mailing was legal, if not a little unusual.

The purpose of my commentary is to commend the staff member at the ADA for pursuing a very thrifty policy in that organization's mail service. Perhaps this is an indication that the ADA is developing legitimate conservative tendencies, since certainly, if they go to such great pains to save an envelope, they might concentrate on working against rather than for massive new government spending programs and supporting economy rather than extravagance in Government. If they do, my rating might rise above its present 12 percent.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL MIDNIGHT FRIDAY TO FILE REPORTS

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight Friday night to file reports on S. 2770 and S. 2771.

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

There was no objection.

DISAGREEING TO SENATE AMENDMENTS TO H.R. 7824

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes, with Senate amendments thereto and disagree to the Senate amendments.

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

There was no objection.

CALL OF THE HOUSE

Mr. SYMMS. 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. 51]

Baker	Diggs	Pike
Blatnik	Esch	Poage
Boland	Foley	Powell, Ohio
Brasco	Ford	Railsback
Broyhill, N.C.	Frelinghuysen	Reid
Buchanan	Fuqua	Roberts
Burke, Calif.	Gray	Rooney, N.Y.
Burton	Green, Oreg.	Rostenkowski
Camp	Hébert	Runnels
Carey, N.Y.	Holifield	Sisk
Carney, Ohio	Ichord	Skubitz
Clark	Jones, Tenn.	Staggers
Clay	Kluczynski	Stokes
Conlan	Mailliard	Sullivan
Conyers	Michel	Teague
Crane	Mills	Vander Veen
Daniels, Dominick V.	Moss	Wilson, Charles H., Calif.
Davis, Ga.	Murphy, N.Y.	Young, Alaska
Davis, Wis.	Nichols	
Dellums	O'Hara	
	Pepper	

The SPEAKER. On this rollcall 372 Members have recorded their presence by electronic device, a quorum.

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

EMPLOYEE BENEFIT SECURITY ACT OF 1973

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 further 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 further consideration of the bill H.R. 2, and the Chair requests that the gentleman from Tennessee temporarily assume the Chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. FULTON). When the Committee rose on yesterday, there was pending 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. Part 1 of title I of the said substitute, ending on page 73, line 17, had been considered as read.

Mr. PODELL. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. PODELL was allowed to speak out of order and to proceed for an additional 5 minutes.)

RIGHTS OF INDIVIDUALS THREATENED

Mr. PODELL. Mr. Chairman, on April 22, 1971 the late, beloved and respected majority leader of the House, Hale Boggs, stood in the well of this Chamber and with a memorable display of political courage exposed a pattern of wiretapping, bugging, and surveillance by a powerful Nixon administration then gearing up for reelection to a second term.

Mr. Boggs that day was enlarging on a brief statement he made 2 weeks earlier—April 5—in which he charged that he and other Members of Congress were being personally and politically harrassed by the Nixon administration. He was firm, fair, and humble in asking Congress to reconsider the vast investigative powers it has bestowed on the Executive. Those investigative powers, given in good faith, were becoming the tools of tyranny.

He used himself as an example of how the executive branch of Government terrorizes, wiretaps, influences elections, invades privacy, and subverts, twists, and arrogates the constitutional rights of the public, including Members of Congress.

He gave a detailed account of his own personal telephones being bugged; of surveillance, of official harassment of his staff and his constituents. It was a tale of terror he told that day, and it was laced with frustration and bitterness at not being able to do anything about it. Others, too, have been stung by the high-handed abuse of authority.

He spoke sincerely, and Members knew it. But few—perhaps through fear—openly came to his support. In large measure, he and what he said was ignored by those whose concern for individual liberties should have moved them otherwise.

The administration responded. Boggs was hooted down. He was personally insulted. His sanity was questioned. They made fun of him. His point was lost. He was demolished and virtually without support in a Congress and a nation not wanting to believe the truth. He persuasively argued that the Department of Justice and the White House were wiretapping, bugging, and spooking Members of Congress and others. It was just 2 months before Watergate and no one believed him.

Here is what the administrators of "truth and justice" replied 2 years ago when Mr. Boggs charged it was official policy of the administration to wiretap, harass, and surveil Members of Congress:

J. Edgar Hoover, Director, FBI:

I want to make a positive assertion that there has never been a wiretap of a Senator's phone or the phone of a member of Congress since I became director in 1925, nor has any member of the Congress or of the Senate been under surveillance by the FBI.

President Nixon, to the American Society of Newspaper Editors:

Q. Is there any credence to the complaints by some Congressmen . . . that they are under surveillance by the FBI?

NIXON. . . . Particularly, I can assure you, that there is no question in my mind that Mr. Hoover's statement that no telephone in the Capitol has ever been tapped by the FBI is correct. That is correct.

John Mitchell, Attorney General:

That is false and he (Boggs) should know it is false. Let me repeat categorically: The FBI has never tapped the telephone of any member of the House or Senate, now or in the past.

Richard Kleindeinst, Deputy Attorney General:

The FBI has never installed an electronic listening device of any kind in the home, office or on the telephone of a U.S. Senator or Congressman.

I know now Mr. Boggs told the truth. You see, I suffered the same experience. The one difference is I have the proof.

Last July 11, I was indicted by a grand jury in New York. At that time I charged that this administration had broken into my congressional office and taken papers; broken into my home, my law office, wiretapped my conversations and watched my daily activities. Few believed me.

It is difficult to believe but undoubtedly true that at the very time President Nixon was denying the use of "Big Brother" tactics on Congressmen, he personally ordered a surveillance of this Congressman.

I did not come here to the well of the House to try my case, the details of which are not germane to my remarks, but I feel that I have a duty to alert my country and my Congress to the gross abuses of power and privilege indulged in by this administration.

In exchange I expect the same abuse and insults that were heaped on our late colleague and I am willing to shoulder that responsibility as well.

The facts are as follows:

On January 18, 1974, my attorney was served with a protective court order signed by the Federal judge who was assigned to my case. The effect of that order was to silence me and all others from revealing this electronic surveillance that was ordered by the President. That protective order was based on an affidavit by the Honorable William B. Saxbe, Attorney General of the United States of America, who stated that the defendants in my case, or one of them, were electronically surveilled on numerous occasions in the interests of national security as a result of an order by the President of the United States, Richard Nixon.

The further affidavit of Mr. William Hoar of the Department of Justice indicated that the FBI, and I quote:

The Federal Bureau of Investigation overheard conversations, logs of which have been submitted to this Court for in camera inspection to determine the lawfulness of the surveillances.

The order further contained affidavits of Assistant U.S. Attorneys Rudolph Guilliani, Joseph Jaffee, and Michael B. Mukasey, stating that they are familiar with the electronic surveillances.

While Mr. Saxbe's affidavit refers to "one of the defendants" and does not mention me by name, there is no question that I was the target of the surveillance ordered by President Nixon, and I am reliably informed of this.

The court order prevents me from knowing when the surveillance was made, in what manner it was made, who made it, what was overheard, the purpose of the surveillance and whether or not it was tied into the various break-ins into my offices and home. Unfortunately, everybody else seems to know. The FBI knows, Mr. Saxbe knows, the employees of the Department of Justice in Washington know, U.S. Attorney Curran obviously knows, Assistant U.S. Attorneys Guilliani, Jaffe and Mukasey know, and all of their respective assistants, clerks, secretaries, and researchers know and probably so do their sisters, brothers, cousins, and aunts.

Everybody knows, but me.

My knowledge or lack of knowledge of these tapes, while important to my defense, is insignificant when discussed in the light of what has happened.

For despite the statement of former FBI Director Hoover, despite the protestation of two former Attorney Generals of the United States of America, Kleindienst and Mitchell, despite the statement of the President himself, I have an admission by the present Attorney General that this Member of Congress was bugged, or followed, or spied upon, and God knows what, and that the Podell tapes are presently impounded perhaps never to be divulged.

What does all this mean? It means that this affidavit signed by Attorney General William B. Saxbe admits to a surveillance on me by the FBI on numerous occasions. Let me remind you this is not an accidental surveillance—there were "numerous surveillances"—the tapes of which are presently in the hands of the court. That is a direct contradiction to the statement made by Mr. Hoover by Mr. Kleindienst, by Mr. Mitchell, and by the President himself. It means we were not told the truth.

Who else have they bugged, Mr. Chairman, you, the majority leader, the minority leader, the House Chaplain? Not even Fishbait Miller is exempt from "Big Brother."

After all, the Podell tapes concerned themselves with a freshman Member of Congress, can you imagine how many tapes have been made of the senior Members of the House and Senate.

To further quote the then Attorney General, Mr. Mitchell, he stated, "Nobody in this Government who is using electronic surveillance may do so without my personal approval."

This revelation is the act of an honest and dedicated public servant, William Saxbe, who probably came across these tapes and felt it was his duty to produce them. In no way can he be criticized or bear responsibility for their use.

I speak now to warn you, my colleagues, that there is no one in Congress—or elsewhere—beyond the reach of the plumbers, electricians, and mercenaries employed by this administration.

I trust the judge in my case will understand that I speak today from the floor of the House, taking immunity by speaking from the floor, not to challenge his authority but because I feel I am dutybound to disclose this to my colleagues.

Mr. Chairman, should not these tapes be produced for the whole world to hear? I have nothing to hide. I seek no privilege and I have done nothing to compromise my oath of office. If the Justice Department refuses to disclose the nature of these tapes, then it is they who have something to hide.

It is in the interests of protecting the individual rights of us all from the whim of overzealous "patriots" that I make this statement today. I pray that Mr. RODINO and the Judiciary Committee harken to these words lest even the right to utter them be taken away.

The CHAIRMAN. Are there further amendments to part 1 of title I?

AMENDMENT OFFERED BY MR. DENT

Mr. DENT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENT: Page 54 at line 18, strike "or" and add following "savings plan" "or money purchase plans designed to invest primarily in securities described in subparagraph (B) of this paragraph,".

Mr. DENT. Mr. Chairman, I urge the adoption of the amendment.

Mr. ERLENBORN. Mr. Chairman, I have been advised by the chairman, Mr. DENT, as to this amendment. I have seen the amendment, and I would join in urging its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 26, line 9, strike the following "on or before December 31, 1973,".

On page 26, lines 11 and 12, strike the following: "with respect to audits performed before January 1, 1976."

Mr. ASHBROOK. Mr. Chairman, I am offering an amendment to H.R. 2 which will eliminate an arbitrary limitation on the eligibility of auditors of private pension plans. The inclusion of this arbitrary limitation in the bill was, I believe accidental.

The two changes are necessary because the provisions in section 104(a)(3)(C) (ii) and (iii) do not adequately and fairly take cognizance of the licensing procedures of public accountants in some 26 States including Ohio.

In 16 States, at the present time, the State legislatures have provided the measures of competency including education, experience and examination, to license independent accountants for public practice in addition to CPA's. I understand that some 400 persons a year are now being licensed in Ohio as licensed public accountants. The States in this category are as follows: Alabama, Alaska, Arizona, Georgia, Indiana, Maine Montana, New Hampshire, New Mexico, Ohio, Oklahoma, Oregon, South

Carolina, South Dakota, Tennessee, and Vermont.

Of significance, too, are the 10 States which presently provide no regulation of the profession of public accounting except to restrict the title of the certified public accountant. In such jurisdictions, until comprehensive regulatory licensing standards are enacted by the respective State legislatures, there will be no means for otherwise qualified independent public accountants to perform audits for private pension plans under the current language of H.R. 2. The States in this group are as follows: Arkansas, Delaware, District of Columbia, Idaho, Kansas, Minnesota, New Jersey, North Dakota, Pennsylvania, and Wyoming.

The need for flexibility in permitting qualified personnel in these States is recognized in H.R. 2, but it is needlessly limited. If it is truly appropriate to grant the Secretary of Labor the authority to promulgate standards of competence until 1976; it should be appropriate without a cutoff date.

In making these changes to H.R. 2, I am not unmindful that the standards to be employed in providing eligibility for independent auditors must not be diminished or impaired. An important element in this bill must be the protection of the public and the establishment of competency standards.

Public interest requires that persons engaged to perform audits of these programs be independent and possess sufficient technical knowledge to carry out the engagements in a satisfactory manner.

Since reliance has been placed in the standards set by States and in the equivalency standards set by the Secretary, no artificial and unnecessary restriction on dates ought to be placed on this generally meritorious legislation.

It ought to be noted that the Securities and Exchange Commission utilizes terminology calling for "independent public accountants" and no set dates for licensure are established by that exacting regulatory authority which oversees the public interest in the investment field.

A recent example of a major Federal program setting standards for independent auditors is the revenue sharing program. Regulation promulgated by this important office of the Department of the Treasury define qualified accountants as those licensed by the State, regardless of the date of licensure.

Professional accountants, whenever licensed, should have the opportunity to participate in this important program.

This legislation has made many strides in the private pension reform area and I do not want to see it weakened by a technical oversight which does not recognize the realities of the accounting profession in America today.

Mr. DENT. Mr. Chairman, as far as this side is concerned, I agree to the amendment and accept it, and I am sure the ranking minority member will, also.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to part I? If not, the Clerk will read.

The Clerk read as follows:

PART 2—VESTING

COVERAGE

SEC. 201. (a) Except as provided in subsection (b) this part shall apply to any employee pension benefit plan—

(1) if it is established or maintained by an employer engaged in commerce or in any industry or activity affecting commerce or by such employer together with any employee organization representing employees engaged in commerce or in any industry or activity affecting commerce; or

(2) if such plan is established or maintained by any employer or by any employer together with any employee organization and if, in the course of its activites, such plan, directly or indirectly, uses any means or instruments of transportation of communication in interstate commerce or the mails.

(b) This part shall not apply to any employee pension 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 subsection (c);

(3) such plan is established and maintained outside the United States primarily for the benefit of persons who are not citizens of the United States;

(4) such plan is a supplementary plan;

(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; or

(6) such plan is established and maintained by a fraternal society, order, or association described in section 501(c) (8) or (9) of the Internal Revenue Code of 1954.

(c)(1) If the church or convention or association of churches which maintains any church plan makes an election under this subsection (in such form and manner, and with such official, as may be prescribed by regulations), then this part shall apply to such church plan as if this section did not contain an exclusion for church plans.

(2) An election under this subsection with respect to any church plan shall be binding with respect to such plan, and, once made, shall be irrevocable.

ELIGIBILITY REQUIREMENTS

SEC. 202. (a) Except as provided in subsection (b), no pension plan subject to this part shall require as a condition of participation in the plan, that an employee complete a period of service with the employer or employers maintaining the plan extending beyond the later of the following dates:

(1) the date on which the employee attains twenty-five years of age; or

(2) the date on which he completes one year of service.

(b)(1) In the case of any plan which provides that after three years of service each participant has a right to 100 per centum of his accrued benefit under the plan which is nonforfeitable at the time such benefit accrues, subsection (a)(2) shall be applied by substituting "3 years of service" for "1 year of service".

(2) A defined benefit plan may exclude from participation in the plan any person whose employment commences at an age which is greater than the regular retirement age under the plan reduced by five years.

NONFORFEITABLE BENEFITS

SEC. 203. (a) Every pension plan subject to this part shall provide rights to participants to receive nonforfeitable pension benefits as follows:

(1) A participant's rights in his accrued benefit under the plan derived from his own contributions shall be nonforfeitable.

(2) A participant's rights to accrued benefits derived from employer contributions shall be nonforfeitable in accordance with one of the following alternatives:

(A) A pension plan may provide that the rights of the employees to receive 100 per centum of the accrued benefit derived from employer contributions shall be nonforfeitable after a specified period of service not to exceed ten years.

(B) A pension plan may provide that an employee who has at least five years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions. The percentage shall not be less than the percentage determined under the following table:

Years of service:	Nonforfeitable percentage
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100

(C) A pension plan satisfies the requirements of this paragraph if, under the plan—

(i) in the case of an active participant, who has at least five years of service, and with respect to whom the sum of his age and years of service equals or exceeds forty-five, the participant has a nonforfeitable right to at least 50 per centum of his accrued benefit derived from employer contributions, and

(ii) for each year of service after such participant first satisfies the requirements of clause (i), the nonforfeitable percentage of his accrued benefit so derived is not less than the percentage determined under the following table:

Additional years of service:	Nonforfeitable percentage
1	60
2	70
3	80
4	90
5	100

(D) In the case of a pension plan in existence on January 1, 1974, for the first five plan years of the plan to which this section applies, in lieu of the nonforfeitable percentages set forth in subparagraph (A), (B), or (C), as the case may be, the nonforfeitable percentage shall be the following percentage of the applicable nonforfeitable percentage determined under such subparagraph:

Plan year to which this section applies:	Percentage of applicable nonforfeitable percentage determined under subparagraph (A), (B), or (C)
1	50
2	60
3	70
4	80
5	90

(3) Notwithstanding the provisions set forth in paragraphs (1) and (2) of this subsection, if the pension plan is a class year

plan, then such plan shall provide that the participant shall acquire a nonforfeitable right to 100 per centum of his rights to or derived from the contributions of the employer on his behalf with respect to any plan year, not later than the end of the fifth year following the year for which such contribution was made. For the purposes of this paragraph, the term "class year plan" means a profit-sharing or stock bonus plan which provides for the separate nonforfeitability of employee rights to or derived from the contributions for each plan year.

(b) (1) In computing the period of service under the plan for purposes of determining the nonforfeitable percentage under subsection (a), a participant's entire service with the employer or employers contributing to or maintaining the plan (or the entire period during which contributions were made by or on behalf of such individual in the case of a plan which employers do not maintain or contribute to) shall be taken into account, except that the following may be disregarded:

(A) service before age 25;

(B) service during a period for which the participant declined to contribute to a plan requiring employee contributions;

(C) service with an employer during any period for which the employer did not maintain the plan;

(D) seasonal service not taken into account under section 206(a)(3);

(E) service broken by periods of suspension of employment, if the rules governing such breaks in employment are permissible under paragraph (4) of section 206(a); and

(F) service before January 1, 1969, unless the participant has had at least five years of service after December 31, 1968.

(2) Notwithstanding paragraph (1), for purposes of determining the individual's accrued benefit under the plan, the plan may disregard service performed by the employee with respect to which he has received—

(A) a distribution of the present value of his entire nonforfeitable benefit if such distribution was less than $1,750, or

(B) a distribution of the present value of his nonforfeitable benefits attributable to such service which he elected to receive.

Subparagraph (A) of the preceding sentence shall apply only if such distribution was made on termination of the employee's participation in the plan. Subparagraph (B) of such sentence shall apply only if such distribution was made on termination of the employee's participation in the plan. Subparagraph (B) of such sentence shall apply only if such distribution was made on termination of the employee's participation in the plan or under such other circumstances as may be provided under regulations prescribed by the Secretary.

(c) Nothing contained in this part shall be construed to prohibit any plan provision adopted pursuant to regulations of the Secretary of the Treasury or his delegate under section 401(a)(4) of the Internal Revenue Code of 1954 to preclude discrimination.

(d) No pension plan subject to this part to which employees contribute shall provide for forfeiture of a participant's accrued benefit derived from employer contributions (whether or not otherwise nonforfeitable), solely because of withdrawal by such employee of amounts attributable to his own contributions.

(e) Each plan to which this part applies shall specify which of the schedules described in subparagraph (A), (B), or (C) of subsection (a)(2) shall be the applicable minimum schedule for purposes of such plan. A plan amendment may not change any vesting schedule under the plan if the nonforfeitable percentage of the accrued benefit derived from employer contributions (determined for any year of service) of any employee who is a participant in the plan on the date such amendment is adopted or on the date such amendment becomes effective is less than such nonforfeitable percentage computed under the plan without regard to such amendment.

(f) (1) Except as provided in paragraph (2) or pursuant to section 501, a plan may not be amended in a manner which reduces benefits which accrued before the plan year preceding the plan year in which the amendment is adopted. For the purposes of this subsection, any amendment applying to a plan year which—

(A) is adopted after the close of such plan year but no later than the time prescribed by law (including extensions) for filing the tax returns of the employer sponsoring the plan for the taxable year with which or within which the plan year ends (or in the case of a multiemployer plan, no later than 2 years after the close of such plan year), and

(B) does not reduce the accrued benefit of any participant determined (without regard to such amendment) as of the beginning of the first plan year to which the amendment applies,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year.

(2) Paragraph (1) shall not prohibit a plan amendment which, not later than one year after the adoption of an earlier amendment, abrogates such earlier amendment.

(g) Notwithstanding any other provision of this part, a pension plan may allow for nonforfeitable benefits after a lesser period and in a greater amount than is required by this section.

DISTRIBUTION OF BENEFITS

SEC. 204. (a) Nonforfeitable benefits accrued by terminated participants may be distributed in the manner set forth in the plan for payment of regular retirement benefits; except that (1) distribution of such benefits shall, at the election of the terminated participant, commence not later than the earlier of the first date that a participant who is not a terminated participant, with the same credited service under the plan, could have exercised any unrestricted option under the plan to receive regular retirement benefits, or age sixty-five, and (2) the manner of distribution set forth in the plan shall be the same for the benefits payable to both those who were participants within the twelve months immediately prior to making application to receive regular retirement benefits and those who terminated participation prior to the twelve months preceding application to receive regular retirement benefits. For purposes of this section the term "terminated participant" means a participant for whom service is no longer being credited under the plan.

(b) Nothing in this part shall be construed to prohibit any employee pension plan from providing a reduction to the benefit to be paid any participant on account of such recipient's receipt of benefits under the Social Security Act if—

(1) in the case of a participant who is receiving benefits under such plan on the effective date of this part, such benefit is not decreased by any subsequent increase in benefits received under the Social Security Act; and

(2) in the case of a participant entitled to a nonforfeitable benefit who terminates after the effective date of this part, such benefit is not decreased by any subsequent increases in the benefit levels offered under the Social Security Act after the date of such termination; and

(3) in the case of a participant other than one described in paragraph (1) above entitled to a nonforfeitable benefit who has terminated prior to the effective date of this part, such benefit is not decreased by any subsequent increases in the benefit levels offered under the Social Security Act following such effective date; and

(4) in the case of a participant other than one described in paragraphs (2) and (3) above entitled to an immediate benefit upon termination, such benefit is not decreased by any subsequent increase in benefit levels offered under the Social Security Act following the date of such termination.

(c) (1) If a pension plan provides for the payment of benefits in the form of an annuity and if—

(A) the participant and his spouse have been married throughout the five-year period ending on the annuity starting date, or

(B) the participant dies after his earliest retirement age and before the annuity starting date, and the participant and his spouse have been married throughout the five-year period ending on the date of his death,

then such plan shall provide for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity. A qualified joint and survivor annuity required to be paid under this subsection to a participant or his spouse may be in an annual amount which is reduced from the annual amount of a single life annuity to which such participant would be entitled if he made an election under paragraph (2), but such reductions shall not exceed the estimated additional actuarial costs associated with providing qualified joint and survivor annuities under the plan.

(2) Nothing in this subsection shall prohibit a plan provision which provides that—

(A) each participant has a reasonable period (as prescribed by the Secretary or his delegate by regulations) before the annuity starting date during which he may elect in writing (after having received a written explanation of the terms and conditions of the joint and survivor annuity and the effect of an election under this paragraph) not to take the joint and survivor annuity.

(B) any election under subparagraph (A), and any revocation of any such election, does not become effective (or ceases to be effective) if the participant dies within a period (not in excess of two years) beginning on the date of such election or revocation, as the case may be.

(3) For purposes of this subsection—

(A) the term "annuity starting date" means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or by reason of disability),

(B) the term "earliest retirement age" means the earliest date on which, under the plan, the participant could elect to receive retirement benefits, and

(C) the term "qualified joint and survivor annuity" means an annuity for the life of the participant with a survivor annuity for the life of his spouse which is not contingent upon survivors of such spouse beyond the earliest age at which the participant could elect to receive retirement benefits under the plan and which is not less than one-half of the amount of the annuity payable during the joint lives of the participant and his spouse.

(4) This subsection shall apply only if—

(A) the annuity starting date did not occur before the effective date of this part, and

(B) the participant was an active participant in the plan on or after such effective date.

ACCRUED BENEFIT REQUIREMENTS

SEC. 205. (a) Each defined benefit plan to which this part applies shall provide for a

method of accruing benefits which meets the requirements of subsection (b).

(b)(1) A defined benefit plan satisfies the requirements of this subsection if the annual rate at which any participant accrues benefits under the plan for any year of service before the end of 33⅓ years of service is not less than 3 per centum of the maximum benefit to which such participant would be entitled if he commenced participation at the earliest possible entry age under the plan and served continuously until the earlier of age sixty-five or the normal retirement age specified under the plan. In the case of a plan providing retirement benefits based on compensation during any period, the maximum benefit to which a participant would be entitled shall be determined as if he continued to earn annually the average rate of compensation which he earned during consecutive years of service, not in excess of ten, for which his compensation was the highest. For purposes of this subparagraph, social security benefits and all other relevant factors used to compute benefits shall be treated as remaining constant as of the current year for all years after such current year. If the plan provides that any participant's accrued benefits under the plan will be reduced on account of the participant's social security benefits, the amount of social security benefits used for purposes of computing the reduction of the participant's accrued benefits under this paragraph may not exceed the participant's social security benefits (computed without regard to this sentence) multiplied by his service ratio. For purposes of this paragraph, the term "service ratio" means the participant's years of service under the plan divided by the aggregate years of service he would have if he served until the normal retirement age.

(2) A defined benefit plan satisfies the requirements of this subsection unless under the plan the annual rate at which any participant can accrue the retirement benefits payable at normal retirement age under the plan for any plan year is more than 133⅓ per centum of the annual rate at which he can accrue benefits for any other plan year; except that an accrual rate for any year before the eleventh year of service which exceeds by more than 133⅓ per centum of the accrual rate for any year after the tenth year of service may be disregarded. For purposes of this subparagraph—

(A) the accrual rate for any plan year after the participant is eligible to retire with benefits which are not actuarially reduced on account of age or service shall not be taken into account;

(B) any amendment to the plan which is in effect for the current year shall be treated as in effect for all other plan years;

(C) any change in an accrual rate which does not apply to any participant in the current year shall be disregarded;

(D) the fact that benefits under the plan may be payable to certain employees before normal retirement age shall be disregarded; and

(E) social security benefits and all other relevant factors used to compute benefits shall be treated as remaining constant as of the current year for all years after the current year.

(3) Notwithstanding paragraphs (1) and (2), a defined benefit plan satisfies the requirements of this paragraph if such plan—

(A) is funded exclusively by the purchase of individual insurance contracts, and

(B) satisfies the requirements of paragraphs (2) and (3) of section 301(d),

but only if an employee's accrued benefit as of any applicable date is not less than the cash surrender value his insurance contracts would have on such applicable date if the requirements of paragraphs (4), (5), and (6) of section 301(d) were satisfied.

(c)(1) Each defined benefit plan to which this part applies shall provide for separate accounting for the portion of each employee's accrued benefit derived from any voluntary employee contributions permitted under the plan.

(2) Each individual account plan to which this part applies shall provide for separate accounting for each employee's accrued benefit, and shall require that all contributions, income expenses, and forfeitures be allocated, no less frequently than annually, to the participants' accounts comprising the plan.

(3) For purposes of determining an employee's accrued benefit, the term "year of service" means a period of service (beginning not later than the date on which the employee first becomes a participant in the plan) determined under provisions of the plan which provide for the calculation of such period on a reasonable and consistent basis. The Secretary shall prescribe regulations defining reasonable and consistent basis for purposes of the preceding sentence. In prescribing such regulations, the Secretary shall take into account the rules relating to the measurement of time and to breaks in service contained in the regulations under section 206(b); but plan provisions shall not be deemed to provide for calculation of a period of service on a basis which is not reasonable and consistent merely because they make adjustments in determining year of service (for purposes of accrual of benefits) in order to reflect less than full-time service by a participant.

(d)(1) For purposes of this part, an employee's accrued benefit derived from employer contributions of any applicable date is the excess of the accrued benefit for such employee as of such applicable date over the accrued benefit derived from contributions made by such employee as of such date.

(2)(A) In the case of a plan other than a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is—

(i) except as provided in clause (ii), the balance of the employee's separate account consisting only of his contributions and the income, expenses, gains, and losses attributable thereto, or

(ii) if a separate account is not maintained with respect to an employee's contributions under such a plan, the amount which bears the same ratio to his total accrued benefit as the total amount of the employee's contributions (less withdrawals) bears to the sum of such contributions and the contributions made on his behalf by the employer (less withdrawals).

(B)(i) In the case of a defined benefit plan providing an annual benefit in the form of a single life annuity (without ancillary benefits) commencing at normal retirement age, the accrued benefit derived from contributions made by an employee as of any applicable date is the annual benefit equal to the employee's accumulated contributions multiplied by the appropriate conversion factor.

(ii) For purposes of clause (i) the term "appropriate conversion factor" means the factor necessary to convert an amount equal to the accumulated contributions to a single life annuity (without ancillary benefits) commencing at normal retirement age and shall be 10 percent for a normal retirement age of 65 years. For other normal retirement ages the conversion factor shall be determined in accordance with regulations prescribed by the Secretary.

(C) For purposes of this subsection, the term "accumulated contributions" means the total of—

(i) all mandatory contributions made by the employee,

(ii) interest (if any) under the plan to the end of the last plan year to which this part does not apply (by reason of the applicable effective date), and

(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually at the rate of 5 percent per annum from the beginning of the first year plan to which this part applies (by reason of the applicable effective date) to the date upon which the employee would attain normal retirement age.

For purposes of this subparagraph, the term "mandatory contributions" means amounts contributed to the plan by the employee which are required as a condition of employment, as a condition of participation in such plan, or as a condition of obtaining benefits under the plan attributable to employer contributions.

(D) The Secretary is authorized to adjust by regulation the conversion factor described in subparagraph (B), the rate of interest described in clause (iii) of subparagraph (C), or both from time to time as he may deem necessary. The rate of interest shall bear the relationship to 5 percent which the Secretary determines to be comparable to the relationship which the long-term money rates and investment yields for the last period of 10 calendar years ending at least 12 months before the beginning of the plan year bear to the long-term money rates and investment yields for the 10-calendar-year period 1964 through 1973. No such adjustment shall be effective for a plan year beginning before the expiration of 1 year after such adjustment is determined and published.

(E) The accrued benefit derived from employee contributions shall not exceed the employee's accrued benefit under the plan.

(3) For purposes of this part, in the case of any defined benefit plan, if an employee's accrued benefit is to be determined as an amount other than an annual benefit commencing at normal retirement age, or if the accrued benefit derived from contributions made by an employee is to be determined with respect to a benefit other than an annual benefit in the form of a single life annuity (without ancillary benefits) commencing at normal retirement age, the employee's accrued benefit, or the accrued benefits derived from contributions made by an employee, as the case may be, shall be the actual equivalent of such benefit or amount determined under paragraph (1) or (2) of this subsection.

(e) In the case of a defined benefit plan which permits voluntary employee contributions, the portion of an employee's accrued benefit derived from such contributions shall be treated as an accrued benefit derived from employee contributions under a plan other than a defined benefit plan.

DEFINITION OF YEAR OF SERVICE

SEC. 206. (a)(1) For purposes of section 202, the term "year of service" means a period of service determined under regulations prescribed by the Secretary which provide for the calculation of such period on any reasonable and consistent basis.

(2) For purposes of this section, the calculation of any period of service shall not be treated as made on a reasonable basis—

(A) if the average period of service required for participation in the plan (determined as if one employee commenced his service on each day) is more than 12 months, or

(B) if any employee who has completed more than 17 months of continuous service is excluded from participation in the plan by such calculation.

(3) For purposes of this section, the calculation of any period of service shall not be treated as made on a reasonable basis in the case of a seasonal employee whose customary employment is for at least 5 months in a 12-month period, if his period of service is treated as less than the period of service he would have had if his customary employment had been nonseasonal.

(4)(A) For purposes of this section, in the case of any employee who has a break in his service with the employer for a continuous period of not less than 1 year, the calculation of his period of service shall not be treated as not made on a reasonable basis merely because, under the plan, service performed by such employee is not taken into account until he has completed a continuous period of service (not in excess of 1 year) after his return.

(B) For purposes of this section, in the case of any employee who has a break in his service with the employer and, who before such break, had a nonforfeitable right to 50 percent or more of his accrued benefit derived from employer contributions, the calculation of his period of service shall not be treated as made on a reasonable basis if service performed by such employee before the end of such break in service is not taken into account in calculating his period of service.

(C) For purposes of this section, except as otherwise provided in subparagraphs (A) and (D), in the case of any employee who has a break in his service with the employer for a continuous period of not less than 12 months, the calculation of his period of service shall not be treated as made on a reasonable basis if such employee completed four consecutive years of service prior to such break and all service prior to such break is not taken into account.

(D) Except as provided in subparagraph (B), for purposes of this section, in the case of any employee who has a break in his service with the employer for a continuous period of not less than 6 years, the calculation of his period of service shall not be treated as not made on a reasonable basis merely because under the plan, service performed by such employee before the end of such break in service is not taken into account.

(5) The regulations prescribed under this subsection and subsection (b) shall take into account the customary working period (as expresed in hours, days, weeks, months, or years) in any industry where, by the nature of the employment, such period differs substantially from the comparable work period in industry generally.

(b) For purposes of section 203, the term "year of service" means a period of service determined under regulations prescribed by the Secretary which provide for the calculation of such period on any reasonable and consistent basis. The regulations prescribed under this subsection shall be consistent with the regulations prescribed under subsection (a) for purposes of section 202.

EFFECTIVE DATE

SEC. 207. (a) Except as otherwise provided in this section, this part shall apply in the case of plan years beginning after the date of the enactment of this Act.

(b)(1) In the case of a plan in existence on January 1, 1974, this part shall apply in the case of plan years beginning after December 31, 1975. In any case described in paragraph (2) of this subsection, such paragraphs shall apply if (and only if) their application results in a later effective date of this part.

(2) In the case of a plan maintained pursuant to one or more agreements which the Secretary finds to be collective-bargaining agreements between employee representatives and one or more employers, and which he finds (in the aggregate) cover more than 25 percent of the participants in such plan, paragraph (1) shall be applied by substituting for December 31, 1975, the earlier of—

(A) the date on which the last of such agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) December 31, 1980,

but in no event shall a date earlier than December 31, 1976, be substituted.

Mr. GAYDOS (during the reading). Mr. Chairman, I ask unanimous consent that part 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENTS OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer amendments, and ask unanimous consent that they may be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Ms. ABZUG:

Page 75, line 17, strike out "the later" and insert in lieu thereof "any".

Page 75, strike out line 19 through line 22, and insert in lieu thereof the following:

"(1) in the case of an employee who begins his period of service on or after the date he attains the age of 24, the date on which he completes 1 year of service; or

"(2) in the case of an employee who begins his period of service before he attains the age of 24, the date on which he completes 3 years of service or the date on which he attains 25 years of age, whichever date is earlier."

Page 79, strike out line 9.

Page 79, line 10, strike out "(B)" and insert "(A)".

Page 79, line 13, strike out "(C)" and insert "(B)".

Page 79, line 15, strike out "(D)" and insert "(C)".

Page 79, line 17, strike out "(E)" and insert "(D)".

Page 79, line 21, strike out "(F)" and insert "(E)".

Mr. DENT. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I have discussed this matter with the gentlewoman from New York, and also with the ranking minority member of the committee, and I have no objection to the amendments, and we accept the amendments.

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I think that it would be good for the RECORD if we could have an explanation of the amendments, and I believe that after such an explanation I would be prepared to accept them.

Ms. ABZUG. I thank the gentleman from Illinois, and I will be glad to give an explanation of the amendments.

Mr. Chairman, under the legislation which is before us, eligibility for participation commences after the age of 25, plus 1 year of service. The amendments, which I am proposing, would allow coverage to begin at an age lower than 25 if the employee has worked for 3 years.

The facts are that, according to the 1970 census over 50 percent of all Americans between the age of 18 and 19 are in the labor force. Over 68 percent of all Americans between the ages of 20 and 24 are in the labor force. The amendments are of particular interest to women whose work pattern is to work for a number of years, generally starting between 18 and 24, then leave to fulfill their roles as wives and mothers, and then return to work.

From the same 1970 census we learn that of all the women between the ages of 20 and 24 over 56 percent are in the labor market.

Actually, what the amendments seek to do is to more equitably cover blue-collar workers in this country who do not wait until the age of 25 to start working, but who commence working right out of high school, and that is a reality of American life.

The amendment expands the rights of every working individual to receive a pension.

I believe it would be terribly unfair for the working youth and women in this country who make a significant contribution to society not to be considered as economic equals. It is for that reason that I urge the adoption of this amendment.

For the purposes of clarification I would like at this time to offer some examples of how this amendment would effect employees.

EXAMPLE 1

Assume that a 20-year-old starts working for a large company that maintains the minimum standards required by this bill. The plan has both employee and employer contributions. Let us also assume that this employee works for 10 years for the same company. The company is using the Alternative B, sliding scale plan. Under the current bill this employee would be entitled to 5 years of benefits vested at 25 percent after working 10 years.

Under this amendment, with the same set of circumstances, the employee would be eligible for 7 years of benefits, vested at the 10-year level on the vesting schedule, or 50 percent.

It should be noted that the employee would have a nonforfeitable right to the share he or she contributes.

EXAMPLE 2

An employee at the age of 18 joins a company that requires the minimum standards of this bill and follows the sliding scale of vesting rights, Alternative B. This employee then leaves the company after 8 years at age 26. Under the current bill, the employee will get nothing.

Under the amendment this same employee would get 5 years of benefits, vested at 40 percent. This would not be

possible until age 30 under the current bill and at age 30 the employee would be entitled to only 5 years of benefits, vested at 25 percent.

EXAMPLE 3

An employee at the age of 18 joins a company that follows the 10-year, 100-percent vesting alternative—Alternative A. Under the current bill that employee would get 100 percent of 10 years of benefits at age 35. This 10 years of benefits would come after working for the company 17 years.

Under the amendment, given the same set of circumstances, that employee would have 10 years of benefits, vested at 100 percent at age 31.

EXAMPLE 4

If an employee joins a company at age 18 which follows the sliding vesting schedule, and leaves at age 25, under the current bill that employee would have no benefits vested.

Under the amendment that employee would have 4 years of benefits vested at 35 percent.

I commend the gentleman from Pennsylvania for his work on this legislation and I thank him for accepting this amendment. I would also like to thank and commend the gentleman from Illinois (Mr. ERLENBORN).

The adoption of this amendment will be an important advance for America's working youth and for America's working women.

Mr. BROWN of California. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I would like to commend the gentlewoman from New York (Ms. ABZUG) in offering these amendments. As the gentlewoman points out, they do attempt to rectify provisions in the bill which, in my opinion, are obviously discriminatory. They discriminate against the young due to the age minimum of 25; against women because many women must leave the work force before reaching age 25 due to childbirth, and are, therefore, unable to receive any vesting or pension benefits; and against minorities because, although many must enter the labor force at an early age, due to conditions which do not allow them to continue their education, they do not begin participating in a pension program until age 25.

There is an additional aspect of the bill which bothered me, because of the illogical provision that young people below the age of 25 could be covered under this bill if they were part of a private pension plan which allowed complete vesting after 3 years. In effect, that means that a certain very small proportion of the working force under 25 who were participants in such a plan could be permitted to acquire vesting, but the vast majority could not.

Congresswoman ABZUG's amendments tend to rectify not only the discriminatory provisions of this act, but the illogical provision which would have allowed a certain very small proportion of the working force to be covered at the age of 22, but not the far larger proportion. I want to compliment the gentlewoman from New York for her wisdom in bringing these amendments to the floor, and hope they will be adopted.

Mr. PICKLE. Mr. Chairman, the amendment by my colleague from New York (Ms. ABZUG) is a worthy amendment, and I rise in support of it.

It recognizes that men and women under 25 years of age can still be a significant and vital part of our work force. Since the qualifications for this amendment stipulate that an employee must work for the firm for 3 years before becoming eligible, I do not think it would inflict any undue hardship on our businessmen, but it would also not discriminate against legitimate members of the work force just because they were young.

I think this amendment helps to strengthen this bill and to make it a better guide for pensions for all our citizens working in the private sector.

This amendment not only will have a special meaning to those men and women who enter the work force at an early age and stay there but also to those women who enter the work force and then choose to leave for several years because they have small children at home. Now those early years can count in an overall lifespan of contribution to the American work force.

I think this is right, and that this amendment should receive the strong support of this Congress.

Mr. ERLENBORN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have examined the amendments offered by the gentlewoman, and they have this effect. Under the bill presently there are two criteria for participation—and remember these are minimum standards; this is not a proscription as to what the plan administrators or those who are drafting the plan may do. They could make immediate vesting, immediate participation, if they so desired. These are just minimum standards we are talking about.

Under the bill the minimum standard for participating is age 25 plus 1 year of service. The gentlewoman's amendments would keep that test at age 25 plus 1 year of service, and have another alternative test which would have 3 years of service for one who had not yet attained age 25. This will allow some to participate as members of the pension fund at an earlier age than the bill originally would have.

There is a cost for earlier participation. I do not think the cost will be excessive. I think that we ought to understand the effect of this, however.

As an example, if a person is 18 when he begins his employment, under this rule at age 21 when he has completed 3 years of service in that employment, he will be eligible to participate. Under the most liberal of the 3 vesting standards—most liberal by most interpretations—the graded 5 to 15 year vesting, that person at age 21 will begin to participate, and 5 years later at age 26 will first become vested.

Under the graded vesting at age 26 when that person first becomes vested, that person is vested at 25 percent, not of his final pension, understand, but 25 percent of the years of service that he has as a participant. If the years of service were 5, 25 percent of that is 1¼ years. So, understand, the person after 8 years will get credit for 1¼ years of service.

Let us take the fairly typical plan that would give benefits in the amount of, say, $10 per month of benefits for each year of service. This person after 8 years would have 1¼ years of service to his or her credit and would be entitled at that point and would have a vested right in a $12.50-per-month pension. I want people to understand this because I think there is a vast misconception about what vesting is.

When many people hear of 50-percent vesting, they think that is 50 percent of the final pension. It is not that at all. The percent of vesting means the percent of years of service credited to the person at that time. So I thought that using this example, the Members might understand exactly the effect of these amendments. It will allow people at younger ages to get very small rights and it will not be any great thing. It may, because more people will be getting the small rights who are very likely to leave service and not draw those rights for another 30 years, let us say, when inflation will have chipped away at that $12.50 to the point where it means very little to them, have no very great effect toward helping these people, but it will cost the plan and therefore will cost the other participants in the plan, because whatever we take out of that plan for these individuals will not be available for those with long service to draw meaningful pensions, but with that understanding and explanation I have no objection to the gentlewoman's amendments.

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

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

Mr. DENT. Mr. Chairman, I agree with the recommendation of the gentleman from Illinois. There are other matters that deal with that area. I also agree with the gentleman that there will be an additional cost, but I believe it will be minimal, and I also accept the amendments.

The CHAIRMAN pro tempore (Mr. FULTON). The question is on the amendments offered by the gentlewoman from New York.

The amendments were agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 84, line 21, strike out "his earliest retirement age" and insert in lieu thereof the following: "the earliest age at which he acquired any nonforfeitable rights".

Page 86, line 11, strike out "of such spouse beyond the earliest age at which the participant could elect to receive retirement benefits" and insert in lieu thereof the following: "of the participant beyond the earliest age at which he acquired any non-forfeitable rights".

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, as far as I know at this point we have not been furnished a copy of this amendment. Is a copy available so we might have some idea of its effect?

Ms. HOLTZMAN. I am happy to supply the gentleman with a copy.

Mr. ERLENBORN. I thank the gentlewoman.

Ms. HOLTZMAN. Mr. Chairman, the purpose of my amendment is to protect the pension rights of surviving spouses. The committee bill has a major loophole that could leave many widows or widowers completely unprotected. Thus, under the committee bill, a widow may not receive any survivor's benefits if her husband dies before retirement age—even if his pension rights were fully vested. My amendment would correct this problem.

The problem of survivors' benefits is crucial. Few other areas of pension reform are more needful of action. Providing adequate survivors' benefits under private pension plans would help solve one of the most pressing needs of the over-65 population—the lack of income for older women. Women over 65 who live alone comprise the poorest segment of our population. Six out of every 10 have incomes below the poverty level.

Indeed, even the Education and Labor Committee recognized this when it stated in its report that the present law—which fails to protect such benefits—"can result in a hardship where an individual primarily dependent on his pension as a source of retirement income is unable to make adequate provision for his spouse's retirement years should he predecease her."

I believe that many of my colleagues have the impression that under the pending bill, once a worker's benefits have vested, his wife will be provided for in the event that he predeceases her. Certainly most workers will believe that under this new bill their accrued benefits will automatically go to their widows.

Such is not the case. Behind the technical language of the bill is a provision which permits pension plans to prevent a widow from receiving survivor's benefits unless her husband dies after he has reached his retirement age. This means that a man who has worked for a company for 15 or 20 years, and whose pension benefits have become fully vested by the time he reaches the age of 45 or 50, had better remain alive for another 20 or 25 years if he wants his wife to receive her share of those vested benefits. If he dies even within 2 months of collecting his first pension check, she will get nothing. The same situation, of course, applies to surviving husbands.

This is a serious gap in the pending bill. It allows for a 20- to 25-year period after full vesting of an employee's benefits during which his wife is left unprotected in the event of his death. This is unconscionable, particularly because it is not apparent from the language of either the bill or the report which is supposed to explain the bill. I am afraid that it will be misleading to employees who will be lulled into a false sense of security in the belief that once their pension rights are vested, their wife will be secure regardless of what happens to them.

If pension plans are to be more than a gamble on survival and a bet on coverage, and if we sincerely want to protect the rights of the surviving spouse, then my amendment should be adopted.

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentlewoman for yielding.

Let me ask the gentlewoman whether she knows if anyone appeared before the committee during their several years of extensive hearings to suggest this sort of amendment to the bill or if any such amendment was offered in the subcommittee or committee?

Ms. HOLTZMAN. It is my understanding that this matter had been discussed. How fully it had been discussed I cannot tell the gentleman.

This does appear to me to be a major failing in the bill; whether it was an oversight or a matter of deliberate intention, I do not know. But I think we do want to assure people covered by pension plans that their surviving spouses will be able to receive their vested benefits, even, or especially, if they should die untimely deaths.

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield further?

Ms. HOLTZMAN. I would be delighted to yield to the gentleman.

Mr. ERLENBORN. If this were discussed in the committee, I am not aware of it; if it was brought up, I doubt that it would have taken much time of the committee to determine, because what this does, it converts the pension system into an insurance system that would be double, triple, or quadruple the costs of operating a private pension plan. If we did this by law for those already operating plans, it would double, triple or quadruple their costs. We would probably bankrupt the plan.

I do not think the committee would have spent much time on it. It just changes the pension system into an insurance system. If a company wants to offer an insurance option, that is fine, which many do; they know what the cost is. Usually if they do that, there is a combination with a contribution by the company and by the employee. This amendment would be so terribly expensive that it would completely destroy, in my opinion, the private pension systems.

Ms. HOLTZMAN. Mr. Chairman, I am surprised that the gentleman has not done any study of the claimed expense. A purpose of the committee bill was to increase the rights of the surviving spouse. The committee acknowledges in its report that it is terribly important to protect the right of the surviving spouse.

The problem here is that even though we have a worker who has fully vested rights in the plan, he has to live to a certain age to insure that his wife will be able to receive any benefits. I think the committee recognized the problem of the surviving spouse in general, but not in this specific instance.

Mr. DENT. Mr. Chairman, I rise to oppose the amendment.

I appreciate the Member's regard for the rights of the spouse.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the distinguished majority leader.

Mr. O'NEILL. Mr. Chairman, I would just like to comment that while it is very commendable to take care of the private pension plans, we have neglected the elimination of jobs because of base closings.

In October 1969, base closings affected 57,000 people. In March 1970, 69,000 lost their jobs.

In April 1973, over 42,000 were thrown out of work, of whom 8,000 were from my area—due to the closing of the Boston Naval Yard.

In February 1974, another base closed with 5,000 more jobs gone.

Now, a tremendous number of these people, knowing that this legislation was pending, have come into my office to ask if there is any way they could possibly be covered in the bill.

Under our pension plans, unless a worker has 25 years, or is over 65 years old, he is not eligible for a pension. But some of these people, working in the Boston Naval Yard or working for NASA, have 22 or 23 years of employment and are 45 or 46 years old. They lose their rights, just like people in private pensions.

Is there any way this could be remedied?

Mr. DENT. Mr. Chairman, to answer that, if they are working for a contract employer, they cannot under the act; but if they are working for an agency of Government they are not covered by the act.

Mr. O'NEILL. I am not talking about contract employees. I am talking about Government employees. They are subjected to the same problems as a person working in private industry.

Mr. DENT. I agree.

Mr. O'NEILL. The same thing happens to Federal employees who have worked 17 years in the Boston Naval Shipyard as has happened to employees of the Hood Rubber Co. who moved to North Carolina, who had 17 years service.

Mr. DENT. I understand what the gentleman is saying. We are only covering people who belong to private pension plans. The workers the gentleman is talking about do not belong to or participate in any private pension plan.

Mr. O'NEILL. At the present time they belong to Federal pension plans, just like the gentleman and I, and there is no protection.

Mr. DENT. The Post Office and Civil Service Committee may have that jurisdiction. We do not cover all the Federal pension plans in this legislation.

Mr. O'NEILL. Mr. Chairman, we are doing the right thing in taking care of those we can in this legislation. I should hope, however, that either the Committee on Post Office and Civil Service or the Armed Services Committee would take cognizance of the fact that there are many employees in pension plans which fall under their jurisdiction who need to be covered by legislation along the same lines as the Committee on Education and Labor bill provides for private pension members.

Mr. DENT. Mr. Chairman, I agree, and I appreciate the concern of the gentleman from Massachusetts. That is a concern we have already established a base for study upon, and our task force will study the peculiar problems of public pension plans, so that whatever information we get from our task force will be shared with all committees of interest in order that we might draft appropriate legislation.

Mr. Chairman, in joining with my colleague from Illinois in opposing the amendment, before us, there was some discussion, but the discussion resolved around setting some kind of assurance that there would be payment of survival benefits. We established a base which set a date for survival before being made available at the earliest retirement age. Anything but that would give such an enormous cost that we could in many cases completely destroy the pension fund, because if one is to be given survivor benefits at any part of his vesting period, which is what the amendment does, there is no way that one can accumulate funds in a retirement pension fund without having a definite number of years to be completed.

So, when we compute the survivor benefits at the earliest retirement age, we know the actuarians have something to work with. I do not believe it is possible to even consider this amendment at this time.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the purposes of the amendment are admirable, but what we have to do is put it in the proper context.

These are private and voluntary pension programs. If we impose this kind of requirement, all we are going to do is put a lot of private pension programs out of business. This would cost more than they could afford.

What we have tried to do is establish a balance, bring up the minimum pension requirements to the full extent possible without jeopardizing the existence of the private pension program and without discouraging the establishment of additional pension programs. If we impose the kind of high costs involved in this amendment on the private pension system, we will only discourage the development of further private pension programs and put a lot of existing ones out of business.

Mr. Chairman, I commend the gentlewoman for her purpose, but this amendment cannot be accepted on this bill, in my judgment, without doing great disturbance to the Act.

Mr. Chairman, let me turn briefly to a point raised in the course of the debate 2 days ago, Mr. YOUNG of Illinois inquired as to the relationship between the antidiscrimination provisions of present law and the minimum vesting provisions under the bill. It is expected that these minimum vesting standards will significantly reduce the need for the Internal Revenue Service to require faster vesting in order to meet the antidiscrimination requirements of the law. Nevertheless, where the antidiscrimination provisions require it, faster vesting will continue to be required. In order to clarify the legislative history on this matter, I would like at this point to read the paragraphs from pages 64 and 65 of the Ways and Means Committee report (H. Rept. 93–807) that describe the effect of the bill:

Discrimination.—Under present law, rapid vesting requirements are sometimes imposed on a plan in order to prevent discrimination. Your committee anticipates that the higher vesting standards provided in the bill will reduce the need to require faster vesting in order to achieve this purpose. On the other hand, there undoubtedly still will be cases where it will be necessary to require that the plan provide vesting over and above that required under the bill to prevent discrimination under a plan in favor of officers, shareholders, and highly compensated employees. Under the committee bill, the Internal Revenue Service is to require more rapid vesting (such as by requiring a greater portion of the accrued benefit to become vested or by requiring the benefit to accrue faster in order to minimize the possible discriminatory effects of "back loading") if it appears that there had been, or is likely to be, forfeitures under the plan which have the effect of discriminating in favor of the officers, etc. For example, in a profit-sharing plan, such forfeitures could directly benefit the proscribed class of individuals. But in a defined benefit plan there could also be discrimination by reducing the cost to the employer of providing a disproportionate amount of benefits for executives. In other words, if most highly paid employees remain (or are likely to remain) on the job, while other employees tend to leave, the Internal Revenue Service could find a pattern of discrimination (whether or not it was the result of a deliberate policy of dismissing employees in order to prevent vesting) and could require more rapid vesting (for example, by adjusting the vesting schedule, the accrual rate, or both).

Also, present law is designed to ensure that in the event of early plan termination, the benefits under the plan are not paid to employees who are officers, shareholders, or highly compensated employees in a discriminatory manner. The committee bill contains a provision to make it clear that the vesting requirements under the bill are not intended to operate to overturn these rules. Thus, for example, in the event of an early plan termination, a highly compensated employee might receive less than his otherwise vested benefit under the bill, if this were necessary to prevent discrimination.

Finally, the bill includes a provision that allows persons other than banks to be trustees of Keogh plans. This would allow competition and, therefore, allow lower costs for these pension plans. However, it is important to insure that the persons who become trustees of such plans will act responsibly and in accord with the rules governing fiduciary responsibility. It is also important that a person who acts as a trustee have the skill and expertise needed for this very important position. I would like to read at this point from pages 133 to 134 of the committee report on H.R. 12855. While this explanation describes the criteria for nonbank trustees under individual retirement accounts, it is intended that the same criteria apply with respect to Keogh plans:

Under the governing instrument, the trustee of an individual retirement account generally is to be a bank (described in sec. 401(d)(1)). In addition, a person who is not a bank may be a trustee if he demonstrates to the satisfaction of the Secretary of the Treasury that the way in which he will administer the trust will be consistent with the requirements of the rules governing individual retirement accounts. It is contemplated that under this provision the Secretary of the Treasury generally will require evidence from applicants of their ability to act within accepted rules of fiduciary conduct with respect to the handling of other people's money; evidence of experience and competence with respect to accounting for the interests of a large number of participants, including calculating and allocating income earned and paying out distributions to participants and beneficiaries; and evidence of other activities normally associated with the handling of retirement funds. Additionally, your committee expects that the Secretary generally will give weight to evidence that an applicant is subject to Federal or State regulation with respect to its activities, where this regulation includes, e.g., suitable rules of fiduciary conduct.

It is anticipated that the Secretary probably will not allow individuals to act as trustees for individual retirement accounts.

Although the bill generally requires that a trustee administer an individual retirement account trust, the bill also provides that a custodial account may be treated as a trust, and that a custodian may hold the account assets and administer the trust. Under the bill, a custodial account may be treated as a trust if the custodian is a bank (described in sec. 401(d)(1)) or other person, if he demonstrates to the satisfaction of the Secretary of the Treasury that the manner in which he will hold the assets will be consistent with the requirements governing individual retirement accounts. Again, it is contemplated that the Secretary will require substantial evidence (as described above) to determine if a person other than a bank may act as custodian.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, just very quickly, I am surprised that in a bill as complicated as this, as technical as this, where one provision interacts with another, that an amendment of this nature would be suggested without any prior warning, with-

out any attempt to offer it in committee, without even a copy of the amendment being made available, at least on this side of the aisle.

Mr. Chairman, this is very close to writing a tax law; very complicated. It took the Committee on Ways and Means and the Committee on Education and Labor a number of years and months; years of hearings, months of markup.

If amendments of this nature were to be adopted on the floor without any prior warning, if any other amendments of this nature are offered without the two committees having an opportunity to see them ahead of time and examine them, examine them in committee when we can take the time to do so, we are going to destroy a very good effort to try to protect the working men and women in this country by the adoption of good pension legislation.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

The reason the gentleman did not receive much prior warning concerning this amendment is that the final version of the bill was not made available until a few days ago, and it took me until virtually this morning to understand the deficiences in the bill.

If it took me that long, what concerns me is that it is going to take the workers of this country even longer to discover the lack of coverage in this bill, and that is one of the reasons that my amendment is important.

This is an extremely technical bill. The deficiencies in it are not really clear to the Members, and I am afraid they will not be understood by the public.

Mr. ERLENBORN. Mr. Chairman, I understand the gentlewoman's concern, but what she really is talking about is turning the private pension system into an insurance system. We cannot afford to do that. We cannot afford to jeopardize the pensions the people are now relying on.

Let us not destroy this system in the name of trying to help people.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was rejected.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for some months I have been deeply concerned with the need to insure that pension benefits are made available on a nondiscriminatory basis to all those who have earned them regardless of race, color, national origin, religion, or sex.

The chance to achieve economic security—based on merit—is the heart of the American dream; and where pension benefits are unfairly reduced or denied, the results are tragic for those who have earned a dignified retirement.

I had intended at this time to raise an amendment incorporating nondiscrimination based on race, color, national origin, religion, or sex into the basic requirements of the pending bill.

However, I understand that the distinguished Representative from Pennsylvania (Mr. DENT) is concerned that this approach runs counter to our actions last year in further consolidating equal employment jurisdiction in the Equal Employment Opportunity Commission.

Mr. DENT. The Representative is correct. Although I fully share your concern for full enforcement of nondiscrimination requirements affecting pension and profit-sharing plans, I believe that the thrust toward centralized administration of nondiscrimination in employment must be maintained. And I believe this can be done by the Equal Employment Opportunity Commission under terms of existing law.

Ms. ABZUG. Does the Representative agree that discrimination based on race, color, national origin, religion, or sex affecting participation in pension or profit-sharing plans, is presently prohibited under section 703(a) of the Equal Employment Opportunity Act? That section provides, in part:

> It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religions, sex, or national origin—

Mr. DENT. I agree with the Representative's reading of the statute and I understand that the courts are following this view. The leading cases are: *Rosen* v. *Public Service Commission*, 477 F. 2d 90 (3 Cir. 1973); *Bartmess* v. *Drewrys*, 444 1186 (7th Cir. 1971) Cert. Denied 404 U.S. 939; *Fillinger* v. *East Ohio Gas*, 4 FEP 73 (E.D. Ohio 1971).

Again, I share the concerns of the distinguished Representative from New York that the EEOC must view discrimination in pension plans as among the most serious forms of employment discrimination.

Ms. ABZUG. Mr. Chairman, in light of the Representative's views, and with the understanding that nondiscrimination in pension and profit-sharing plans is fully required under the Equal Employment Opportunity Act and of the pending bill, I deeply appreciate his judgment and his assistance.

Mr. GAYDOS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to direct an inquiry to the gentleman from Pennsylvania (Mr. DENT), the manager of this bill.

Section 111 contains standards for fiduciary responsibility and, for example, precludes transfer of a plan's property to "a party in interest" except for adequate consideration. In the case of collectively bargained plans established in an industry for the employees covered or working in that industry from time to time it is desirable for the overall benefit of the beneficiaries to transfer assets or funds from one plan to another because of existing circumstances. For example, a health and welfare fund or a supplemental unemployment benefit fund may wish to transfer assets to a retirement fund to enhance the actuarial soundness of the retirement fund. I want to be reassured that the provisions of the bill would not in any way preclude these collectively bargained plans from making such transfers.

Mr. DENT. Will the gentleman yield?

Mr. GAYDOS. I am happy to yield.

Mr. DENT. The bill in no way intended to apply to or restrict such transfers. Thus, the test of "adequate consideration" would not be applicable to such a transfer.

Mr. GAYDOS. Mr. Chairman, I include the following accurate record of cancelled pension agreements as computed by the USWA covering 1 year—(1973); 71 agreements were terminated during this 1-year period:

CANCELLED COMPANIES WITH PENSION AGREEMENTS, 1973

[Prepared by Insurance, Pension and Unemployment Benefits Department, United Steelworkers of America]

Company and address	Local union No.	District	Plant location	Number of employees	Date agreement canceled
American Chain & Cable Co., Inc., 2250 Noblestown Rd., Pittsburgh, Pa. 15205	5468	20	Warehouse, Pittsburgh, Pa	[1] 9,[2] 2	Jan. 8, 1973
American Smelting & Refining Co., Selby Smelter & Refinery, Selby, Calif. 94584	51	37	Selby, Calif	7	May 11, 1973
American Standard, Inc., Tonawanda Iron Division, Westinghouse Air Brake Co., Sub., River Rd., Tonawanda, N.Y. 14120.	2758	4	North Tonawanda, N.Y	150	Oct. 25, 1973
Arwood Corp., 18383 Railroad St., City of Industry, Calif	2018		City of Industry, Calif	190	May 4, 1973
Boland & Cornelius, 1016 Marine Trust Bldg., Buffalo, N.Y. 14203	5000	4	Buffalo, N.Y	48	Dec. 19, 1973
Butcher & Hart Manufacturing Co., 4601 Cortland Ave., Altoona, Pa. 16601	5580	7	Altoona, Pa	75	Dec. 7, 1973
Cantwell Electric Co., Berkeley, Calif. 94701	1304	38	Berkeley, Calif	15	Aug. 24, 1973
Carrollton Manufacturing Co., Carrollton, Ohio	1571	27	Carrollton, Ohio	150	Apr. 27, 1973
Coats Patrons, Ltd. (Scotland), Crown Fastener Division, Coats J. & P. Ltd., Sub., Clarke (I.P.) & Co., Ltd., Sub., Coats & Clark, Inc., Sub., 30 Cutter St., Warren, R.I.	3895	1	Warren, R.I	460	Jan. 31, 1973
Colt Industries, Inc., Crucible Spaulping Operation, Crucible, Inc., Sub., 4 Gate vay Center, Pittsburgh, Pa. 15222.	1339	9	Harrison, N.J	183	May 8, 1973

Footnotes at end of table.

Company and address	Local union No.	District	Plant location	Number of employees	Date agreement canceled
Continental Can Co., Inc., 633 3d Ave., New York, N.Y. 10017:					
Plant 79: Customer service	6780	8	Baltimore, Md	59	May 3, 1973
Plant 47	4801	36	Auburndale, Fla	[1] 87	May 11, 1973
Plant 960: Conoplan plant	7715	36	Gretna, La	[2] 5	Do.
	5428	36	New Orleans, La	[1] 38	Jan. 18, 1973
	5033	36	do	7	Do.
Plant 89: Los Angeles Crown Plant	1981	38	Los Angeles, Calif	53	May 3, 1973
Crane Co., C.F. & I. Steel Corp., Sub., P.O. Box 316, Pueblo, Colo. 81002	2111	9	Trenton, N.J	[1] 154, [2] 1	May 17, 1973
	1069	38	San Francisco, Calif	139	Aug. 23, 1973
Crown Cork & Seal Co., Inc., 9300 Ashton Rd., Philadelphia, Pa	7305	36	Birmingham, Ala	1	Aug. 6, 1973
Cypress Gardens Citrus Products, Inc., Winter Haven, Fla. 33880	6991	36	Winter Haven, Fla	10	May 18, 1973
Dawe's Laboratories, Inc., Huron Biochemicals, Inc., Sub., 30 Buell St., Harbor Beach, Mich. 48441	7561	29	Harbor Beach, Mich	60	Apr. 10, 1973
Del Monte Properties Co., Wedron Silica Division, Sub., 400 Higgins Rd., Park Ridge, Ill. 66068	631	38	Pacific Grove, Calif	35	Oct. 26, 1973
Domtar, Ltd., Domtar Chemicals, Inc., Sub., Metals Powders Division, P.O. Box 486, Ridgway, Pa	7672	19	Ridgway, Pa	40	Mar. 28, 1973
Dresser Industries, Inc., Dresser Manufacturing Division, 12920 East Whittier Blvd., Whittier, Calif. 90602	4511	38	Whittier, Calif	50	Jan. 18, 1973
Ducane Heating Corp., Suite 100, 800 Dutch Square Blvd., Columbia, S.C. 29210	6293	9	Totwa, N.J	167	July 27, 1973
Fedders Corp., Climatrol Industries, Inc., Sub., Decatur, Ala	5381	36	Decatur, Ala	400	May 17, 1973
General Steel Industries, Inc., St. Louis Car Division, 8000 Hall St., St. Louis, Mo. 63147	1055, 7092	34	St. Louis, Mo	[1] 1,000, [2] 175	Aug. 13, 1973
General Tire & Rubber Co., ABC Scale Division, Aerojet Manufacturing Co., Sub., Morse (Robert), Ltd., Sub., Howe Richardson Scale Co., Sub., 113 St. Clair Ave. NE., Cleveland, Ohio.	3120	28	Willoughby, Ohio	12	Aug. 27, 1973
Gifford-Wood, Inc., Delaware Corp., 1 Hudson Ave., Hudson, N.Y. 12534	3487	4	Hudson, N.Y	80	July 5, 1973
Greif Bros. Corp., East Coast Division, Spotswood, N.J. 08884	6954	9	Spotswood, N.J	50	Aug. 9, 1973
Greif Bros. Corp., East Coast Division, Rahway, N.J. 07065	6954	9	Rahway, N.J	60	Do.
Greyhound Corp., Industrial Equipment Division, Armour & Co., Sub., Baldwin-Lima-Hamilton Corp., Sub., Eddystone, Pa.:					
Locomotive Division	2443	7	Eddystone, Pa	490	
Southwark Shop	1278	7	do	424	
O&T Unit	2844	7	do	70	May 25, 1973
Heppenstall Co. (Pa.), Heppenstall Co. Connecticut, Sub., Bridgeport, Conn	2651	1	Bridgeport, Pa	170	May 17, 1973
Hillman Co., Wilmington Securities, Inc., Sub., Marion Power Shovel Co., Inc., Sub., 2841 South 6th St., Ironton, Ohio 45638.	7880	23	Ironton, Ohio	90	July 27, 1973
Hon Industries, Inc., Corry Jamestown Corp., Sub., Ohio Chair Plant, Youngstown, Ohio	5223	26	Youngstown, Ohio	75	Mar. 19, 1973
Hyster Co., Lewis-Shepard Division, Watertown, Mass	5392	1	Watertown, Mass	280	Oct. 8, 1973
Illinois Central Industries, Inc., Amsco Division, Abex Corp., Sub., Two Harbors, Minn. 55616	7183	33	Two Harbors, Minn	76	Sept. 13, 1973
Illinois Central Industries, Inc., Railroad Products Group, Abex Corp., Sub., 1501 Macon St., North Kansas City, Mo.	1961	34	North Kansas City, Mo	55	May 9, 1973
Walter Kidde & Co., Inc., Weaver Division, Dura Corp., Sub., 2100 South 9th St., Springfield, Ill. 62703	1522	34	Springfield, Ill	500	Apr. 3, 1973
Lamson & Sessions Co., Angell Manufacturing Co., Sub., 546 Market St., Indianapolis, Ind	2969	30	Indianapolis, Ind	176	Feb. 16, 1973
Lennox Furnace Co., 400 North Midler Ave., Syracuse, N.Y	3775	4	Syracuse, N.Y	20	Jan. 31, 1973
Lowe's Cos., Inc., Pike's Peak Clay, Inc., Sub., 655 12th St., Macon, Ga. 31201	838	35	Plant: Macon, Ga	17	
			Mine: Pike's Peak, Ga	3	Feb. 27, 1973
Mannesmann A. G. (Germany), American Mannex Corp., Sub., Easton Metal Powder Co., Inc., Sub., 900 Line St., Easton, Pa.	5841	9	Easton, Pa	50	July 10, 1973
Moczik Tool & Die Co., Bad Axe, Mich. 48413	6311	29	Bad Axe, Mich	30	Apr. 3, 1973
N L Industries, Inc., Magnus Metal Division, 2234 West 43d St., Chicago, Ill. 60609	758	31	Chicago, Ill	50	July 12, 1973
NVF Co., Stainless Tube Division, Sharon Steel Corp., Sub., Union Steel Corp., Sub., Piscataway, N.J. 08854	5626	9	Township of Piscataway (New Market) Middlesex County.	121	Apr. 3, 1973
National Castings Co., Standard Pipe Protection Division, General Steel Industries, Sub., Girard, Ohio	3793	26	Girard, Ohio	50	Mar. 14, 1973
New Jersey Rolling Mills, Inc., 55 Passaic Ave., Kearny, N.J. 07032	4526	9	Kearny, N.J	190	May 29, 1973
New York Central Iron Works, Inc., Hagerstown, Md	3847	8	Hagerstown, Md	50	Mar. 2, 1973
Norris Industries, Inc., Fire & Safety Equipment Division, 1415 E. Bowman St., Wooster, Ohio	6446	27	Wooster, Ohio	16	Apr. 10, 1973
Ogden Corp., International Terminal Operating Co., Sub., 2 Broadway, New York, N.Y	4808	4	Lackawanna, N.Y	100	Feb. 2, 1973
H. K. Porter Co., Inc., Refractories Division, Bessemer Works, Bessemer, Ala. 35020	481	36	Bessemer, Ala	43	June 14, 1973
Republic Steel Corp., Republic Bldg., Cleveland, Ohio 44101	1297	29	Warehouse; Detroit, Mich	9	July 23, 1973
Republic Steel Corp., Lake Fleet Division—Unlicensed Seamen, Ore Vessels, 55 Public Sq., Cleveland, Ohio 44113.	5000	4	Detroit, Mich	97	July 17, 1973
Reynolds Metals Co., Reduction Plant, Troutdale, Oreg. 97060	330	38	Troutdale, Oreg	542	Jan. 19, 1973
Riley Co., Cornwells Heights, Pa. 19020	2954, 5586	7	Cornwells Heights, Pa	600, [2] 57	Mar. 15, 1973
Roco Manser (Pa.) Inc., Water St., Temple Pa	5448	7	Temple, Pa	20	Aug. 2, 1973
S W Industries, Inc., Columbia Precision Corp.. Sub., Greer Industries, Inc., Sub., Main & Eames St., Wilmington, Mass. 01887.	3962	1	Wilmington, Mass	90	Oct. 8, 1973
San Gabriel Valley Water Co., Fontana Water Co. Division, 8440 Nuevo, Fontana, Calif	5632	38	Fontana, Calif	15	May 4, 1973
A. O. Smith Corp. of Texas, Box 9726, Houston, Tex	4446	37	Houston, Tex	356	May 11, 1973
Spang & Co., Ferroslag Division, 143 Etna St., Butler, Pa. 16001	7330	15	Homestead Works; Homestead, Pa.	51	Apr. 7, 1973
Staveley Machine Tools, Inc., Lapointe Machine Tool Co., Sub., Tower St., Hudson, Mass	3536	1	Hudson, Mass	[1] 18, [2] 2	Dec. 27, 1973
Swedish Ball Bearing Co. (Sweden), SKF Industries, Inc., Sub., Box 9097, Asheville, N.C	7180	35	Asheville, N.C	105	Aug. 29, 1973
Textron, Inc., Fanner Manufacturing Co., Division, Munray Products Division, 12400 Crossburn Ave., Cleveland, Ohio.	6517	28	Cleveland, Ohio	49	Feb. 13, 1973
Trumbull Asphalt Co., 120 Waterfront Rd., Martinez, Calif. 94553	1440	38	Martinez, Calif	11	May 11, 1973
U.S. Gypsum Co., Wallace Manufacturing Co., Division, 911 East Jefferson, Pittsburg, Kans. 66762	6569	34	Pittsburg, Kans	170	Nov. 16, 1973
U.S Phillips Trust, Cryogenic Division, North American Philips Corp., Sub., Ashton, R.I.	5780	1	Ashton, R.I	50	Mar. 15, 1973
United States Steel Corp., American Bridge Division, 600 Grant St., Pittsburgh, Pa. 15230	7637	20	Ambridge, Pa	[2] 310	June 8, 1963
United States Steel Corp., Pittsburgh Warehouse, 600 Grant St., Pittsburgh, Pa. 15230	1924	20	Warehouse; Pittsburgh, Pa	15	May 29, 1973
United States Steel Corp., Raw Materials & Shipping Operations, Eastern Limestone Operations, 600 Grant St., Pittsburgh, Pa. 15230.	4251	20	Hillsville, Pa	100	Jan. 3, 1973
Vulcan Materials Co., Metal Division, P.O. Box 720, Sandusky, Ohio 44870	914	9	Newark, N.J	8	Dec. 18, 1973
Warren Slag Co., 30 East Broad St., Columbus, Ohio	1375	26	Warren, Ohio	31	Sept. 19, 1973
Western Pipe & Tube Co., Inc., 1100 East Northern Ave., Pueblo, Colo. 80116	4829	38	Pueblo, Colo	14	July 5, 1973
White Consolidated Industries, Inc., One Oliver Plaza, Pittsburgh, Pa. 15222	2124	20	Lewis Works; Groveton, Pa	[1] 166	Apr. 4, 1973
White Consolidated Industries, Inc., Blaw-Knox Foundry & Mill Machinery, Inc., Sub., One Oliver Plaza, Pittsburgh, Pa.	7496	20	Lewis Works, Groveton, Pa	[2] 16	Do.
Youngstown Hard Chrome Plating & Grinding, Inc., 8451 Southern Blvd., Youngstown, Ohio 44512	7755	26	Youngstown, Ohio	21	Oct. 25, 1973
Zenith Laboratories, Inc., Mexico Forge, Inc., Sub., Reedsville, Pa	6423	7	Reedsville, Pa	60	Feb. 28, 1973

[1] P. & M.

[2] O. & T.

The CHAIRMAN pro tempore. If there are no further amendments to part 2, the Clerk will read.

The Clerk read as follows:

PART 3—FUNDING

COVERAGE

SEC. 301. (a) Except as provided in subsections (b), (c), and (d), this part shall apply to any employee benefit pension plan—

(1) if it is established or maintained by any employer engaged in commerce or in any industry or activity affecting commerce or by such employer together with any employee organization representing employees engaged in commerce or in any industry or activity affecting commerce; or

(2) if such plan is established or maintained by any employer or by any employer together with any employee organization and if, in the course of its activities, such plan, directly or indirectly, uses any means or instruments of transportation or communication in interstate commerce or the mails.

(b) This part shall not apply to any employee pension 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 is established and maintained outside the United States primarily for the benefit of persons who are not citizens of the United States;

(4) such plan is a supplementary plan;

(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;

(6) such plan provides contributions or benefits exclusively for a sole proprietor; or, in the case of a partnership, exclusively for one or more partners each of whom owns more than 10 per centum of either the capital interest or the profits interest in such partnership;

(7) such plan has not, at any time after the date of the enactment of this Act, provided for employer contributions; or

(8) such plan is established and maintained by a fraternal society, order, or association described in section 501(c) (8) or (9) of the Internal Revenue Code of 1954.

(c) This part shall not apply to any employee pension benefit plan if the plan is a profit-sharing, savings, or other plan which is an individual account plan.

(d) This part shall not apply to a plan if—

(1) the plan is funded exclusively by the purchase of individual insurance contracts,

(2) such contracts provide, for level annual premium payments to be paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

(3) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

(4) premiums payable for the plan year, and all prior plan years under such contracts have been paid before lapse or there is reinstatement of the policy,

(5) no rights under such contracts have been subject to a security interest at any time during the plan year, and

(6) no policy loans are outstanding at any time during the plan year.

FUNDING ACCOUNT

SEC. 302. (a) Every employee pension benefit plan subject to this part shall provide for a minimum annual level of contributions which meets the minimum funding standard for any plan year to which this part applies. A plan to which this section applies meets the minimum funding standard for such plan for a plan year if at the end of which the plan does not have an accumulated funding deficiency. For purposes of this part, the term "accumulated funding deficiency" means for any plan the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this part applies) over the total credits to such account for such years.

(b) (1) Each plan to which this part applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

(2) For a plan year, the funding standard account shall be charged with the sum of—

(A) the normal cost of the plan for the plan year,

(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

(i) in the case of a plan in existence on January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of forty plan years,

(ii) in the case of a plan which comes into existence after January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of thirty plan years (forty plan years in the case of a multiemployer plan),

(iii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of thirty plan years (forty plan years in the case of a multiemployer plan), and

(iv) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of fifteen plan years (twenty plan years in the case of a multiemployer plan), and

(C) the excess, if any, for such plan year of

(i) the annual amount which would be necessary to amortize in equal annual installments from such year over a period of twenty years the excess, if any, of the present value of all nonforfeitable benefits (computed using appropriate mortality and interest assumptions) over the value of the plan's assets, over

(ii) the excess, if any, of the sum of the amounts computed under subparagraphs (A) and (B) of paragraph (2) over the amount computed under paragraph (3) (B).

(3) For a plan year, the funding standard account shall be credited with the sum of—

(A) the amount considered contributed to the plan for the plan year, and

(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of thirty plan years (forty plan years in the case of a multiemployer plan), and

(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of fifteen plan years (twenty plan years in the case of a multiemployer plan).

(4) Under regulations prescribed by the Secretary, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

(5) The funding standard account (and items therein) shall be charged or credited with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs. The Secretary shall prescribe regulations to carry out this paragraph.

(c) (1) For purposes of this section, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

(2) (A) For purposes of this section, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary.

(B) The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of the Secretary.

(3) For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions which meet the requirements of section 104(a) (4) (B) (i) and (ii).

(d) If the funding method for a plan is changed, the new funding method shall become the funding method used to determine costs and liabilities under the plan only if the change is approved by the Secretary. If the plan year for a plan is changed, the new plan year shall become the plan year for the plan only if the change is approved by the Secretary.

(e) (1) (A) For the purpose of this section, an experience gain or loss occurs wherever the experience of the plan deviates from the projected assumptions sufficiently to require a change in such assumptions. The amount of such gain or loss shall be caclulated as the increase (in the case of an experience loss) or the decrease (in the case of an experience gain) in the accrued portion of the unfunded liabilities of the plan attributable to such change in the assumptions. The Secretary shall promulgate regulations to carry out this subsection.

(B) For purposes of this subparagraph (A), if—

(i) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

(ii) a change in the definition of the term "wages" under section 3121 of the Internal Revenue Code of 1954, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a) (5) of such Code,

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

(2) For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every three years, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.

(f) (1) If, as of the close of a plan year, a plan would (but for the application of this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

(A) the funding standard account shall be credited with the amount of such excess, and

(B) all amounts described in paragraphs (2) (B) and (3) (B) of subsection (b) which are required to be authorized shall be considered fully amortized for purposes of such paragraphs.

(2) For purposes of paragraph (1), the term "full funding limitation" means the excess (if any) of—

(A) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

(B) the lesser of the fair market value of the plan's assets or the value of such assets determined under subsection (c) (2).

ENFORCEMENT OF FUNDING STANDARDS

SEC. 303. (a) When the pension plan's level of funding fails to meet the requirements of section 302, the administrator shall take such steps as are necessary to bring the level of funding into conformity with the benefits offered by the plan and are consistent with this title. He shall take whatever actions are necessary to protect the benefit rights of all plan participants but shall first make secure the interests of those participants whose benefit rights have become nonforfeitable. The administrator shall require payment of

any contribution required under the plan; and in addition he is specifically authorized, where necessary (1) to undertake to secure additional levels of funding from the sponsoring employer or employers to the full extent possible, and (2) where he cannot secure adequate additional levels of funding (A) subject to section 203(f), to amend the plan's benefit schedule so as to reduce the value of the accrued regular retirement benefits (whether or not forfeitable), (B) to suspend the further accumulation of regular retirement benefits under the plan, (C) to suspend or terminate the operation of the plan, and (D) to take any other action in conformity with this title which is necessary to secure the rights of the participants to regular retirement benefits.

(b) When a plan fails to meet the funding requirements of section 302 for five consecutive plan years, the administrator shall (subject to section 203(f)) amend the benefit schedule for such plan to reduce the value of the accrued liabilities to such an extent as is necessary to bring the plan's funding schedule into conformity with the requirements of section 302(a).

(c) Whenever the administrator determines that the funding requirements under section 302(a) have not been met, he shall so notify the Secretary and each participant within sixty days, and not earlier than sixty days or later than ninety days after such notification he shall take action pursuant to subsection (a) or (b) of this section (unless the Secretary stays his proposed action under subsection (d)(2)). He shall inform the Secretary and each participant of whatever action he proposes to take under subsection (a) or (b), and the reason for such action within sixty days after the notice under the preceding sentence.

(d) If the Secretary receives a notification required under subsection (c) of this section, he may—

(1) require the administrator to make such additional reports as he determines are necessary to fully disclose the extent of the level of funding of the plan, the adequacy of protection afforded the participants, and the adequacy of the remedy proposed by the administrator; and

(2) stay the action proposed by the administrator, if the Secretary has reason to believe the administrator's action is not fair and equitable to participants and beneficiaries, or (after notice and opportunity to present views) order the administrator to take any action described in subsection (a), (b), or (c) of this section, or both.

(e) The provisions of part 2 of this subtitle (other than section 203(f)) shall not be construed as prohibiting any action authorized or required by this section.

SPECIAL DISTRIBUTION AND MERGER REQUIREMENTS

SEC. 304. (a) No pension plan to which this part applies may merge or consolidate with, or transfer its assets or liabilities to, any other pension plan unless each participant in each plan would receive a termination benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the termination benefit he would receive immediately before the merger, consolidation, or transfer.

(b) No pension plan to which this part applies may make a lump-sum distribution of the present value of nonforfeitable pension benefits to a participant or beneficiary if such distribution exceeds the termination benefit he would receive if the plan terminated on the date of such distribution.

(c) No merger, consolidation, or transfer of assets or liabilities, or distributions of assets to any participant in any plan year in excess of $25,000, may be made by any pension plan subject to this part, unless the administrator has filed an actuarial statement of valuation evidencing compliance with the requirements of this section with the Secretary no less than thirty days prior to such merger, consolidation, transfer, or lump-sum distribution.

(d) For the purposes of this section, a participant's termination benefit as of a particular time is the amount a participant would receive under section 112 of this Act if the plan were terminated on such date.

EFFECTIVE DATE

SEC. 305. (a) Except as otherwise provided in this section, this part shall apply in the case of plan years beginning after the date of the enactment of this Act.

(b)(1) Except as otherwise provided in subsection (c), in the case of a plan in existence on January 1, 1974, this part shall apply in the case of plan years beginning after December 31, 1975. In any case described in paragraph (2) of this subsection, such paragraph shall apply if (and only if) its application results in a later effective date for this part.

(2) In the case of a plan maintained pursuant to one or more agreements which the Secretary finds to be collective-bargaining agreements between employee representatives and one or more employers, and which he finds (in the aggregate) cover more than 25 per centum of the participants in the plan, paragraph (1) shall be applied by substituting for December 31, 1975, the earlier of—

(A) the date on which the last of such agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) December 31, 1980,

but in no event shall a date earlier than December 31, 1976, be substituted.

(c)(1) Notwithstanding subsection (b) of this subsection, with respect to plan years beginning after the date of enactment of this Act and ending before the first plan year to which (but for this paragraph) this part would apply to such plan, any plan in effect on January 1, 1974, shall provide for a minimum level of contribution equal to or greater than the sum of—

(A) the normal service costs for such year;

(B) the unfunded portion of the accrued liability (if any) times the interest rate used in computing such liability under the actuarial cost method used to determine such liability.

(2) In the case of a plan in effect on January 1, 1974, established by an employee organization and financed entirely by an allocation of dues, this title shall apply to plan years beginning more than seven years after the date of enactment of this Act.

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that part 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. DENT

Mr. DENT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENT: Page 75 at line 2, strike "of 1954" replace with the following: "or 1954; or

"(7) such plan is established and maintained by a labor organization described in section 501(c)(5) of the Internal Revenue Code and such plan does not at any time after the date of enactment of this Act provide for employer contributions."

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The amendment was agreed to.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are now going into the funding section; we have completed the vesting section. Because those two sections have similar if not identical language in title II, which we will consider later, but which will not be subject to amendment, I would like to ask the gentleman from Pennsylvania (Mr. DENT) whether my understanding is correct that in the agreement between the gentleman from Pennsylvania (Mr. DENT) and the acting chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), that joint regulations will be adopted by the Department of Labor and the Treasury Department for the administration of participation in vesting and funding, and that although the two departments will be administering in this area they will be using the identical regulations for such administration; is that correct?

Mr. DENT. The gentleman is correct.

Mr. ERLENBORN. Mr. Chairman, let me also ask, in any case in which the bill provides that the regulations by the Secretary of the Treasury are effective after December 31, 1975, only if approved by the Secretary of Labor, the action of the Secretary of Labor would in approving such regulations constitute "agency action" within the meaning of the administrative procedure provisions of title 5, United States Code, and would thus be subject to the rulemaking requirements of section 553 of that title.

As a result, the Secretary would be required to publish notice of his proposed action in the Federal Register, and to afford interested persons an opportunity to comment on the Treasury regulations which he proposes to approve.

In addition, it is my understanding that it is the intention of our committee that the Secretary of Labor not approve any Treasury regulation which is inconsistent with the regulations of the Department of Labor under the bill, or with the Labor Department's administrative practice in carrying out its functions under the bill.

Is that correct?

Mr. DENT. Yes; I agree that that is correct, and it is the understanding between the gentleman from Oregon (Mr. ULLMAN) and myself, and our staff members, that that is exactly correct.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman from Pennsylvania.

The CHAIRMAN pro tempore. Are there further amendments to part 3?

If not, the Clerk will read.

The Clerk read as follows:

PART 4—PLAN TERMINATION INSURANCE

ESTABLISHMENT OF PENSION INSURANCE CORPORATION

SEC. 401. (a) ESTABLISHMENT.—There is established within the Department of Labor a body corporate to be known as the Pension Benefit Guaranty Corporation (hereinafter referred to as the "Corporation"). In carrying out its functions under this part the Corporation shall be administered by a Board of Directors (as provided in subsection (c)),

under the general supervision and direction of the Secretary of Labor.

(b) BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall be composed of the Secretary of Labor and two officers or employees of the Department of Labor, who shall serve as directors at the pleasure of the Secretary. Members of the Board shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board. The Secretary of Labor shall be the Chairman of the Board of Directors.

(c) MEETINGS OF BOARD.—The Board of Directors shall meet at the call of its Chairman, or as otherwise provided by the bylaws of the Corporation.

PURPOSES AND POWERS OF THE CORPORATION

SEC. 402. (a) IN GENERAL.—The purpose of the Corporation is—

(1) encourage the continuation and maintenance of voluntary private pension plans to the benefit of their participants.

(2) provide for the timely and uninterrupted payment of pension benefits to the participants and beneficiaries under all insured plans, and

(3) minimize over the long run the premiums charged by the Corporation under section 405.

In order to carry out these purposes, the Corporation is authorized to provide plan termination insurance as provided in this part.

(b) POWERS.—To carry out the foregoing purposes, the Corporation shall have the usual powers conferred on a nonprofit corporation by the District of Columbia Nonprofit Corporation Act. In addition to any specific power granted to the Corporation elsewhere in this part, the Corporation shall have the power—

(1) to sue and be sued, in its corporate name and through its own counsel, in any court, State or Federal;

(2) to adopt, amend, and repeal, by its Board of Directors, bylaws and rules relating to the conduct of its business and the exercise of all other rights and powers granted to it by this part;

(3) to conduct its business (including the carrying on of operations and the maintenance of offices) and to exercise all other rights and powers granted to it by this part in any State without regard to qualification, licensing, or other statute in such State or political subdivision thereof;

(4) to lease, purchase, accept gifts or donations of, or otherwise to acquire, to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein, wherever situated;

(5) subject to the provisions of section 401(e), to elect or appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, and, to the extent desired, require bonds for them and fix the penalty thereof; and

(6) to enter into contracts, to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this part.

(c) BYLAWS.—As soon as practicable but not later than 180 days after the date of enactment of this Act, the board of directors shall adopt initial bylaws and rules relating to the conduct of the business of the Corporation. Thereafter, the board of directors may alter, supplement, or repeal any existing bylaw or rule, and may adopt additional bylaws and rules, from time to time as may be necessary. The Secretary of Labor shall cause a copy of the bylaws of the Corporation to be published in the Federal Register not less than annually.

CONDITIONS OF INSURANCE

SEC. 403. The Corporation shall insure participants and beneficiaries of plans covered under this part against the loss of benefits (as defined in section 409) which arise from the complete or partial termination of such plans, as determined by the Secretary of Labor in accordance with sections 112, 411, and 501 of this Act. For purposes of this part, a partial termination shall not be deemed to have occurred if, as a result of actions taken by the Secretary pursuant to sections 112, 411, and 501 of this Act, all nonforfeitable benefits of participants and beneficiaries to which the partial termination applies continue as obligations of the plan or are otherwise satisfied.

PLAN TERMINATION INSURANCE FUNDS

SEC. 404. (a) FUNDS ESTABLISHED.—The Corporation shall establish two Plan Termination Insurance Funds. The Single Employer Primary Trust Fund shall relate to single employer plans. The Multiemployer Trust Fund shall relate to multiemployer plans. The Corporation may establish a Single Employer Optional Trust Fund if it finds that such a fund is feasible, and may establish one or more additional trust funds as provided for in section 409. No trust fund, established by or under this subsection, or benefits insured thereunder, may at any time be merged with any other trust fund so established nor may the assets of any trust fund so established be used to satisfy liabilities with respect to any other trust fund so established. All amounts received directly or indirectly as premiums, assessments, or fees, and any other money, property, or assets derived from the operation of the Corporation, shall be deposited in the appropriate fund as determined by the board of directors. All claims, expenses, and payments pursuant to the operation of the Corporation shall be paid only from the appropriate fund as determined by the board of directors, subject to the provisions of sections 404 and 405.

(b) INVESTMENT OF AMOUNTS IN FUNDS.—Amounts in the funds may be invested in—

(1) obligations of the United States,

(2) obligations guaranteed as to principal and interest by the United States, and

(3) other assets which the board of directors of the Corporation determines by rule or by law to be permissible investments and which are not inconsistent with the other provisions of this part.

(c) BORROWING AUTHORITY.—The Corporation may issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not to exceed $100,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations of the Corporation. The Secretary of the Treasury shall purchase any notes or other issued by the Corporation under the preceding sentence, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

PREMIUM SCHEDULES

SEC. 405. (a) IN GENERAL.—The Corporation shall prescribe such separate schedules for the premiums to be paid by single employer and multiemployer pension plans as may be necessary to carry out its functions under this part, taking into account the insurance coverage to be provided and the administrative and operational costs of the Corporation.

(b) PREMIUMS TO BE UNIFORM.—The premium rates charged by the Corporation for any period shall be uniform for all single employer plans insured by the Corporation and shall be uniform for all multiemployer plans insured by the Corporation, except as provided in subsection (c) of this section.

(c) BASIS FOR SETTING PREMIUMS.—

(1) INITIAL PREMIUMS.—Unless a revised premium schedule takes effect under section 406, the premium charged any plan insured by the Corporation for any period shall be made up of two parts—

(A) a rate applicable to the excess, if any, of the present value of the benefits of a plan which are insured (as defined in section 409(b)) over the value of the assets of a plan, which rate shall not exceed 0.1 per centum for single employer plans and shall not exceed 0.025 per centum for multiemployer plans, and

(B) an additional charge based on a rate applicable to the present value of the benefits of a plan which are insured (as defined in section 409(b)), which rate shall be determined separately for single employer and multiemployer plans.

The rate for the additional charge referred to in subparagraph (B) shall be set by the Corporation for every year at a level (separately for single employer and multiemployer plans) which the Corporation estimates will yield total revenue approximately equal to the total revenue to be derived by the Corporation from the premiums referred to in subparagraph (A).

(2) SUPPLEMENTAL PREMIUMS.—The premium charged any plan for insurance of benefits or against loss as provided in section 409(c) shall be based on the risk insured and shall reflect the actual and projected experience losses incurred by the Corporation in regard to such risks as determined by the Corporation.

(3) GRADED PREMIUM SCHEDULE.—The premium rates applicable to benefits insured under section 409(b) shall take effect in accordance with the following table for any plan which is not a successor plan covering some or all of the same participants:

The applicable premium rate or rates shall be multiplied by the following percentage:

[In percent]

Number of years plan in effect:	
1	50
2	60
3	70
4	80
5	90
6 or more	100.

(4) VALUE OF ASSETS.—The Corporation shall adopt rules relating to the valuation of a plan's assets for premium purposes and shall file a copy of such rules with the Secretary. To the extent deemed feasible by the Corporation, such rules shall—

(A) require securities for which an available market exists to be valued at fair market value or the average of fair market value over the eighteen-month period ending with the month of valuation.

(B) permit the value of a bond or other evidence of indebtedness which is not in default as to principal or interest, to be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date or on the basis of

the commuted value of the future income it will produce discounted at the rate of interest assumed in the calculation of plan liabilities,

(C) require other assets to be valued on a reasonable and consistent basis (which takes into account fair market value where applicable).

(5) PRESENT VALUE OF INSURED BENEFIT.—The Corporation shall adopt rules relating to the valuation of a plan's insured benefits for premium purposes and shall file a copy of such rules with the Secretary. To the extent deemed feasible by the Corporation such rules shall—

(A) recognize that under this title a complete actuarial valuation of a plan's liabilities is required at least every three years, and should set standards for acceptable approximation methods to be used for interim years, and

(B) require that the present value of insured benefits be calculated using appropriate rates of mortality and interest which will result in equitable treatment as between plans in similar circumstances.

(6) STATEMENT OF COMPLIANCE.—The Corporation shall require a report to be submitted which contains a statement by an enrolled actuary, as defined in section 104(a)(4)(C) of this Act, that the rules of the Corporation have been complied with regarding the calculation of any premiums under this section.

(7) INTEREST.—The Corporation may require that interest at appropriate rate or rates be charged on unpaid, past due, premiums in addition to premiums otherwise calculated under this section.

(8) OPTIONAL TRUST FUND PREMIUMS.—The Corporation shall establish rules which shall apply to the premium to be charged for plans to which the Single Employer Optional Trust Fund applies. Such rules shall include the following:

(A) The Corporation shall require each plan to make an election whether to continue to be treated as a Primary Trust Fund plan or as an Optional Trust Fund plan, for premium purposes under this section and for purposes of the employer liability provisions under section 412, at the later of—

(i) three years after the effective date of this part, or

(ii) the date the plan is first covered under this title. (For purposes of this paragraph the plan and any successor plan covering some or all of the same participants shall be deemed to be the same plan.)

Such election by a plan shall be irrevocable except with the concurrence of the Corporation in accordance with rules adopted by the Corporation which shall be consistently and uniformly applied to all plans making such election.

(B) The premiums charged plans electing Optional Trust Fund treatment shall be based upon—

(i) the present value of the benefits of a plan which are insured under this part, and

(ii) the excess, if any, of the amount determined under clause (i) over the value of the assets of a plan,

and shall be based on the actual and projected experience of all such plans.

(C) The Optional Trust Fund, at the time plans are first permitted to elect such option, shall be credited with that portion of the premiums and income, as determined by the Corporation, which up to that time were allocated to the Single Employer Optional Trust Fund.

REVISED PREMIUM SCHEDULE PROCEDURE

SEC. 406. The Corporation may revise any premium schedule in order to charge premiums to plans insured under the Single Employer or Multiemployer Trust Funds in a manner other than that provided in section 405(c)(1), whenever it determines that revised rates are necessary, but a revised schedule shall apply only to plan years beginning more than thirty days after the date on which the Congress approves such revised schedule by a concurrent resolution originating in the House of Representatives. In order to place a revised premium schedule in effect, the Corporation shall transmit the proposed schedule, its proposed effective date, and the reasons for its proposal to the Committee on Education and Labor of the House of Representatives.

COOPERATION AND ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 407. Section 506(a) of this Act shall apply in carrying out functions of the Corporation in the same manner as it applies in carrying out functions of the Secretary.

REPORTS

SEC. 408. The Secretary may by regulation require that reports which are filed under sections 104 and 105 of this Act by plans to which this part applies includes such additional information as he deems necessary to carry out this part.

COVERAGE

SEC. 409. (a) PLANS COVERED.—

(1) MANDATORY COVERAGE.—Subject to section 416, this title shall apply to a plan which—

(A) is a plan covered under part 3 of this subtitle (including plans covered by reason of section 305(c)(1)), and

(B) which covers more than twenty-five participants (where at least ten have obtained nonforfeitable benefits) at all times during any period of five consecutive plan years, and

(C) which has a vested benefit ratio of 10 per centum or greater when the conditions under (A) and (B) are met. For purposes of this subparagraph vested benefit ratio means the value of assets (as determined under section 405(c)(5)) over the present value of insured benefits (as determined under section 405(c)(6)).

A plan once covered under this paragraph shall continue to be covered except as provided under rules set by the corporation.

(2) VOLUNTARY COVERAGE.—Subject to section 416, the Corporation may insure plans to which part 3 applies (including plans covered by reason of section 305(c)(1)) and which are registered under section 512 of this Act and qualified under section 401(a) of the Internal Revenue Code of 1954, but which are not otherwise covered under this part to the extent that such plans meet underwriting Standards (which shall provide that such plans in the aggregate shall not unreasonably increase the losses incurred by the Corporation so as to require unreasonable increases in the premium rates charged plans covered under paragraph (1)) as set forth in rules established by the Corporation.

(3) TRUST FUND STATUS.—The Corporation shall insure covered benefits, as determined in this section, for participants and beneficiaries of single employer plans and shall pay such benefits from the Single Employer Trust Fund, except as provided in subsection (c) of this section. The Corporation shall insure covered benefits, as determined in this section, for participants and beneficiaries of multiemployer plans and shall pay such benefits from the Multiemployer Trust Fund, except as provided in subsection (c) of this section.

(d) BENEFITS COVERED.—Subject to the limitations in subsection (d) of this section, the Corporation shall guarantee the payment of—

(1) any rights under the plan in a regular retirement benefit, or in an equivalent benefit, which were nonforfeitable (other than by reason of such termination) according to the schedule in section 203 in effect for such plan on such termination date (or, if earlier, the disqualification date within the meaning of subsection (h) of this section), and

(2) any contingent rights under the plan to benefits which are ancillary to the retirement benefits if, on such termination date (or, if earlier, such disqualification date), all contingencies (other than the passage of time) on which the payment of such ancillary benefits depends have been satisfied.

(c) SUPPLEMENTAL INSURED BENEFITS.—The Corporation shall undertake a study to determine under what conditions losses of the plan or benefits other than those described in section (b) can be insured. To the extent that the Corporation determines that losses of the plan or additional benefits are insurable, the Corporation shall prescribe the terms and conditions of such insurance and the premiums charged for insuring such benefits or against such losses shall be subject to the requirements of section 405(c)(3). Such additional benefits shall not be paid from the Single Employer Trust Fund or the Multiemployer Trust Fund.

(d) LIMITATION ON INSURANCE.—The rights of participants and beneficiaries of a plan which is a member of the Corporation shall be insured by the Corporation only to the extent that—

(1) such rights as provided for in the plan do not exceed, with respect to benefits insured under subsection (b) of this section:

(A) in the case of a right to a monthly retirement or disability benefit for the employee himself, the actuarial value of a monthly benefit (with no ancillary benefits) in the form of a single life annuity commencing at age 65 equal to $20 per month per year of credited service, where such $20 is kept up-to-date according to the annual change in the average of the taxable wages of all employees as reported to the Secretary of Health, Education, and Welfare for the first calendar quarter of the calendar year prior to which the determination is made. For purposes of this subparagraph, the term "year of credited service" shall be defined in accordance with rules set by the Corporation which shall take into account the manner in which a plan in practice credits service for benefit purposes;

(B) in the case of a right of one or more dependents or members of the participant's family, or in the case of a right to a lumpsum survivor benefit on account of the death of a participant, an amount no greater than the amount determined in a manner consistent with clause (A);

(2) the plan is terminated more than five years after the date it became a member of the Corporation, except that the board of directors may in its discretion authorize insurance payments for such amounts as may be reasonable to any plan terminated in less than five years after the date it became a member of the Corporation where—

(A) such plan has been established and maintained for more than five years prior to its termination;

(B) the board of directors of the Corporation is satisfied that during the period the plan was not a member of the Corporation, it was in substantial compliance with the provisions of this Act; and

(C) such payments will not prevent equitable underwriting of losses of nonforfeitable benefits arising from plan terminations otherwise covered by this title;

(3) such rights were created by a plan amendment which was adopted and which took effect more than five years immediately preceding termination of such plan;

(4) such rights do not accrue to the interest of a participant who is a substantial owner as defined in paragraph (g) with respect to a plan; and

(5) the maximum guaranteed benefit amounts provided in paragraph (1) shall take effect in accordance with the following table:

The guarantee provided by this part shall be the following percentage of the maximum guaranteed benefit amount provided by paragraph (1):

If the plan has been in existence for—	
Less than 2 years	20
At least 2 but less than 3 years	40
At least 3 but less than 4 years	80
At least 4 but less than 5 years	80
5 years or more	100.

(e) CERTAIN SUCCESSOR PLANS.—For purposes of subsection (d), the period a successor plan has been in effect includes the period during which the predecessor plan was in effect.

(f) MAXIMUM AMOUNT PAYABLE UNDER MORE THAN ONE PLAN.—Notwithstanding any other provision of this section, no person may receive any amount from the Corporation with respect to any individual if the receipt of such amount would cause the aggregate benefits received by all persons from the Corporation with respect to such individual to have an actuarial value in excess of the limitations on benefits provided by subsection (d)(1)(A) (determined as of the date of the most recent termination of a plan in which such individual was a participant).

(g) BENEFITS PAYABLE WITH RESPECT TO CERTAIN SUBSTANTIAL OWNERS NOT INSURED.—

(1) IN GENERAL.—No benefit payable under this title with respect to any individual who, on any day during the plan year in which the plan terminates or during any of the five immediately preceding plan years, was a substantial owner with respect to such plan.

(2) SUBSTANTIAL OWNER DEFINED.—For purposes of this title, the term "substantial owner" means any individual who—

(A) owns the entire interest in an unincorporated trade or business,

(B) in the case of a partnership is a partner who owns more than 5 per centum of either capital interest or the profits interest in such partnership, or

(C) in the case of a Corporation, owns more than 5 per centum in value of either (i) the voting stock of such Corporation, or (ii) all the stock of such Corporation.

(3) CONSTRUCTIVE OWNERSHIP.—For purposes of paragraph (2)(C), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1954 shall apply (determined without regard to section 1563(e)(30)(C)).

(h) EFFECT OF PLAN DISQUALIFICATION.—

(1) IN GENERAL.—If the Secretary of the Treasury or his delegate determines that any plan does not satisfy the requirements for being a qualified retirement plan, no benefits accrued under such plan after the disqualification date for the plan shall be guaranteed under this title.

(2) DISQUALIFICATION DATE.—For purposes of this section, the term "disqualification date" means—

(A) except as provided in subparagraph (B), the day on which notice of the determination referred to in paragraph (1) is mailed to the employer, and

(B) in the case of a determination arising in whole or in part from the adoption of an amendment to the plan, the day on which such amendment was adopted.

(3) SPECIAL RULES.—This subsection shall not apply—

(A) if the determination referred to in paragraph (1) is erroneous, and

(B) in the case of an amendment to a plan, if such amendment—

(i) is revoked as of the date it first took effect, or

(ii) is modified as of the date it first took effect in such a way that the Secretary of the Treasury or his delegate determines that the plan is again a qualified retirement plan.

REPORTABLE EVENTS

SEC. 410. (a) REPORT OF EVENT.—Within thirty day after the plan administrator knows or has reason to know that a reportable event has occurred, he shall notify the Corportation that such event has occurred.

(b) OCCURRENCE OF REPORTABLE EVENT.—For purposes of this section a reportable event occurs—

(1) DISQUALIFICATION OF PLAN.—When the Secretary of the Treasury or his delegate issues notice that a plan has ceased to be a qualified retirement plan or if the Secretary of Labor determines the plan is not in compliance with this title.

(2) BENEFIT DECREASED.—When an amendment of the plan is adopted if, under the amendment, the benefit payable with respect to any participant may be decreased.

(3) DECREASE IN PARTICIPANTS.—When the number of active participants is less than 80 per centum of the number of such participants at the beginning of the plan year, or is less than 75 per centum of the number of such participants at the beginning of the previous plan year.

(4) TERMINATION UNDER INTERNAL REVENUE CODE.—When the Secretary of the Treasury or his delegate determines that there has been a termination or partial termination of the plan within the meaning of section 411(d)(3) of the Internal Revenue Code of 1954.

(5) FAILURE TO MEET MINIMUM FUNDING STANDARDS.—When the plan fails to meet the minimum funding standards under part 3 of this subtitle.

(6) PLAN UNABLE TO PAY BENEFITS.—When a plan is unable to pay benefits thereunder when due.

(7) CERTAIN DISTRIBUTIONS TO SUBSTANTIAL OWNERS.—When there is a distribution under a plan to a participant who is a substantial owner (within the meaning of section 243(f) of the Internal Revenue Code of 1954) if—

(A) such distribution has a value of $10,000 or more;

(B) such distribution is not made by reason of the death of the participant; and

(C) immediately after the distribution, the plan has nonforfeitable benefits which are not funded.

For purposes of this paragraph, all distributions to a participant within any twenty-four-month period shall be treated as one distribution.

(8) CERTAIN REPORTS AND HEARINGS.—When a plan files a report required under section 204(c) of this title or when a hearing is held in regard to a variation to be granted by the Secretary of Labor under section 501 of this title.

(9) OTHER EVENTS.—When any other event occurs which the Corporation determines may be indicative of a need to terminate the plan.

(c) NOTIFICATION BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury of his delegate shall notify the Corporation—

(1) whenever a reportable event described in paragraph (1), (4), or (5) of subsection (b) occurs, or

(2) whenever any other event occurs which the Secretary of the Treasury or his delegate believes indicates that the plan is not sound.

(d) NOTIFICATION BY SECRETARY OF LABOR.—The Secretary of Labor shall notify the Corporation—

(1) wherever a reportable event described in paragraph (1), (5), or (8) of subsection (b) occurs, or

(2) whenever any other event occurs which the Secretary of Labor believes indicates that the plan is not sound.

TERMINATION OF PLAN

SEC. 411. (a) If on application of the administrator of a plan insured under this part, any participant in or beneficiary of such plan, or, on his own motion, the Secretary determines after a hearing under subsection (d) that—

(1) the plan has not met the minimum funding requirement of section 301,

(2) the plan is unable to pay benefits when due, or

(3) the probable long-run loss of the Corporation may reasonably be expected to increase unreasonably if the plan is not terminated;

he may order that the plan be terminated in accordance with subsection (c).

(b) If an employer who sponsors a plan which is not collectively bargained, or in the case of a collectively bargained plan, if the employer or the employee organization which are parties to the collective bargaining agreement apply to the Secretary for authority to terminate a plan insured under this part, the Secretary may terminate such plan in accordance with subsection (c).

(c) In any case in which termination of a plan is authorized under subsection (a) or (b), the Secretary shall, after a hearing in accordance with subsection (d), provide for termination of such plan in whichever of the following ways he determines will best protect the interest or participants and beneficiaries and the Corporation:

(1) He may order that the Corporation assume the assets of the plan to distribute such assets in accordance with section 112 (subject to section 501), and to pay insurance benefits in accordance with this part.

(2) He may order continuation of the plan until all liabilities are satisfied, with separate administration by a receiver nominated by the Corporation and appointed by the Secretary. If a separate receiver is appointed, no benefits may accrue or become nonforfeitable after the date of termination, the amount of benefits payable under the plan shall not be limited by the amount of insurable benefits, and the plan may be ended under paragraph (1) after the receiver is appointed if the Secretary so directs after a hearing under subsection (d) of this section.

(3) The Secretary may order for a distribution of assets under section 112 without ending the plan under paragraph (1) or appointment of a receiver under paragraph (2).

(4) He may order an alternative method of compliance which is equitable to all concerned.

(d) The hearing referred to in subsection (b) shall be commenced upon application of a plan administrator, any participant or beneficiary, an employer or other plan sponsor, the Corporation, or, on the motion of the Secretary, such hearing shall be on the record, with notice and opportunity to be heard by all interested parties. The Secretary is directed to give due regard to protecting the interests of the Corporation and shall take no action which would jeopardize the equitable underwriting of liabilities of other pension plans by the Corporation (or the objectives of the Corporation specified in section 402(a) of this Act) in any action taken under this section.

MANAGEMENT FUNCTIONS

SEC. 412. (a) TRANSFER OF FUNDS TO THE CORPORATION.—The Secretary shall have authority to—

(1) transfer the funds of the terminated plan to which section 411 (c) (1) applies to the Corporation for purposes of management, payment of benefits to participants and beneficiaries and, to the extent necessary for such payment, liquidation; and

(2) retain outside financial advisors or consultants to manage, administer, or invest the funds of a terminated plan to which section 411(c)(1) applies on behalf of the Corporation subject to such rules and guidelines as the Secretary shall determine.

(b) OTHER ALTERNATIVES.—The Secretary may take such other action consistent with

actions which may be taken under section 411(c), including any combination of the foregoing, as may be appropriate to assure equitable arrangements for payments of vested benefits to participants and beneficiaries under the plan.

FUNCTIONS OF SECRETARY

SEC. 413. (a) EXAMINATION OF THE CORPORATION, ETC.—The Secretary may make such examinations and inspections of the Corporation and require the Corporation to furnish such reports and records or copies thereof as the Secretary may consider necessary or appropriate in the public interest or to effectuate the purposes of this Act.

(b) REPORTS FROM THE CORPORATION.—As soon as practicable after the close of each fiscal year, the Corporation shall submit to the Secretary a written report relative to the conduct of its business, and the exercise of other rights and powers granted by this Act, during such fiscal year. Such report shall include financial statement setting forth the financial position of the Corporation at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year and shall include an actuarial evaluation of the expected operations and status of the trust funds over a future period of no less than 5 years including a detailed statement of the actuarial assumptions and methodology used in making such evaluation. The financial statements so included shall be examined by a Comptroller General. The Secretary shall transmit such report to the President and the Congress with such comment thereon as the Secretary may deem appropriate.

EMPLOYER LIABILITY

SEC. 414. (a) Subject to subsection (e), where the employer or employers contributing to the terminating plan or who terminated the plan are not insolvent (within the meaning of section 1(19) of the Bankruptcy Act), such employer or employers (or any successor in interest to such employer or employers) shall be liable to reimburse the Corporation for any insurance benefits paid by the Corporation to the beneficiaries of such terminated plan to the extent provided in this section.

(b) An employer, determined by the Corporation to be liable for reimbursement under subsection (a), shall be liable to pay 100 per centum of the present value of employer underfunding of the terminated plan, as of the date of such termination. In no event, however, shall the employer's liability exceed 50 per centum of the net worth of such employer. For purposes of this subsection, the term "present value of employer underfunding" means the lesser of—

(1) the amount of aggregate insurance benefits paid, or

(2) the present value of accrued benefits under the plan less the sum of the current value of the assets of the plan plus the present value of expected employee contributions to the plan.

(c) The Corporation is authorized to make arrangements with employers, liable under subsection (a), for reimbursement of insurance paid by the Corporation, including arrangements for deferred payment on such terms and for such periods as are deemed equitable and appropriate.

(d)(1) If any employer or employers liable for any amount due under subsection (a) of this section neglects or refuses to pay the same after demand, the amount (including interest) shall be a lien in favor of the United States upon all property and rights in property, whether real or personal, belonging to such employer or employers.

(2) The lien imposed by paragraph (1) of this subsection shall not be valid as against a lien created under section 6321 of the Internal Revenue Code of 1954.

(3) Notice to the lien imposed by paragraph (1) of this subsection shall be filed in a manner and form prescribed by the Corporation. Such notice shall be valid notwithstanding any other provision of law regarding the form and content of a notice of lien.

(4) The Corporation shall promulgate rules and regulations with regard to the release of any lien imposed by paragraph (1) of this subsection.

(e)(1) An employer who elected coverage under the Single Employer Optional Trust Fund shall not be subject to any liability under this section.

(2) No employer shall be liable under this section by reason of his contributions to or sponsorship of a multiemployer plan.

(f) VOLUNTARY CURTAILMENT OF PLAN.—Notwithstanding any other provision of this title or of section 410 or 411 of the Internal Revenue Code of 1954, a pension plan insured under this part may be amended so that neither accrued benefits nor nonforfeitable benefits will accumulate after the date of the amendment. Such amendment shall not by itself be sufficient to cause a termination of such plan or to invoke employer liability except where the plan has not complied with section 302 in the plan year in which the amendment is made or in any subsequent year.

ALLOCATION OF ASSETS

SEC. 415. For purposes of determining the employer liability under section 414 and the payments and distributions to be made under section 411, if any, the Secretary, the plan administrator, the Corporation, or the receiver, as the case may be, shall make such calculation or distribute such assets in accordance with section 112 (subject to any variance under section 501).

EFFECTIVE DATE

SEC. 416. (a) IN GENERAL.—Except as provided in subsection (b), this part shall take effect on the date of enactment of this Act.

(b) TERMINATIONS.—Premiums and benefits payable under this part as a result of plan terminations shall apply with respect to plan years beginning after June 1, 1974, except that in the case of any multiemployer plan, this part shall become effective for the first plan year to which part 3 becomes effective by operation of section 305(b)(2).

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that part 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 113, strike out line 6 and all that follows down through line 22 on such page and insert in lieu thereof the following:

SEC. 401. (a) ESTABLISHMENT.—There is hereby established a government corporation to be known as the Pension Benefit Insurance Corporation (hereinafter in this part referred to as the "Corporation").

(b) BOARD OF DIRECTORS.—(1) The Corporation shall have a board of directors which, subject to the provisions of this part, shall determine the policies which shall govern the operations of the Corporation. The board shall consist of nine individuals who are citizens of the United States. One director shall be appointed by the Secretary from among officers and employees of the Department of Labor, shall serve at the pleasure of the Secretary, and shall serve as chairman of the board. The remaining directors shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall have the following qualifications:

(A) Three shall have had experience serving with employers in the administration or maintenance of private pension plans, one of whom shall be from the multiemployer pension plan field.

(B) Three shall have had experience serving with labor organizations in the administration or maintenance of private pension plans, one of whom shall be from the multiemployer pension plan field.

(C) Two shall be representative of the general public, and shall have had experience in the administration or maintenance of private pension plans.

(2) The term of office of a director (other than a director appointed by the Secretary of Labor) shall be six years; except that—

(A) of the directors first appointed, two shall hold office for a term which expires two years after the date of the enactment of this Act, three shall hold office for a term which expires four years after such date, and three shall hold office for a term which expires six years after such date, as designated by the President of the United States at the time of their appointment, and

(B) any director appointed to fill a vacancy shall hold office for the remainder of the unexpired term.

(3)(A) Except as provided in subparagraph (B), members of the board of directors 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 travel time) during which they are engaged in the actual performance of duties vested in the board.

(B) Members of the board who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the board.

(C) While away from their homes or regular places of business in the performance of services for the Corporation, members of the board 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.

Page 113, insert after line 25, the following:

(d) ADVISORY BOARD.—(1) The Corporation shall have an advisory board which shall consist of seven members to be appointed (for terms fixed by the board of directors) in the following manner: One shall have had experience in the insurance industry, one shall have had experience serving in the corporate trust field, one shall be a qualified public accountant (as defined in section 104(a)(3)(C) of this Act), one shall be an enrolled actuary (as defined in section 104(a)(4)(C) of this Act), one shall have had experience in the investment management field, and two shall have experience in the technical aspects relating to private pension plans. All members shall be appointed by the board of directors from among persons recommended by organizations in the respective fields of which at least three shall be recommended by labor organizations.

(2) It shall be the duty of the advisory board to advise the board of directors with respect to the carrying out of the function of the board of directors under this part, and to submit to the board of directors recommendations with respect thereto. The advisory board shall meet at such times as requested by the board of directors, and shall be compensated as provided in bylaws of the Corporation.

Page 121, strike out line 1 and all that follows down through line 20 on page 122, and insert in lieu thereof the following:

(3) VALUE OF ASSETS.—The Corporation shall adopt rules relating to the valuation of a plan's assets for premium purposes. The Corporation shall adopt such rules after

considering recommendations of the advisory board and recommendations made by actuarial organizations and other interested parties. Such rules adopted by the Corporation shall require that assets for a plan be valued on a reasonable and consistent basis which will result in equitable treatment as between plans in similar circumstances.

(4) PRESENT VALUE OF INSURED BENEFIT.—The Corporation shall adopt rules relating to the valuation of a plan's insured benefits for premium purposes. The Corporation shall adopt such rules after considering recommendations of the advisory board and recommendations made by actuarial organizations and other interested parties. The Corporation shall take into account that under this title a complete actuarial valuation of a plan's liabilities is required at least every three years, and should set standards for acceptable approximation methods to be used for interim years.

Page 122, line 21, strike out "(6)" and insert in lieu thereof "(5)".

Page 123, line 3, strike out "(7)" and insert in lieu thereof "(6)".

Page 123, line 7, strike out "(8)" and insert in lieu thereof "(7)".

Page 126, line 12, strike out "(5)" and insert in lieu thereof "(3)".

Page 126, line 14, strike out "(6)" and insert in lieu thereof "(4)".

Page 141, strike out line 6 and all that follows down through line 3 on page 143, and insert in lieu thereof the following:

Sec. 414. (a)(1) Except as provided in paragraphs (2) and (3), this section applies in the case of any complete or partial plan termination—

(A) of a plan insured under this part, and

(B) which gives rise to (i) an assumption of the assets of such plan by the corporation under section 411(c)(1), or (ii) the appointment of a receiver under section 411(c)(2), or (iii) an alternative method of compliance under section 411(c)(4).

(2) This section shall not apply in the case of—

(A) a partial termination, if all nonforfeitable benefits of participants and beneficiaries to which the partial termination applies continue as obligations of the plan, or

(B) a partial or complete plan termination to the extent of any liability arising out of the insolvency of an insurance company which was licensed under the laws of a State to do business with the plan.

(3) An employer shall not be required to make any payment with respect to any liability under this section at any time at which he is insolvent (determined under section 1(19) of the Bankruptcy Act but without regard to liability under this section).

(b) Except as provided in subsection (d), in the case of a plan termination to which this section applies, if on the date of termination of the plan all nonforfeitable benefits of all participants under the plan were accrued by reason of service with one employer, such employer shall be liable to the Corporation only for the following amounts:

(1)(A) If the Corporation assumes the assets of the plan under section 411(c)(1) of this Act, the employer shall be liable for an amount equal to the lesser of—

(i) 50 percent of the net worth of the employer, or

(ii) the amount by which the present value of insured benefits required to be distributed under section 409 to participants and beneficiaries exceeds that part of the current value of the assets of the plan allocable to such insured benefits according to section 415.

Valuation of employer net worth, plan liabilities, and plan assets shall be made as of the date of terminatioin of the plan or as of such other date as may be designated by the Secretary pursuant to section 411(c)(4). Net worth shall be determined in accordance with rules of the Corporation (which shall reflect generally recognized accounting principles).

(B) An employer may elect to pay his liability under this paragraph in annual installments equal in each year to the amount determined under subparagraph (A) divided by the present value of an annuity certain, using a fifteen-year-payment period and the interest rate used to compute present value of benefits under subparagraph (A)(ii). The Corporation may permit the employer to make such other arrangements for deferred payment on such terms and for such periods as the Corporation deems equitable and appropriate.

(2) If the Secretary appoints a receiver under section 411(c)(2), the employer shall be liable to pay in each year beginning after termination of the plan an amount equal to the lesser of—

(A) the amount of the minimum contribution the employer would have been required to make under section 302 with respect to nonforfeitable benefits for such year had the plan not been terminated (assuming no increase in nonforfeitable benefits after termination of the plan), or

(B) the aggregate amount which would have been required to be charged under section 302(b)(2)(B) (less any amount credited under section 302(b)(3)B)) for such year with respect to nonforfeitable benefits (assuming that the present value of such benefits is fixed as of the date of termination).

(3) The employer shall be liable for amount which is specified under an alternative method of compliance approved according to a proceeding under section 411(c)(4), if—

(A) the employer agrees to pay such amount, or

(B) the present value of such amount does not exceed the amount determined under paragraph (1)(A).

Page 143, line 4, strike out "(2)" and insert in lieu thereof "(c)".

Page 143, insert after line 6 the following:

(d)(1) Except as otherwise provided in paragraph (2), in the case of a termination to which this section applies of a plan which has elected coverage under the Single Employer Optional Trust Fund, an employer who employed a participant under such plan shall be liable to the Corporation under subsection (b) by reason of termination of such plan only if the termination did not occur because of substantial economic losses of the employer which would tend to lead to insolvency or bankruptcy (defined in rules prescribed by the Corporation and approved by the Secretary).

(2) If during the fifteen-year period following the date of such termination, the employer (A) maintains a pension plan which covers any participant who is covered by the terminated plan, (B) establishes an employee benefit plan which covers any participant who is covered by the terminated plan, or (C) increases benefits by reason of a plan amendment under an employee benefit plan which covers any participant who is covered by the terminated plan, then the employer shall be liable for the remainder of such fifteen-year period for an amount equal to the amount which he would have been obligated to pay (but for paragraph (1) of this subsection) during such period (determined in the case to which subsection (b)(1) applies as if the employer had made the election refered to in subsection (b)(1)(B)). If a proceeding for reorganization is commenced under chapter 10 or 11 of the Bankruptcy Act with respect to an employer, such employer shall not be subject to any liability under this paragraph.

Page 143, line 7, strike out "(f)" and insert in lieu thereof "(e)".

Page 143, insert after line 16 the following:

"(f) CORPORATION TO HAVE STATUS OF GENERAL CREDITOR.—The Corporation shall have the status of a general creditor with respect to the liability of the employer under this section except that other general creditors whose claims accrued prior to the date of termination of the plan shall have preference over any claims made pursuant to the terms of this part."

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANDERSON of Illinois. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count. Evidently a quorum is not present. The call will be taken by electronic device.

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

[Roll No. 52]

Baker	Gettys	Nichols
Blatnik	Gray	Powell, Ohio
Boggs	Green, Oreg.	Rees
Boland	Hansen, Wash.	Reid
Brasco	Hébert	Roberts
Brown, Mich.	Ichord	Rooney, N.Y.
Broyhill, N.C.	Jones, Tenn.	Rostenkowski
Burton	Karth	Satterfield
Camp	Kemp	Sikes
Carey, N.Y.	Kluczynski	Sisk
Carney, Ohio	Mailliard	Stanton, James V.
Crane	Martin, Nebr.	Stephens
Davis, Ga.	Michel	Stokes
Davis, Wis.	Mills	Stuckey
Dingell	Mitchell, Md.	Sullivan
Esch	Moorhead, Pa.	
Foley	Moss	
Frelinghuysen	Murphy, N.Y.	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FULTON, Chairman pro tempore 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, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 380 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN pro tempore. When the point of order was made, the amendment of the gentleman from Illinois (Mr. ERLENBORN) had been considered as read and printed in the RECORD.

Mr. ERLENBORN. Mr. Chairman, the amendment that I have just offered and which has been considered as read was submitted to Chairman ULLMAN and Chairman DENT a few days ago, so that I know they have had an opportunity to see the amendment. I think there has also been a good deal of discussion among Members generally, because I am advised that many lobbyists on both sides of the question have been contacting them.

Mr. Chairman, the amendment I have offered does several things, the most important of which is to change the character of the board that would operate the termination insurance corporation. In the bill as it was reported by our committee, the corporation is established

within the Department of Labor. The Secretary of Labor and two of his employees would constitute the board to operate the pension insurance corporation.

Mr. Chairman, the amendment I have offered I think is quite reasonable. I think it is in line with decisions the Congress has made in the past for the governing bodies of similar institutions. My amendment would provide for a nine-member board; three representing employees, three representing employers, the Secretary of Labor, who would be the chairman of the board. The other two would be representatives of the general public.

This gives us a nine-member board, of which the Secretary of Labor would be chairman of the board. I think it is important that there be that tie between the corporation and the Department of Labor. Decisions made by either the insurance corporation or by the Department of Labor under funding standards, and so forth, would have an interaction one on the other.

So, I want to maintain that close relationship between the corporation and the Department of Labor, but I think it is totally unwise to put the entire decision-making in the hands of a political appointee; namely, the Secretary of Labor.

Mr. Chairman, at a time in history when so many have argued that the Presidency has gotten too much power, that the President has taken unto himself too much power, I think it would be totally unreasonable for us to create a corporation such as this and give to an appointee of the President the sole power of deciding what to do with this insurance corporation.

Under the concept of the committee bill, it is my understanding that assets acquired by the insurance corporation would most likely be liquidated; liquidated immediately or soon after their acquisition. This would be very poor management. The new corporation would become the owner of the assets of a defunct pension trust, of stocks, bonds, investments in the private security market which would be then in the ownership of the insurance corporation.

It is not unreasonable to anticipate that after a few years of operation, a few of those large pension plans might terminate and the assets be taken over by the insurance corporation, the Secretary of Labor, if he were managing the corporation, would have several billion dollars of assets in that corporation. Now, if he were forced to liquidate those assets upon acquiring them, it would probably be at a time when the market was depressed, that is, when the company probably would be defunct and the pension plan would terminate.

If he was forced to liquidate at that time, he would not realize from those assets what he should realize. So forcing the insurance corporation to liquidate assets would be a very bad thing from the standpoint of management.

If the Secretary were to manage them, invest, reinvest, and do those things that would be equivalent to wise management, we would find a political appointee making decisions as to the sale or purchase of assets in the private market.

It could have a great impact on that private market.

Mr. Chairman, my amendment would establish the principle that the assets should be managed free from the political decisionmaking of the Secretary of Labor. It would be done under the determinations of this board, which has on it representatives of labor, management, Government, and the general public.

I think that this is a reasonable approach, to see that when this pension insurance corporation is established, it is managed in the proper fashion. I see no reason for this Congress, particularly at this point in history, to invest in the Secretary of Labor and, therefore, tangentially in the President the right to make these decisions, decisions that could drastically affect the private securities market.

Mr. Chairman, I hope that my amendment will be adopted. If it is, I think the bill will be vastly improved.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(On request of Mr. ANDERSON of Illinois and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

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

Mr. ANDERSON of Illinois. Mr. Chairman, I just want to take this opportunity to commend the distinguished gentleman from Illinois and point out the fact that I think he has undertaken to amass a degree of knowledge that is unsurpassed by any Member in this Chamber in what is in all probability one of the most complex subjects to come before this body.

I think the gentleman has demonstrated in the debate thus far and in his explanation of this amendment that he is possessed of the kind of expertise that is needed to advise and consult with Members of this body on this legislation.

I support the gentleman in the amendment he has just offered. It seems to me that, as he has said, to restructure this board along lines so that both labor and management, as well as the public, are all three represented in the very important business of administering this pension reinsurance fund is not a radical proposal. It is one that is, rather, designed to do equity to all of the parties involved and the general public as well.

Mr. Chairman, I applaud the gentleman for making what I think is a very constructive amendment to the bill, and one which I certainly hope will be adopted.

Mr. Chairman, I rise in support of the amendment offered by my friend and colleague from Illinois (Mr. ERLENBORN). Under the substitute bill now before us, specifically, part 4 of H.R. 12906, a pension benefit guaranty corporation is established administered by the Secretary of Labor, with a board of directors consisting of the Secretary and two officers or employees of his department. The purpose of the corporation is to insure participants and beneficiaries of covered plans against losses resulting from partial or complete plan termination. This is done through the creation of two insurance funds, one for single-employer plans and the other for multiemployer plans. At the option of the Secretary, a third fund may be established for those plans wishing to pay a higher premium in return for no employer liability for lost benefits due to plan termination.

Under this provision, all plans with 26 or more participants would be required to join the corporation. All vested benefits of participants would be insured at up to $20 a month times the years of service, though full payment of the maximum is not guaranteed if the plan at the time of termination has not been a member of the corporation for at least 5 years. The premium payments would be set by the Secretary but could not exceed 0.1 percent of the amount by which the present value of the plan's vested benefits exceed the value of the plan's assets. In the event of termination, the total amount of insurance to be paid would be the difference between the plan's assets and its unfunded vested liabilities owed at the time of termination. If employers are not insolvent at the time the plan is terminated, they may be required to reimburse the fund for 100 percent of the insurance payment, up to 50 percent of their net worth. There would, of course, be no such liability if the employer had chosen to pay a higher premium into the optional insurance fund.

The amendment offered by my colleague from Illinois is aimed at correcting some of the deficiencies in the structure of the proposed corporation and at establishing certain safeguards against potential abuses of the termination insurance program; in short, a more workable plan which will not discourage the creation of new pension plans or the improvement of existing plans. For one thing, the Erlenborn alternative would restructure the board of directors of the corporation. Rather than consisting of three Labor Department representatives, the board would consist of nine members, three representing labor, three representing management, two representing the general public—all appointed by the President with the advice and consent of the Senate. The ninth member, who would serve as chairman, would be the Secretary of Labor. The reason for this restructuring is most sound and rationale in my opinion. The existing bill, in my opinion, would concentrate too much power in the hands of political appointees who are not in a position to responsibly serve the best interests of participants. In addition, this three-man labor board would be in a position to make investment decisions involving billions of dollars in the private sector. The Erlenborn alternative, on the other hand, would be more representative of the interests of the participants, and, I think, this should be the primary interest of such a board.

The Erlenborn amendment would also protect against abuse of the optional account in the present bill which allows an employer to escape all liability in the event of a plan termination. As my colleague has pointed out, employers will be tempted by this provision to take the higher premium, terminate the plan, even though not forced to, and thus dump all liability on the corporation. The Erlenborn amendment proposes a modified employer liability provision to insure against such abuses. Under this amendment an employer paying the higher premium could not escape all liability for termination if he continues in business and has no valid reason, such as substantial economic loss, for terminating his plan.

In addition, the Erlenborn alternative would allow for alternatives to having the corporation liquidate the assets of a terminated plan if the Secretary does not invest in the private sector. Under the alternative, a receiver or trustee could be appointed to administer the plan, or, the corporation could assume the assets and liabilities of the plan and manage these as part of the total assets of the corporation.

Mr. Chairman, I urge adoption of the Erlenborn amendment. I think it offers a more reasonable, representative, and workable approach to the complex issue of termination insurance.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman.

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

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

Mr. CHAMBERLAIN. Mr. Chairman, I would also like to join in commending the gentleman from Illinois for offering this amendment. I think it makes good sense, and I urge its adoption.

Mr. Chairman, I wish to associate myself with those who believe that we can provide a stronger and more effective pension plan system by adopting the great majority of the provisions in this legislation. It is encouraging to realize that the years of work and effort by both the Education and Labor Committee and the Ways and Means Committee are about to receive approval. This is clearly the most important, most comprehensive proposal the Congress has ever considered in the area of pension plan legislation.

While H.R. 12906 adheres to the primary objective of improving private pension plan operation to insure their continued growth to retirement security and protection of promised benefits, there is one area—plan termination insurance—where further improvement is needed. In recognition of this real need, I support and urge the adoption of the Erlenborn amendment which provides the needed change in the termination insurance program outlines in H.R. 12906.

The Erlenborn amendment calls for a balanced board of directors of the nonprofit insurance corporation, with equal representation from employers and union groups, plus the general public and the Department of Labor. It recognizes the fact that a workable plan must include active, informed and professional board members who have been directly involved with and understand the problems of the private pension plan system.

I believe the Erlenborn amendment would tend to avoid the kind of excessive regulation that would jeopardize the growth and contribution of pension plans. A balanced board with the power to promulgate bylaws affecting all plans will insure that there will be a continuing full review of the need for additional regulation with full and complete recognition of the impact on private plans.

For these reasons I urge the adoption of the Erlenborn amendment.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his remarks.

In the time remaining to me, let me make one additional point. There is another part of this amendment, one that would change the employer liability and the optional account that is provided in the committee bill.

The committee bill would allow the insurance corporation to set up a second optional account, with a higher premium, that would allow the employer to avoid employer liability completely.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN is allowed to proceed for 1 additional minute.)

Mr. ERLENBORN. Mr. Chairman, as much as I abhor employer liability, I do realize that if we allow the employer to make a decision which is not even based on economic necessity to terminate his pension plan and throw all of the obligations on the insurance trust, we are just inviting employers to dump their liabilities onto the insurance corporation.

Part of my amendment provides a modified employer liability—at least some safeguard that the employer would not do this. It would require two things; namely, that there be an economic reason for his terminating his pension plan and, second, if he did, then he could not turn around the next day and start a new one. In other words, he could not get rid of his old liabilities and turn around and start a new one.

I think it is terribly important so that we will avoid employers dumping their liabilities on this corporation which would then cause other employers and, more importantly, employees to pay what an unconscionable employer should have paid to his employees.

Mr. Chairman, I hope my amendment will be supported.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think it ought to be made clear at this point that we are not dealing with anything in this amendment except the makeup of the governing board. Actually we do have the optional accounts plan in our bill as it stands now. Employers do have all of the liability unless the board itself establishes that they may, because of the nature of their plan, its soundness and its funding and other provisions, apply a lesser rate to an optional plan whereby the liability would shift to the new agency or corporation. The only difference is whether or not this House wants to create, in an area where a great deal more must be learned, especially in the field of the insuring part of this legislation—a permanent expanding type of bureaucracy. It is just that simple.

Mr. Chairman, the experience I have had personally with the agency created on the black lung situation was this: This was supposed to be a limited time agency. The Federal Government after January 1 had no more responsibility insofar as paying out or seeing to any of the benefits under black lung. Only the residual applications were being processed.

When I tried to strike that out with an amendment and had the bill up before us—and the whole department itself was involved and represented there by their top men—I showed them that within 6 months, they were removing the Federal Government from any responsibility or any activity in the field of black lung, because it reverted back to the State on January 1. Why, they got Presidential permission to say that they did not want that amendment which struck this agency out of existence.

I do not know—and I am sure my colleagues understand this, because we have talked about it in our committee. The subcommittee and the full committee rejected this amendment strictly on the ground that we do not know for sure where we are going and to what extent this agency is going to participate in deliberations of any kind that might require an independent, as he calls it, public corporation made up of nine men.

The argument is made that it is political for the Secretary of Labor. The President picked him, and I think you will notice he did not pick him politically. If the President picks eight of these men who are confirmed by the Senate, it does not give the House any handle on this situation. I am not about to say this House believes that the other body will not be looking into these qualifications to find out just what type of men we are putting on the board.

This is not a board but is really a permanent bureaucracy. These 9 men will stretch to 99 and then to 900 men, and if it works like all the rest of them, it will mushroom itself to way over that number. They started with 18 men in the one that I was just talking about, and it ended up with over 300-and-some scattered all over the United States.

I believe we have to have experience I have agreed with the gentleman and I have agreed with the ranking member on part of their study which we are going to continue with their cooperation, and with the hard-working task force we have we have saved over $113,000 out of the $210,000 appropriation we received for a study.

And we are going to continue to work and study. Particularly are we going to watch the operation of the insuring plan.

Every insurance company official who came to me had a different way for

doing this. But we all understand that they all want to do it the way they do it. And that is the way it is with most of the features of this bill, everybody who manages a pension plan comes in and says that the perfect plan is the one that he has.

I am sure my colleague, the ranking member, the gentleman from Illinois (Mr. ERLENBORN) will assure, the House that this was the greatest job in the world in sifting and picking out the proposals that has ever been done, I believe, in the legislative field, in my experience of over 40 years.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. DENT was allowed to proceed for 2 additional minutes).

Mr. DENT. I do not intend to take too much of the time of the House on this particular amendment because it has been hashed out. It is only a question of an opinion, an opinion on the part of the ranking Member, and those who follow the gentleman, that an independent sort of bureaucracy is to be created to manage a field about which there is little or no knowledge.

So I believe that the only way we are going to set up a permanent management corporation, or whatever it takes as far as the insurance end of this bill is concerned, will be after we have had sufficient experience as to just what the dues entail, and how much time has to be consumed.

As I am sure most of the Members know, most of these are negotiated plans, or the greater number of them will be negotiated plans, and in their negotiations they will pretty well write the prescription as to what the plan intends to do.

So the greatest job of the insuring board will be to see to it that they meet the minimum requirements of this legislation on funding, and in making sure the vesting provisions, if they are changed, find out what that will do to the fund itself and whether or not the board feels that they cannot make that change without adding more to the funding provisions. That is really all it does, to make sure that whatever is written into a contract is sound enough financially so that the fund will maintain its position and be able to meet the entitlement payments of the participants. That is all there is to it.

Mr. Chairman, I believe that this can very well be done under the Secretary of Labor and two officials or employees of the Secretary until we can get some history.

I am willing—and the gentleman from Illinois knows that I am willing, and I have agreed—that we ought to look into it. And in our oversight functions if we find 3 months from now or 6 months from now that it ought to be changed to this type of a board, then I for one will immediately propose such legislation.

The CHAIRMAN pro tempore. The time of the gentleman has again expired.

Mr. QUIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the amendment offered by my colleague, the gentleman from Illinois. (Mr. ERLENBORN). If I had my way, and I think if the gentleman from Illinois had his way, we would do more of a study of termination insurance before we embarked on termination insurance. But the decision was made in the committee that we ought to begin with termination insurance now. There is substantial support for this around the country because of the closing of some plants for termination insurance.

The chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), indicated that "a great deal must be learned." And it is true that a great deal must be learned—so we are going to learn how to operate termination insurance after it has been adopted.

Let us look at the way these two trust funds are administered by the corporation—and, of course, there is a third trust fund, but I seriously doubt whether the corporation will move into the single employer optional trust fund, and doubt that that fund would be set up before the Congress has a chance to review the single employer trust fund and the multiple employer trust fund.

The question revolved around the corporation board itself and that is what the issue is about, I think—the major issue here. The Secretary of Labor has always been a political appointee. That has always been the case. When the Secretary of Labor is confirmed, there are other issues that are considered than the two trust funds and the administration of them.

The other two individuals on the board as proposed by the bill before us will not be considered by the Congress at all. They will be selected by the Secretary of Labor as his employees entirely within his jurisdiction, and that means it is left to the whims of the executive branch. It is hard for me to understand why my colleagues on the other side of the aisle are not strongly in favor of the gentleman from Illinois' amendment, because his amendment enables those who are primarily influenced by the corporation with the trust funds—that is, the employers and organized labor—each to have three people on the board of that corporation, and then, of course, the two people from the general public.

As the gentleman from Pennsylvania (Mr. DENT) indicated, he said "we do not know where we are going," and it is true. We do not know exactly where we are going with termination insurance. I am convinced that at some later time we will realize we did wrong if we do not adopt the Erlenborn amendment and instead permit the corporation to be administered by the Secretary of Labor and two of his employees. If we look at the precedents of other examples of similar responsibilties throughout the Federal Government separate corporations or agencies have been set up separate from Cabinet level departments where the President makes the appointments, and the legislative branch then confirms. It is true we may not have the kind of opinion of the other body that they would like us to have. However, this is the precedent, that the Senate does advise and consent on the appointments of the President to reduce political influence, and that is what the Erlenborn amendment requires.

I believe it is correct as the gentleman from Pennsylvania (Mr. DENT) says we do not know exactly where we are going with termination insurance. There is a great deal to be learned about termination insurance, but as we do learn it, I think it will be better administered if those who are involved—that is, the employer groups and organized labor—each have three people on the board and are thereby enabled to assist in charting that course.

The serious nature of termination insurance, if it is not operated properly, is that the increase in the number of employees under private pension plans that has occurred in the last few years might cease, and it may occur that some employers will terminate their pension plans, and that would be to the disadvantage of the employees of the country who need it.

So if these six people, three from the employers and three from the employees—are on the board, this will mean that they will administer it in a way that will keep the pension plans going and have the rates at the lowest level possible in order that we will not put them out of business.

Mr. PEYSER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I, first of all, would like to thank the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), and the minority leader on our subcommittee, the gentleman from Illinois (Mr. ERLENBORN), for allowing me as a nonmember of their subcommittee to sit with them for the past year and to work and actively take part in some way in trying to help with this legislation.

I would like to ask a few questions just to clarify some points for the record at this time dealing with this question of termination insurance. The real concern that exists is that some people may try to use this legislation and take advantage of it, if they can, in effect by copping out of a pension plan and dumping it into the insurance corporation and letting us foot the bill.

I would like to ask the chairman, the gentleman from Pennsylvania (Mr. DENT), this question: Is it his understanding, that on the question dealing with the termination insurance, before the Secretary allows a corporation or a trustee simply to say, "We are giving up this plan, we do not want it any more," and lets the termination insurance take over, the Secretary himself then can make the determination as to whether that will be allowed?

Mr. DENT. If the gentleman will yield, when it is in the best interest of the participants, the Secretary of Labor will be the sole voice in the matter, and this idea that any plan willy-nilly can decide because its conditions are bad to drop its obligations onto the Insurance Corporation, and then after the Insurance Cor-

poration has taken over the bad marbles, the corporation or trustee can then start another plan—it just does not work that way. That is a figment of the imagination.

Mr. PEYSER. I think the answer to this question is of the utmost importance.

I thank the chairman.

It is our concern that the so-called sharp-shooters can take us over in this. It is my understanding based on what the chairman has said and looking at the legislation that this cannot happen and that there are built-in safeguards to handle this situation.

As to the makeup of the committee which has been developed here as an argument, it would seem to me, and I was actually going to offer an amendment at one point, the committee has to have a report from the Secretary of Labor no later than 2 years from the date of the passage of this bill in order that we can look at this again and study it, and at that time if it would make sense we can have an independent corporation take over. Is it the intention of the chairman under the oversight involved that we should look at this question in the future, whether it is 1 or 2 years down the road, and really examine this to see what will happen?

Mr. DENT. Mr. Chairman, if the gentleman will yield it is my position and I think it ought to be the position of this House that if we create this bureaucracy we will never be able to unload it. It has never been done.

But since we have control and it is under a department of the Government there is nothing to stop us joining hands to create whatever is necessary if the Secretary of Labor is unable to handle it according to what will develop. Certainly we are going to review it and certainly we are going to have to do something probably in order to strengthen the Secretary of Labor if it becomes an onerous job for him or take it away and give it to the type of organization the gentleman wants, but I would appreciate it if we would give this a chance and let it work. I do not want to be responsible for something that turns out to be unworkable. It may even do that. I do not know. But I ask the gentleman to give us time to look at it.

Mr. PEYSER. I thank the chairman.

In closing on my own time I want to say this bill is of the utmost importance to the American people, to the millions and millions of men and women who are waiting for this kind of guarantee and protection that the total bill is going to represent to all of them.

Mr. DENT. Mr. Chairman, if the gentleman will yield further, I want to take this time to say the gentleman in the well has been a great help to this committee. He has the expertise and he viewed this subject strictly on the basis of the job to be done. There was never a question of partisanship during the entire discussions. He attended all of the hearings and meetings and his input into this has been tremendous.

I am sure the ranking minority member joins me in thanking the gentleman for his participation in this.

Mr. PEYSER. I thank the gentleman for his comments.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division—demanded by Mr. ERLENBORN—there were—ayes 60, noes, 45.

RECORDED VOTE

Mr. DENT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 217, not voting 35, as follows:

[Roll No. 53]

AYES—179

Abdnor	Frey	Price, Tex.
Alexander	Froehlich	Quie
Anderson, Ill.	Gettys	Quillen
Andrews, N.C.	Goldwater	Rarick
Andrews, N. Dak.	Goodling	Rhodes
Archer	Griffiths	Robinson, Va.
Arends	Gross	Robison, N.Y.
Armstrong	Grover	Rogers
Ashbrook	Gubser	Roncallo, N.Y.
Bafalis	Guyer	Rose
Bauman	Haley	Rousselot
Beard	Hammer-schmidt	Runnels
Bell	Hansen, Idaho	Ruppe
Blackburn	Hastings	Ruth
Breaux	Hébert	Satterfield
Brinkley	Henderson	Scherle
Broomfield	Hinshaw	Schneebeli
Brotzman	Hogan	Sebelius
Brown, Ohio	Holifield	Shriver
Broyhill, Va.	Holt	Shuster
Buchanan	Hosmer	Sikes
Burgener	Huber	Skubitz
Burke, Fla.	Hudnut	Smith, N.Y.
Burleson, Tex.	Hunt	Snyder
Butler	Hutchinson	Spence
Byron	Jarman	Stanton, J. William
Carter	Johnson, Colo.	Steelman
Cederberg	Jones, N.C.	Steiger, Ariz.
Chamberlain	Ketchum	Steiger, Wis.
Chappell	King	Stuckey
Clancy	Kuykendall	Symms
Clausen, Don H.	Landgrebe	Talcott
Clawson, Del	Latta	Taylor, Mo.
Cochran	Lent	Taylor, N.C.
Collier	Lott	Thomson, Wis.
Collins, Tex.	Lujan	Thone
Conable	McClory	Thornton
Conlan	McCloskey	Towell, Nev.
Cronin	McCollister	Treen
Daniel, Dan	McEwen	Van Deerlin
Daniel, Robert W., Jr.	McSpadden	Vander Jagt
Dennis	Mahon	Veysey
Derwinski	Mallary	Waggonner
Devine	Martin, Nebr.	Wampler
Dickinson	Martin, N.C.	Ware
Downing	Mathias, Calif.	White
Duncan	Mayne	Whitehurst
Edwards, Ala.	Miller	Whitten
Erlenborn	Minshall, Ohio	Wiggins
Esch	Mitchell, N.Y.	Wilson, Bob
Eshleman	Mizell	Winn
Evins, Tenn.	Montgomery	Wyatt
Findley	Moorhead, Calif.	Wydler
Fish	Nelsen	Wylie
Fisher	O'Brien	Wyman
Flynt	Parris	Young, Fla.
Forsythe	Passman	Young, Ill.
Fountain	Pettis	Young, S.C.
Frenzel	Poage	Zion
	Preyer	Zwach

NOES—217

Abzug	Blatnik	Clark
Addabbo	Boland	Clay
Anderson, Calif.	Bolling	Cleveland
Annunzio	Bowen	Cohen
Ashley	Brademas	Collins, Ill.
Aspin	Bray	Conte
Badillo	Breckinridge	Conyers
Barrett	Brooks	Corman
Bennett	Brown, Calif.	Cotter
Bergland	Brown, Mich.	Coughlin
Bevill	Burke, Calif.	Culver
Biaggi	Burke, Mass.	Daniels, Dominick V.
Biester	Burlison, Mo.	Danielson
Bingham	Casey, Tex.	Davis, S.C.
	Chisholm	
de la Garza	Kazen	Reid
Delaney	Kemp	Reuss
Dellums	Koch	Riegle
Denholm	Kyros	Rinaldo
Dent	Landrum	Rodino
Diggs	Leggett	Roe
Dingell	Lehman	Roncalio, Wyo.
Donohue	Litton	Rosenthal
Dorn	Long, La.	Roush
Drinan	Long, Md.	Roy
Dulski	McCormack	Roybal
du Pont	McDade	Ryan
Eckhardt	McFall	St Germain
Edwards, Calif.	McKay	Sandman
Eilberg	McKinney	Sarasin
Evans, Colo.	Macdonald	Sarbanes
Fascell	Madden	Schroeder
Flood	Madigan	Seiberling
Flowers	Mann	Shipley
Ford	Maraziti	Shoup
Fraser	Mathis, Ga.	Slack
Fulton	Matsunaga	Smith, Iowa
Fuqua	Mazzoli	Staggers
Gaydos	Meeds	Stanton, James V.
Giaimo	Melcher	Stark
Gibbons	Metcalfe	Steed
Gilman	Mezvinsky	Steele
Ginn	Milford	Stephens
Gonzalez	Minish	Stratton
Grasso	Mink	Stubblefield
Green, Pa.	Mitchell, Md.	Studds
Gude	Moakley	Symington
Gunter	Mollohan	Teague
Hamilton	Moorhead, Pa.	Thompson, N.J.
Hanley	Morgan	Tiernan
Hanna	Mosher	Udall
Hanrahan	Murphy, Ill.	Ullman
Hansen, Wash.	Murphy, N.Y.	Vander Veen
Harrington	Murtha	Vanik
Harsha	Myers	Vigorito
Hawkins	Natcher	Waldie
Hays	Nedzi	Walsh
Hechler, W. Va.	Nix	Whalen
Heckler, Mass.	Obey	Widnall
Heinz	O'Hara	Williams
Helstoski	O'Neill	Wilson, Charles H., Calif.
Hicks	Owens	Wilson, Charles, Tex.
Hillis	Patman	Wolff
Holtzman	Patten	Wright
Horton	Pepper	Yates
Howard	Perkins	Yatron
Hungate	Peyser	Young, Alaska
Ichord	Pickle	Young, Tex.
Johnson, Calif.	Pike	Zablocki
Johnson, Pa.	Price, Ill.	
Jones, Ala.	Pritchard	
Jones, Okla.	Railsback	
Jordan	Randall	
Karth	Rangel	
Kastenmeier	Regula	

NOT VOTING—35

Adams	Dellenback	Podell
Baker	Foley	Powell, Ohio
Boggs	Frelinghuysen	Rees
Brasco	Gray	Roberts
Broyhill, N.C.	Green, Oreg.	Rooney, N.Y.
Burton	Jones, Tenn.	Rooney, Pa.
Camp	Kluczynski	Rostenkowski
Carey, N.Y.	Mailliard	Sisk
Carney, Ohio	Michel	Stokes
Crane	Mills	Sullivan
Davis, Ga.	Moss	Young, Ga.
Davis, Wis.	Nichols	

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STEIGER OF WISCONSIN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Wisconsin: On page 113, lines 16, 17, 18, delete the phrase "and two officers or employees of the Department of Labor, who shall serve as directors at the pleasure of the Secretary." and insert in lieu thereof the phrase ", Secretary of the Treasury, and the Secretary of Commerce.".

Mr. STEIGER of Wisconsin. Mr. Chairman, the amendment that I have offered restructures the board of the corporation which is designed to administer pension plan termination insurance.

As you know, under the bill as it comes

before us the make-up of the board is such that, at least in my judgment, it is not one that will work as effectively as I think this board ought to be able to work. So the amendment I have offered would provide that the board of the corporation will be made up of the Secretaries of Labor, Commerce, and Treasury instead of the way it is in the bill now. The Secretary of Labor would remain the chairman and the corporation would remain within the Department of Labor. I have not proposed any change in that operation.

There are, I think, two substantive reasons why this concept ought to be considered by the House. First, by including the three Secretaries on the board, jurisdictional conflicts between the three Departments can be best resolved. Second, all three Departments, Commerce, Labor, and Treasury, are involved with the various components of pension plans.

The Department of Labor obviously is concerned about the employees of those pension plans; the Department of Commerce with the employers; and the Department of the Treasury with the Internal Revenue Service, and Federal revenues. It stands to reason, then, that the three Departments should all be represented on the board of the corporation. The current structure, whereby the Secretary of Labor, and then by his appointment, two assistants, make up that board, means that the board is not focused as broadly as it ought to be.

The Senate recognized this problem, and adopted a structure for the corporation exactly similar to the one I have proposed. It seems to me that the concept of bringing in the three departments and trying to resolve jurisdictional conflicts in an appropriate fashion, recognizing that the Senate has already adopted this amendment, means that there are valid reasons why this amendment ought to be adopted by the House, and I urge adoption of the amendment.

Mr. DENT. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from Wisconsin (Mr. STEIGER).

Mr. Chairman, I just want to say that this would bring the structure of both bills alike, and eliminate the differences, and this would not give us the freedom to work in the conference that we need. There may very well even be in the conference discussion on the type of proposal that the gentleman from Illinois (Mr. ERLENBORN) wants. Or they may accept our position, or we may accept their position. But at this point I think we ought to keep that difference, so that we will have something to confer on. Therefore, I would ask for a "no" vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. STEIGER).

The amendment was rejected.

Mr. THOMPSON of New Jersey. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in reviewing the provisions dealing with exclusion of certain employees from eligibility, my attention was directed to subtitle A, part I, subpart II, section 410(b)(2)(A) set forth at pages 168 and 169 of the bill.

This section drafted by the Ways and Means Committee carves out an exception from the rule against discrimination, by providing that employees under union contracts need not be covered by pension protection where there is evidence that pension was the subject of good faith bargaining between the employee representative and such employers.

Mr. Chairman, when I read this language I was distressed because it seemed to me as chairman of the Labor Subcommittee that the committee was opening up a gigantic loophole in the prohibitions against discrimination. The term "bargaining in good faith," Mr. Chairman, is a word of art, delineated over the past 35 years by numerous decisions of the U.S. Supreme Court.

As applied to a particular term and condition of employment such as pensions, it would mean simply, Mr. Chairman, that an employer must discuss it with an open mind—if it is brought up. It would not mean that an employer has to offer a pension program in general or a particular pension proposal, or even accept the concept of pensions at all. It surely does not require that an employer agree to any pension proposal at all.

Now, Mr. Chairman, if the bare language of section 410(b)(2)(A) were all I was considering I would be opposed to this bill, because all an unscrupulous employer need do was participate in any collective bargaining negotiation where the subject of pensions was raised—either by the union or the employer—and he subsequently would be free to exclude such employees from participation in any pension plan set up for his other employees. Mr. Chairman, I could not believe that the Ways and Means Committee could ever have proposed—or this committee ever have acquiesced—in such an unfair procedure. So I reviewed the portion of the Ways and Means Committee report on H.R. 12481 dealing with this matter, as set forth on page 49. The explanation given there is that nonbargaining unit employees should not be denied pension protection in the instances where bargaining unit employees have been offered a pension program, but preferred some other form of benefits and elected not to be covered by a pension plan.

Mr. Chairman, I gather from that explanation that the Ways and Means Committee was not using the term "bargaining in good faith" in its technical labor law sense, as we know it, but in a tax sense, where an employer has definitely offered a pension program to his bargaining unit employees, but for reasons best known to them, they have chosen to reject it, in favor of some other form of compensation or benefit.

Is my interpretation "correct," that the exception would not be permitted where an employer had simply discussed the subject of pensions with the employee representative, without definitely offering a pension program to the bargaining unit employees.

Mr. ULLMAN. Will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Oregon.

Mr. ULLMAN. The gentleman from New Jersey is right. The language that he refers to on page 49 I think might best be in the RECORD. It says:

> If a pension plan coverage had been discussed with other representatives of the union employees, and no pension coverage was provided, either because the union employees were covered under a union plan (which might or might not offer comparable benefits to those provided under the employer plan), or because the employee representative opted for higher salaries, or other benefits, in lieu of pension plan coverage, or for some other valid reason, then it would be permissible to exclude these union employees from the calculations.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. THOMPSON of New Jersey was allowed to proceed for 5 additional minutes.)

Mr. THOMPSON of New Jersey. Mr. Chairman, as chairman of the House Labor Subcommittee I have a question on the next subsection 410(b)(2)(B), dealing with airline pilots which I understand is designed to alleviate certain problems which pilots have encountered with the Internal Revenue Service because thier union-negotiated pension plans are substantially higher than those of other employees represented by other unions on various airlines.

Mr. Chairman, I support this exception but I am concerned that the Service not construe this exception so as to preclude, in other multi-union industries such as maritime and construction, unions from negotiating solid pension protections for their members.

Mr. Chairman, in the maritime industry, for instance, licensed pilots and engineers might negotiate a more substantial pension plan than another union covering less skilled workers.

Or, on construction a highly skilled craftsman, such as an electrician, might be covered by a higher pension than a relatively unskilled employee.

This is a fact of life in this industry, and to my knowledge, the service has never challenged these plans. Surely, the committee would not knowingly disturb the stabilized conditions in other multicraft situations, specifically to relieve the airline pilots' problems.

Now, Mr. Chairman, aside from skills, as the Ways and Means Committee points out, in its report, one unit of workers may elect to place more of its collective bargaining emphasis upon pensions, than another unit. Indeed, in many cases it has been impossible to persuade employee units to forgo present compensation for future pension protection.

Mr. Chairman, am I correct in assuming that it is not the intent of the committee in specifically alleviating the active, ongoing problem of the airline pilots, and foreclose other highly skilled workers in other craft bargaining situations, such as maritime and construction, from negotiating with their employers

for a higher pension benefit, than other employees of such employers.

Mr. ULLMAN. If the gentleman will yield further.

Mr. Chairman, the airline pilots provision is a relief provision. It is not intended to tighten the coverage requirements under present law. If the plans such as you describe meet the coverage requirements under present law, I am sure they will continue to do so after this bill is enacted.

Mr. THOMPSON of New Jersey. I thank the gentleman.

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

The CHAIRMAN pro tempore. Are there further amendments to part 4? If not, the Clerk will read.

The Clerk read as follows:

PART 5—GENERAL PROVISIONS

ALTERNATIVE METHODS OF COMPLIANCE

SEC. 501. (a) The Secretary on his own motion or after having received the petition of an administrator may, after giving interested persons an opportunity for a hearing, prescribe an alternative method for satisfying any requirement of part 2, 3, or 4, or section 105(b) or 112, with respect to any pension plan or any type of pension plan subject to such requirement if he determines on the record of such hearing (1) that the use of such alternative method is necessary or appropriate to carry out the purposes of this title and that it provides adequate protection to the participants and beneficiaries in the plan, (2) that the application of such requirement of part 2, 3, or 4 or section 105(b) or 112, would—

(A) increase the costs of the parties to the plan to such an extent that there would result a substantial risk to the voluntary continuation of the plan,

(B) result in a substantial or inequitable curtailment of pension benefit levels or the levels of employees' compensation, or

(C) impose unreasonable administrative burdens with respect to the operation of the plan, having due regard to the particular characteristics of the plan or the type of plan involved; and

(3) that the application of part 2, 3, or 4 or section 105(b) or 112, or discontinuance of the plan would be adverse to the interests of plan participants in the aggregate.

(b) If the Secretary prescribes an alternative method under subsection (a) for satisfying the requirements of section 302 of this Act, then during the period for which such alternative method is in effect, no amendment to the plan may be adopted which increases liabilities of the plan by reason of (1) any increase in benefits, (2) any change in the accrual of benefits, or (3) any change in the rate at which benefits become nonforfeitable under the plan.

STUDIES

SEC. 502. (a) The Secretary is authorized and directed to undertake research studies relating to pension plans, including but not limited to (1) the effects of this title upon the provisions and costs of pension plans, (2) the role of private pensions in meeting the economic security needs of the Nation, and (3) the operation of private pension plans including types and levels of benefits, degree of reciprocity or portability, and financial characteristics and practices, and methods of encouraging the growth of the private pension system.

(b) The Secretary is authorized and directed to cooperate with the Congress and its appropriate committees, subcommittees, and staff in supplying data, and any other information, personnel, or resources required by the Congress in any study, examination, or report by the Congress relating to pension and retirement benefit plans established or maintained by States or their political subdivisions.

(c) (1) The Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives shall study retirement plans established and maintained or financed (directly or indirectly) by the Government of the United States, by any State (including the District of Columbia) or political subdivision thereof, or by any agency or instrumentality of any of the foregoing. Such study shall include an analysis of—

(A) the adequacy of existing levels of participation, vesting, and financing arrangements,

(B) existing fiduciary standards,

(C) the unique circumstances affecting mobility of government employees and individuals employed under Federal procurement, construction, or research contracts or grants, and

(D) the necessity for Federal legislation and standards with respect to such plans.

In determining whether any such plan is adequately financed, each committee shall consider the necessity for minimum funding standards, as well as the taxing power of the government maintaining the plan.

(2) Not later than December 31, 1976, the Committee on Education and Labor and the Committee on Ways and Means shall each submit to the House of Representatives the results of the studies conducted under this subsection, together with such recommendations as may be appropriate.

ENFORCEMENT

SEC. 503. (a) Any person who willfully—

(1) violates any provision of this title (other than section 113 or 511), or any order issued under any such provision; or any requirement of an alternative method prescribed under section 501;

(2) makes, passes, utters, or publishes any statement in any application, report, document, account, or record filed or kept or required to be filed or kept under the provisions of this title, or any rule, regulation, variation, or order under this title, knowing such statement or entry to be false or misleading in any material respect;

(3) forges or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true, any instrument, paper, or document, knowing it to have been forged or counterfeited, for the purposes of influencing in any way the action of the Secretary under this title:

shall upon conviction be fined not more than $10,000 or imprisoned not more than five years, or both, except that in the case of such violation by a person not an individual, the fine imposed upon such person shall be a fine not exceeding $200,000.

(b) Any plan administrator who fails or refuses to comply with a request as provided in section 105(b)(4) within thirty days (unless such failure or refusal results from matters reasonably beyond the control of the administrator) by mailing the material requested to the last known address of the requesting participant or beneficiary may in the court's discretion be personally liable to such participant or beneficiary in the amount of up to $50 a day from the date of such failure or refusal, and the court may in its discretion order such other relief as it deems proper.

(c) The Secretary shall have power in order to determine whether any person has violated or is about to violate any provision of this title or any rule, regulation, or order thereunder (including an alternative method prescribed under section 501), to make an investigation and in connection therewith he may require the filing of supporting schedules of the information required to be furnished under section 103 or 104 of this Act and may, where he has reasonable cause, enter such places, inspect such records and accounts, and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation. The Secretary may publish and make available to any interested person or official, information concerning any matter which may be the subject of investigation, and may prepare a report of any investigation undertaken by him. Such report may contain a record of any facts, conditions, practices, or other matters discovered during the course of his investigation and may be published at any time following commencement of such investigation.

(d) For the purposes of any investigation provided for in this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act (15 U.S.C. 49, 50) are hereby made applicable (without regard to any limitation in such sections respecting persons, partnerships, banks, or common carriers) to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

(e) Civil actions under this title may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (b) of this section, or

(B) to recover benefits due him under the terms of his plan or to clarify his rights to future benefits under the terms of the plan;

(2) by the Secretary, or by a participant, beneficiary or fiduciary for appropriate relief under section 111 (d); or

(3) by the Secretary, or by a participant, beneficiary, or fiduciary to enjoin any act or practice which violates any provision of this title.

(f) (1) An employee benefit plan may sue or be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon trustee or administrator of an employee benefit plan in his capacity as such shall constitute service upon the employee benefit plan.

(2) Any money judgment under this title against an employee benefit plan shall be enforceable only against a plan as an entity and shall not be enforceable against any other person unless liability against such person is established in his individual capacity under this title.

(g) (1) Civil actions under this title brought by the Secretary or by a participant, beneficiary, or fiduciary may be brought in any court of competent jurisdiction, State or Federal. In any action by a participant or beneficiary under subsection (e) (2) or (3), such participant or beneficiary shall maintain such action as a representative of all other participants similarly situated as a class, if (A) the law of the jurisdiction provides for class actions, and, (B) the court is satisfied that the requirements for a class action are not unduly burdensome as applied in the particular circumstances.

(2) Where such an action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

(3) Notwithstanding any other law, the Secretary shall have the right to remove an action from a State court to a district court of the United States, if the action is one seeking relief of a kind the Secretary is authorized to sue for under this title. Any other party may remove an action under this title from a State court to a district court of the United States, subject to the requirements contained in section 1331 of title 28, United States Code. Any such removal shall be prior to the trial of the action and shall be to a

district court where the Secretary could have initiated such an action.

(4) In all civil actions under this title, attorneys appointed by the Secretary may represent the Secretary except as provided in section 518(a) of title 28, United States Code (relating to litigation before the Supreme Court of the United States and the Court of Claims).

(h) The district courts of the United States shall have jurisdiction, without respect to the amount in controversy, to grant the relief provided for the subsections (e) (2) and (3) of this section in any action brought by the Secretary. In any action brought under subsection (e) by a participant, beneficiary, or fiduciary, the jurisdiction of the district court shall be subject to the requirements contained in section 1331 of title 28, United States Code.

(i) (1) In any action by a participant or beneficiary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

(2) Except as to actions brought pursuant to subsection (e) (1) (B) of this section and actions brought by the Secretary pursuant to subsections (e) (2) and (e) (3) of this section, no action shall be brought except upon leave of the court obtained upon vertified application and for cause shown, which application may be made ex parte.

(3) A copy of the complaint in any action under this section by a participant or beneficiary shall be served upon the Secretary by certified mail who shall have the right, in his discretion, to intervene in the action.

ANNUAL REPORT OF SECRETARY

SEC. 504. The Secretary shall submit annually a report to the Congress covering his administration of this title for the preceding year, and including (1) an explanation of any variances granted under section 501 as well as status report on any plan currently operating with a variance and its progress in achieving compliance with provisions of parts 2, 3, and 4, section 112 and section 105(b), and the projected date for terminating the variance; and (2) such information, data, research findings, and recommendations for further legislation in connection with the matters covered by this title as he may find advisable.

RULES AND REGULATIONS

SEC. 505. (a) The Secretary shall prescribe such rules and regulations as he finds necessary or appropriate to carry out the provisions of this title. Among other things, such rules and regulations may define accounting, technical, and trade terms used in such provisions; and may prescribe the form and detail of all reports required to be made under section 112(i); and may provide for the keeping of books and records, and for the inspection of such books and records. The Secretary may not require that information required by this title (or regulations thereunder) be submitted on forms prescribed by the Secretary (except as otherwise provided in section 112(i)). Nothing in this subsection authorizes the Secretary to prescribe regulations respecting any matter if any subsection (b) or any other provision of this subtitle provides that regulations respecting such matter shall not be effective unless approved by the Secretary of the Treasury.

(b) Regulations for purposes of part 2 or 3 of this subtitle shall be effective for plan years beginning after December 31, 1975, only if approved by the Secretary of the Treasury.

OTHER AGENCIES AND DEPARTMENTS

SEC. 506. (a) In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this title, and the functions of any such agency as he may find to be practicable and consistent with law. The Secretary may utilize, on a reimbursable basis, the facilities or services of any department, agency, or establishment of the United States (including the Comptroller of the Currency) or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States (including the Comptroller of the Currency) is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions under this title. The Attorney General or his representative shall receive from the Secretary for appropriate action such evidence developed in the performance of his functions under this title as may be found to warrant consideration for criminal prosecution under the provisions of this title or other Federal law.

(b) In order to utilize the facilities of the States, the Secretary may, upon proper application of an appropriate department or agency or any State, authorize such department or agency to require the filing of annual reports as described in section 104 of this Act for those plans exempted under sections 105(a)(1) (A), (B), and (C) of this Act from the filing requirements. In the case where such authorization is granted the authorized department or agency, with respect to plans domiciled in the State (as determined under rules of the Secretary), shall have the discretion to reject such filing pursuant to the provisions of section 105(a)(2) and to utilize the remedies set out in section 105(a)(3) where appropriate. The Secretary may at his discretion appoint such State department or agency as his agent for the purpose of maintaining civil actions under section 503(e) with respect to such plans exempted from the filing requirements under section 105.

ADMINISTRATION

SEC. 507. (a) Subchapter B of chapter 5, and chapter 7, of title 5, United States Code (relating to administrative procedure), shall be applicable to this title.

(b) No employee of the Department of Labor shall administer or enforce this title with respect to any employee organization of which he is a member or employer organization in which he has an interest.

APPROPRIATIONS

SEC. 508. There are hereby authorized to be appropriated such sums, without fiscal limitation, as may be necessary to enable the Secretary to carry out his functions and duties under this title.

SEPARABILITY PROVISIONS

SEC. 509. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby

INTERFERENCE WITH RIGHTS PROTECTED UNDER ACT

SEC. 510. It shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary for exercising any right to which he is entitled under the provisions of the plan or this title, or for the purpose of interfering with the attainment of any right to which such participant may become entitled under the plan, or this title. The provisions of section 503 shall be applicable in the enforcement of this section.

COERCIVE INTERFERENCE

SEC. 511. It shall be unlawful for any person through the use of fraud, force, or violence, or threat of the use of force or violence, to restrain, coerce, intimidate, or attempt to restrain, coerce, or intimidate any participant or beneficiary for the purpose of interfering with or preventing the exercise of any right to which he is or may become entitled under the plan, or this title. Any person who willfully violates this section shall be fined $10,000 or imprisoned for not more than one year, or both.

REGISTRATION OF PLANS

SEC. 512. (a) Every administrator of a pension plan to which part 2, 3, or 4 of this subtitle applies shall file with the Secretary an application for registration of such plan. Such application shall be in such form and shall be accompanied by such documents as shall be prescribed by regulation of the Secretary. After qualification under subsection (c), the administrator of such plan shall comply with such requirements as may be prescribed by the Secretary to maintain the plan's qualification under this part.

(b) The filing required by subsection (a) for a plan shall be made not later than 270 days after the beginning of the earliest plan year to which either part 2 or 3 first applies to such plan. In the case of a plan first required to file before December 31, 1975, the Secretary may postpone until not later than December 31, 1975, the first filing date for such plan. Nothing in this subsection shall be construed to prohibit any administrator from filing the application described in subsection (a) at any earlier time.

(c) Upon the filing required by subsection (a), the Secretary shall determine whether such plan is qualified for registration under this section, and if the Secretary finds it qualified, he shall issue a certificate of registration with respect to such plan.

(d) If at any time the Secretary determines that a plan required to qualify under this section is not qualified or is no longer qualified for registration under this part, he shall notify the administrator, setting forth the deficiency or deficiencies in the plan or in its administration or operations which is the basis for the notification given, and he shall further provide the administrator, the employer of the employees covered by the plan (if not the administrator), and the employee organization representing such employees, if any, a reasonable time within which to remove such deficiency or deficiencies. If the Secretary thereafter determines that the deficiency or deficiencies have been removed, he shall issue or continue in effect the certificate, as the case may be. If he determines on the record after opportunity for hearing that the deficiency or deficiencies have not been removed, he shall enter an order denying or canceling the certificate of registration, and take such further action as may be appropriate under the enforcement and other provisions of this title.

(e) A pension plan shall be qualified for registration under this section if it conforms to, and is administered in accordance with the provisions of this title which are applicable to the plan.

(f) The Secretary may, by regulations, provide for the filing of a single report satisfying the reporting and registration requirements of this title.

(g) Where a pension plan filed for registration under this part is amended subsequent to such filing, the administrator shall (pursuant to regulations promulgated by the Secretary) file with the Secretary a copy of the amendment and such additional information and reports as the Secretary by regulation may require, to determine that there is continued compliance under the provisions of this title which are applicable to the plan.

ENFORCEMENT OF REGISTRATION

SEC. 513. Whenever the Secretary—

(1) determines, in the case of a pension plan required to be registered under section

512, that no application for registration has been filed in accordance with section 512, or

(2) issues an order under section 512 denying or canceling the certificate of registration of a pension plan, or

(3) determines, in the case of a pension plan subject to part 3, that there has been a failure to make required contributions to the plan in accordance with the provisions of this title or to pay required assessments or to pay such other fees or moneys as may be required under this title.

the Secretary may petition any district court of the United States having jurisdiction of the parties, or the United States District Court for the District of Columbia, for an order requiring the employer or other person responsible for the administration of such plan to comply with the requirements of this title as will qualify such plan for registration or to take any action authorized, or required to be taken by the administrator under section 303.

EFFECT ON OTHER LAWS

SEC. 514. (a) It is hereby declared to be the express intent of Congress that, except for actions authorized by section 503(e)(1)(B) of this Act and except as provided in subsection (b) of this section the provisions of part 1 of this subtitle shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter relate to the reporting and disclosure responsibilities, and fiduciary responsibilities, of persons acting on behalf of any employee benefit plan to which part 1 applies.

(b) Nothing in part 1 of this subtitle shall be construed to exempt or relieve any person from any law of any State which regulates insurance, banking, or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this title to be filed with the Secretary. No employee benefit plan subject to the provisions of this title (other than a plan established primarily for the purpose of providing death benefits), nor any trust established under such a plan, shall be deemed to be an insurance company or other insurer, bank, trust company, or investment company or to be engaged in the business of insurance or banking for purposes of any law of any State purporting to regulate insurance companies, insurance contracts, banks, trust companies, or investment companies.

(c) It is hereby declared to be the express intent of Congress that the provisions of parts 2, 3, and 4 of this subtitle shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter relate to the nonforfeitability of participant's benefits in employee benefit plans described in section 201 (a) or 301(a), the funding requirements for such plans, the adequacy of financing of such plans, portability requirements for such plans, or the insurance of pension benefits under such plans.

(d) Nothing in this section shall be construed to prohibit a delegation of authority by the Secretary to an appropriate State agency as permitted under section 506 of this Act.

(e) Nothing in this title shall be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States (except as provided in 115(a)) or any rule or regulation issued under any such law.

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that part 5 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MOAKLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have a question to ask the gentleman from Pennsylvania, the chairman of the committee (Mr. DENT) concerning section 506 of H.R. 12906, titled "Other Agencies and Departments". I would like to know whether it is the intent of this section, particularly of section b, that the Secretary shall utilize State agencies and civil service employees where competence, and experience is already established.

For example, in the State of Massachusetts, the health, welfare, and retirement board has been in existence since 1959. It has, in that time, been performing many of the functions now given to the Secretary in this bill. The health, welfare, and retirement board is staffed by civil service employees who qualified for their positions by passing examinations on both State and Federal law.

In Massachusetts, this board has been responsible for seeing that plans register, file annual reports, and summaries of those reports, file plan descriptions and provide benefit descriptions and financial statements to members.

I would like the record to establish as the legislative history of this bill whether it is the intent of Congress that an agency such as the Massachusetts board shall be utilized, and that civil service employees, many of whom have spent their careers gaining experience in this field, should also be utilized by the Secretary.

Mr. DENT. If the gentleman will yield, yes, we expect the Secretary to utilize the facilities of the States to the extent possible to implement the overall policy of this bill with respect to plans exempted from the disclosure and reporting requirements under section 105 of the bill.

AMENDMENT OFFERED BY MR. BADILLO

Mr. BADILLO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BADILLO: Page 162, insert after line 11 the following:

Subtitle C—Voluntary Portability Program for Vested Pensions

PROGRAM ESTABLISHED

SEC. 601. (a) There is hereby established a program to be known as the Voluntary Portability Program for Vested Pensions (hereinafter referred to as the "Portability Program"), which shall be administered by and under the direction of the Secretary. The Portability Program shall facilitate the voluntary transfer of nonforfeitable benefits between registered pension plans. Nothing in this subtitle or in the regulations issued by the Secretary hereunder shall be construed to require participation in such Portability Program by a plan as a condition of registration under section 512.

(b) Pursuant to regulations issued by the Secretary, plans registered under section 512 may apply for membership in the Portability Program, and, upon approval of such application by the Secretary, shall be issued a certificate of membership in the Portability Program (plans so accepted shall be hereinafter referred to as "member plans").

ACCEPTANCE OF DEPOSITS

SEC. 602. A member plan shall, pursuant to regulations prescribed by the Secretary, pay, upon request of the participant, to the fund established by section 603, a sum of money equal to the present value of the participant's nonforfeitable rights under the plan, which shall be in settlement of such nonforfeitable rights, when such participant is separated from employment covered by the plan before the time prescribed for payments to be made to him or to his beneficiaries under the plan. The fund is authorized to receive such payments, on such terms as the Secretary may prescribe.

SPECIAL FUND

SEC. 603. (a) There is hereby created a fund to be known as the Voluntary Portability Program Fund (hereinafter referred to as the "Fund"). The Secretary shall be the trustee of the Fund. Payments made into the Fund in accordance with regulations prescribed by the Secretary under section 602 shall be held and administered in accordance with this subtitle.

(b) With respect to such Fund, it shall be the duty of the Secretary to—

(1) administer the Fund;

(2) report to the Congress not later than the first day of April of each year on the operation and the status of the Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years and review the general policies followed in managing the Fund and recommend changes in such policies, including the necessary changes in the provisions of law which govern the way in which the Fund is to be managed; and

(3) after amounts needed to meet current and anticipated withdrawals are set aside, deposit the surplus in interest-bearing accounts in any bank the deposits of which are insured by the Federal Deposit Insurance Corporation or savings and loan association in which the accounts are insured by the Federal Savings and Loan Insurance Corporation. In no case shall such deposits exceed 10 per centum of the total of such surplus, in any one bank, or savings and loan association.

INDIVIDUAL ACCOUNTS

SEC. 604. The Secretary shall establish and maintain an account in the Fund for each participant for whom the Secretary receives payment under section 602. The amount credited to each account shall be adjusted periodically, as provided by the Secretary pursuant to regulations to reflect changes in the financial condition of the Fund.

PAYMENTS FROM INDIVIDUAL ACCOUNTS

SEC. 605. Amounts credited to the account of any participant under this subtitle shall be paid by the Secretary to—

(1) a member plan, for the purchase of benefit rights having at least an equivalent actuarial value under such plan, on the request of such participant when he becomes a participant in such member plans;

(2) a qualified insurance carrier selected by a participant who has attained the age of sixty-five, for the purchase of a single premium life annuity in an amount having a present value equivalent to the amount credited to such participant's account, or in the event the participant selects an annuity with survivorship options, an amount determined by the Secretary to be fair and reasonable based on the amount in such participant's account; or

(3) to the designated beneficiary of a participant in accordance with regulations promulgated by the Secretary.

TECHNICAL ASSISTANCE

SEC. 606. The Secretary shall provide technical assistance to employers, employee organizations, trustees, and administrators of pension and profit-sharing-retirement plans in their efforts to provide greater retirement protection for individuals who are separated from employment covered under such

plans. Such assistance may include, but is not limited to (1) the development of reciprocity arrangements between plans in the same industry or area, and (2) the development of special arrangements for portability of credits within a particular industry or area.

Amend the table of contents of the bill accordingly.

Mr. BADILLO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BADILLO. Mr. Chairman, although this measure on the whole is sound, it contains a glaring defect—the failure to make provision for portability. Even though the measure calls for the establishment of three vesting rules aimed at increasing a worker's pension security, accrued pension rights in one plan without any provision for transferring to another job can become nothing more than a ball and chain by which older workers are tied to inadequate and insecure jobs. I do not mean to minimize the importance of vesting yet a vested pension belongs to the employee and he must have the right to move to some other type of employment in some other area if he so chooses, particularly if he is required to do so by economic necessity. As Senator BIRCH BAYH so aptly noted in a recent article:

> For a country that prides itself on a mobile population, that mobility should not be at the expense of the individual worker's retirement security.

Portability enables a worker to transfer his pension rights should he decide to change jobs or be forced to do so.

With a changing economy, there are continuing shifts in the needs of manpower. Oftentimes, however, private pensions tend to act as an unnecessary barrier to labor mobility by tieing workers to a particular employer. During his appearance before the House General Labor Subcommittee last year Mr. Ralph Nader very perceptively observed that—

> Without some sort of mechanism to make pension credits portable, the more mobile employee will almost invariably end up with a lower pension at retirement.

Particularly in light of past failings in the private pension sector, a worker should have the right to assemble all of the vested pension contributions he had made during his working years into one sufficient benefit—one based on contributions which have earnings and growth to the final day of his active employment.

I believe that a meaningful vesting arrangement will furnish workers with much needed protection for their accrued pension rights. By the same token I feel that additional security is required and I am therefore offering an amendment which seeks to establish a voluntary portability program for vested pensions.

The language I am proposing is identical to that contained in the original Williams-Javits bill and included in the bill passed by the Senate. While it does not require the establishment of portability programs, it does encourage their formation in an attempt to provide the most optimum protection to workers. Such a voluntary portability system would permit companies to allow their employees to carry their vested rights from one company to another when changing jobs.

The weakest possible portability provision is what is contained in the Senate bill. Frankly, I would have preferred to support the much more substantive proposal which was offered by the senior Senator from Indiana (Mr. HARTKE) under which a mandatory portability program would be established, including the creation of a national pension clearinghouse or regional ones to coordinate portability activities. Unfortunately, the parliamentary situation is such that I would probably not be able to propose this more comprehensive plan and must therefore offer the voluntary system. While some may believe that it is foolish to propose a voluntary system which many pension plans will not choose to join, I feel very strongly that the principles of portability must be established and that we must have a foundation upon which to build for future—and hopefully more concrete—legislation.

There are those who contend that a fully vested pension will preclude the necessity for portability. It must be realized, however, that inflation will seriously erode the value of vested credits and that a benefit which is vested but not portable is not available in the event of disablement. Further, as Senator Hartke stated during Senate debate on the pension legislation "Vesting without portability will often prove inadequate because—employees will not feel the vested benefit alone is dependable and so may withdraw from the plan, thereby losing valuable credits." Thus, vesting and portability cannot be considered to provide the same protections.

We must also consider the fact, Mr. Chairman, that workers in this country do not typically remain with one employer during a lifetime. A Labor Department job tenure study shows that the median employment period for men at ages 45 through 49 was 10.2 years, for men 40 through 44 it was 8.4 years on their current job and only 5.8 years for men aged 35 to 39. The figures for women were significantly lower—as low as 2.6 years for women at ages 35 through 39. This study also revealed that, in the wholesale and retail trades, for example, the median years of employment for men between 25 and 44 was 3.3 years, as compared with 1.5 for women in the same age bracket, and that for male workers over the age of 45 it was 8.8 years and for women in the same category, 4.9 years. Thus, in a society in which individual and corporate mobility is increasing, there is a clear and intensified need for pension credit accumulation for employees as they move from one job to another, often in different locations throughout the country.

Opponents of portability argue that there are too many complexities involved with implementing such a system and maintain that portability would cause more rigidities which would possibly retard further pension growth. The contention that it would be too difficult to establish and carry out a portability system is simply a bureaucratic ploy to avoid doing it and I believe that the fears about possibly retarding pension growth are unfounded. Others maintain that a portability system should not be implemented at this time as it requires further study—another typical delaying tactic. However, it is for these reasons that I have chosen a voluntary system. Thus, not only would a mechanism exist under which workers pension rights can be further protected and liberalized but there would also be a device whereby some practical experience could be gained with a view toward determining the efficacy of requiring the implementation of portability programs. I urge, therefore, the adoption of my amendment and hope that employers will see fit to undertake the establishment of meaningful portability programs so that American workers may have greater mobility in the labor market.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I understand that the provision being offered by the gentleman from New York (Mr. BADILLO) is the same provision as the Senate-passed bill relative to portability.

I would point out, because I do not think it has been made clear, that the only thing that is portable—the only thing that is portable—under that provision is a vested right. A lot of people have the idea that portability means that a worker can work a couple of years here and a couple of years there and total them all up and then get a nice pension. This portability is not that sort of provision. A worker must have a vested right before it even becomes portable under a portability plan.

Even the AFL–CIO in their commentary on this bill pointed out that cashing out a vested right and moving it to another place will mean the employee ultimately will wind up with less of a pension than if he draws his pensions from those several employers where he has vested rights.

There is no strong push behind this portability provision. This is not going to do what many employees would like to have done.

Mr. Nader in talking about portability did not have this in mind at all. I was there and I know what he was talking about. He wanted us to prohibit defined benefit pension plans from even being carried on. Mr. Nader wanted us to move to a money purchase plan.

In effect, money purchase is a savings account, so that when people retire, they can draw out what was put in, but when they run out of it they have no further retirement security, so that Mr. Nader's suggestions really fell on deaf ears on both sides of the aisle.

Mr. Chairman, I would just say that any attempt to add portability to this bill

does no good for the working men and women of this country. It is not supported by the AFL–CIO to my knowledge, because they had nothing good to say about it.

Mr. Chairman, I would hope that the amendment would be defeated.

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

Mr. ERLENBORN. Mr. Chairman, I yield to the gentleman from New York.

Mr. BADILLO. Mr. Chairman, I agree with the gentleman that the provision in the Senate bill is a weak provision. I said that I would like to have at the same time a stronger provision, as Mr. Nader and other people would want.

I am pointing out that because we have a weak provision in the Senate bill is no reason to have no provision at all. Let us have at least a provision that will give rights where there is total vesting. My amendment would get the principle of portability put into the bill, so that at a later time we can get the strong kind of provision I feel is necessary.

Mr. ERLENBORN. Mr. Chairman, I appreciate what the gentleman wants to do, but I would say that this is not just a weak provision. It is a provision, if it were utilized, which would reduce the benefits that employees can expect to get when they retire. This is worse than no provision at all.

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

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

Mr. DENT. Mr. Chairman, I join with the gentleman from Illinois in his opposition. The simple fact is that under present law everything that this particular amendment purports to do can and is being done. It is a question of voluntary acceptance of one plan by another. There is nothing that can add anything to that.

Mr. Chairman, I pointed out to the Senators that they had just put a lot of wordage into the bill that did not do any more than they could do now except give a promise that could not be kept, because at this moment, as the gentleman knows, we have worked 7 years on this. Much of that time has been on the question of portability, and no agency has been able to give us—including organized labor, the managers of many plans in the country, insurance companies, bankers, actuarial experts—no one has been able to give us any kind of an estimate, any kind of a proposition that would be workable among over 155,000 plans plus about 200,000 individual plans.

Mr. Chairman, I agree with the gentleman from Illinois that this amendment ought to be defeated.

Mr. ULLMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to say that this provision on portability is taken from the old Senate bill, which the Senate itself did not see fit to adopt. This provision in any case is defective because if funds are moved from a private pension program into the portability fund, this would be a taxable transaction and that would render the whole program useless.

Therefore, I hope we vote the amendment down, and let us take up the subject of portability in a responsible way sometime in the future.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. BADILLO).

The amendment was rejected.

Mr. DENT. Mr. Chairman, we have no further amendments.

The CHAIRMAN (Mr. BOLAND). If there are no further amendments to title I, under the rule, the bill H.R. 12855 as title II of said substitute is considered as having been read for amendment.

No amendments are in order to title II except amendments offered by the Committee on Ways and Means which are not subject to amendment, and germane amendments to subsections 2001 (a)(1)(A), 2001(a)(2), 2001(b) and 2001(e)(3) of title II.

Are there any amendments from the Committee on Ways and Means to title II of the substitute?

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE RELATING TO RETIREMENT PLANS

SEC. 1001. AMENDMENT OF INTERNAL REVENUE CODE OF 1954.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle A—Participation, Vesting, Funding, Administration, Etc.

PART I—PARTICIPATION, VESTING, AND FUNDING

SEC. 1011. MINIMUM PARTICIPATION STANDARDS.

Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following:

"Subpart B—Special Rules

"Sec. 410. Minimum participation standards.
"Sec. 411. Minimum vesting standards.
"Sec. 412. Minimum funding standards.
"Sec. 413. Collectively bargained plans.
"Sec. 414. Definitions and special rules.
"Sec. 415. Limitations on benefits and contributions under qualified plans.

"Sec. 410. MINIMUM PARTICIPATION STANDARDS.

"(a) PARTICIPATION.—

"(1) MINIMUM AGE AND SERVICE CONDITIONS.—A trust shall not constitute a qualified trust under section 401(a) if the plan of which it is a part requires, as a condition of participation in the plan, that an employee complete a period of service with the employer or employers maintaining the plan extending beyond the later of the following dates—

"(A) the date on which the employee attains 25 years of age; or

"(B) the date on which he completes 1 year of service.

In the case of any plan which provides that after 3 years of service each participant has a right to 100 percent of his accrued benefit under the plan which is nonforfeitable (within the meaning of section 411) at the time such benefit accrues, subparagraph (B) shall be applied by substituting '3 years of service' for '1 year of service'.

"(2) MAXIMUM AGE CONDITIONS.—A trust shall not constitute a qualified trust under section 401(a) if the plan of which it is a part excludes from participation (on the basis of age) employees who have attained a specified age, unless the plan—

"(A) is a defined benefit plan, and

"(B) such employees begin employment with the employer after they have attained a specified age which is not more than 5 years before the normal retirement age under the plan.

"(3) DEFINITION OF YEAR OF SERVICE.—

"(A) DETERMINATION UNDER REGULATIONS.—For purposes of paragraph (1), the term 'year of service' means a period of service determined under regulations prescribed by the Secretary or his delegate which provide for the calculation of such period on any reasonable and consistent basis.

"(B) REASONABLE BASIS.—For purposes of subparagraph (A), the calculation of any period of service shall not be treated as made on a reasonable basis—

"(i) if the average period of service required for participation in the plan (determined as if one employee commenced his service on each day) is more than 12 months, or

"(ii) if any employee who has completed more than 17 months of continuous service is excluded from participation in the plan by such calculation.

"(C) ADDITIONAL REQUIREMENTS WITH RESPECT TO SEASONAL EMPLOYMENT.—For purposes of subparagraph (A), the calculation of any period of service shall not be treated as made on a reasonable basis in the case of a seasonal employee whose customary employment is for at least 5 months in a 12-month period, if his period of service is treated as less than the period of service he would have had if his customary employment had been nonseasonal.

"(D) SUBSTANTIALLY DIFFERENT WORK PERIODS.—The regulations prescribed under this paragraph shall take into account the customary working period (as expressed in hours, days, weeks, months or years) in any industry where, by the nature of the employment, such period differs substantially from the comparable work period in industry generally.

"(4) BREAKS IN SERVICE.—

"(A) SHORTER BREAKS IN SERVICE.—For purposes of paragraph (3)(A), in the case of any employee who has a break in his service with the employer for a continuous period of not less than 1 year, the calculation of his period of service shall not be treated as not made on a reasonable basis merely because, under the plan, service performed by such employee is not taken into account until he has completed a continuous period of service (not in excess of 1 year) after his return.

"(B) EMPLOYEES 50-PERCENT VESTED.—For purposes of paragraph (3)(A), except as otherwise provided in subparagraph (A), in the case of any employee who has a break in his service with the employer and who, before such break, had a nonforfeitable right to 50 percent or more of his accrued benefit derived from employer contributions, the calculation of his period of service shall not be treated as made on a reasonable basis if service performed by such employee before the end of such break in service is not taken into account in calculating his period of service.

"(C) 4 CONSECUTIVE YEARS OF SERVICE.—For purposes of paragraph (3)(A), except as otherwise provided in subparagraphs (A) and (D), in the case of any employee who has a break in his service with the employer the calculation of his period of service shall not be treated as made on a reasonable basis if such employee completed 4 consecutive years of service before such break and all service before such break is not taken into account.

"(D) 6-YEAR BREAK IN SERVICE.—For purposes of paragraph (3)(A), except as other-

wise provided in subparagraph (B), in the case of any employee who has a break in his service with the employer for a continuous period of not less than 6 years, the calculation of his period of service shall not be treated as not made on a reasonable basis merely because, under the plan, service performed by such employee before the end of such break in service is not taken into account.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—A trust shall not constitute a qualified trust under section 401(a) unless the trust, or two or more trusts, or the trust or trusts and annuity plan or plans are designated by the employer as constituting parts of a plan intended to qualify under section 401(a) which benefits either—

"(A) 70 percent or more of all employees, or 80 percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all the employees are eligible to benefit under the plan, excluding in each case employees who have not satisfied the age and service requirements, if any, prescribed by the plan as a condition of participation, or

"(B) such employees as qualify under a classification set up by the employer and found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, or highly compensated.

"(2) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of paragraph (1), there shall be excluded from consideration—

"(A) employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary or his delegate finds to be a collective-bargaining agreement between employee representatives and one or more employers, if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers,

"(B) in the case of a trust established or maintained pursuant to an agreement which the Secretary or his delegate finds to be a collective-bargaining agreement between air pilots represented in accordance with title II of the Railway Labor Act and one or more employers, all employees not covered by such agreement, and

"(C) employees not included in the plan who are nonresident aliens and who receive no earned income (within the meaning of section 911(b)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(c) EXCLUSION OF GOVERNMENTAL PLANS AND CERTAIN CHURCH PLANS.—This section shall not apply to—

"(1) a governmental plan (within the meaning of section 414(d)) which meets the requirements of section 401(a)(3) as in effect on the day before the date of the enactment of this section, and

"(2) a church plan (within the meaning of section 414(e))—

"(A) which meets the requirements of section 401(a)(3) (and, if applicable, section 406(b)(1) or 407(b)(1)) as in effect on the day before the date of the enactment of this section, and

"(B) with respect to which the election provided by subsection (d) has not been made.

"(d) ELECTION BY CHURCH TO HAVE PARTICIPATION, VESTING, FUNDING, AND FORM OF BENEFIT PROVISIONS APPLY.—

"(1) IN GENERAL.—If the church or convention or association of churches which maintains any church plan makes an election under this subsection (in such form and manner, and with such official, as may be prescribed by regulations), then the provisions of this title relating to participation, vesting, funding, and form of benefit (as in effect from time to time) shall apply to such church plan as if such provisions did not contain an exclusion for church plans.

"(2) ELECTION IRREVOCABLE.—An election under this subsection with respect to any church plan shall be binding with respect to such plan, and, once made, shall be irrevocable."

SEC. 1012. MINIMUM VESTING STANDARDS.

(a) IN GENERAL.—Subpart B of part I of subchapter D of chapter 1 is amended by adding after section 410 the following new section:

"SEC. 411. MINIMUM VESTING STANDARDS.

"(a) GENERAL RULE.—Except as provided in subsections (d) and (e), a trust shall not constitute a qualified trust under section 401(a) unless the plan of which such trust is a part satisfies the requirements of paragraphs (1) and (2) of this subsection and the requirements of paragraph (2) of subsection (b), and in the case of a defined benefit plan, also satisfies the requirements of paragraph (1) of subsection (b).

"(1) EMPLOYEE CONTRIBUTIONS.—A plan satisfies the requirements of this paragraph if, under the plan, an employee's rights in his accrued benefit derived from his own contributions are nonforfeitable.

"(2) EMPLOYER CONTRIBUTIONS.—A plan satisfies the requirements of this paragraph if it satisfies the requirements of subparagraph (A), (B), or (C).

"(A) 10-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if, under the plan, an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

"(B) 5- TO 15-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if, under the plan, an employee who has at least 5 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions. The percentage shall not be less than the percentage determined under the following table:

"Years of service:	Nonforfeitable percentage
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100

"(C) RULE OF 45.—A plan satisfies the requirements of this subparagraph if, under the plan—

"(i) in the case of an employee who is an active participant, who has at least 5 years of service, and with respect to whom the sum of his age and years of service equals or exceeds 45, the employee has a nonforfeitable right to at least 50 percent of his accrued benefit derived from employer contributions, and

"(ii) for each year of service after an employee first satisfies the requirements of clause (i), the nonforfeitable percentage of his accrued benefit so derived is not less than the percentage determined under the following table:

"Additional years of service:	Nonforfeitable percentage
1	60
2	70
3	80
4	90
5	100

"(D) TRANSITIONAL PERCENTAGES.—In the case of a plan in existence on December 31, 1973, for the first 5 plan years of the plan to which this section applies, in lieu of the nonforfeitable percentages set forth in subparagraph (A), (B), or (C), as the case may be, the nonforfeitable percentage shall be the following percentage of the applicable nonforfeitable percentage determined under such subparagraph:

"Plan year to which this section applies:	Percentage of applicable nonforfeitable percentage determined under paragraph (A), (B), or (C)
1	50
2	60
3	70
4	80
5	90

"(E) NONFORFEITABLE.—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 survivor annuity which is payable as provided in section 401(a)(11)), or that payment of benefits is suspended 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), or that plan amendments may be given retroactive application as provided in section 412(c)(8).

"(3) DETERMINATION OF NONFORFEITABLE PERCENTAGE.—In computing the period of service under the plan for purposes of determining the nonforfeitable percentage under paragraph (2), an employee's entire service with the employer or employers maintaining the plan shall be taken into account, except that the following may be disregarded:

"(A) service before age 25;

"(B) service during a period for which the employee declined to contribute to a plan requiring employee contributions;

"(C) service with an employee during any period for which the employer did not maintain the plan;

"(D) seasonal service not taken into account for purposes of section 410;

"(E) service broken by periods of suspension of employment, if the rules governing such breaks in service are permissible under section 410(a)(4); and

"(F) service before January 1, 1969, unless the employee has had at least 5 years of service after December 31, 1968.

(4) YEAR OF SERVICE.—For purposes of this subsection, the term 'year of service' means a period of service determined under regulations prescribed by the Secretary or his delegate which provide for the calculation of such period on any reasonable and consistent basis. The regulations prescribed under this paragraph shall meet the requirements of paragraphs (3) and (4) of section 410(a) and shall be consistent with the regulations prescribed for purposes of such paragraphs.

"(5) ACCRUED BENEFIT.—

"(A) IN GENERAL.—For purposes of this section, the term 'accrued benefit' means—

"(i) in the case of a defined benefit plan, the employee's accrued benefit determined under the plan and, except as provided in subsection (c)(3), expressed in the form of an annual benefit commencing at normal retirement age, or

"(ii) in the case of a plan which is not a defined benefit plan, the balance of the employee's account.

"(B) EFFECT OF CERTAIN DISTRIBUTIONS.—Notwithstanding paragraph (3), for purposes of determining the employee's accrued benefit under the plan, the plan may disregard service performed by the employee with respect to which he has received (i) a distribution of the present value of his entire nonforfeitable benefit if such distribution was less than $1,750, or (ii) a distribution of the present value of his nonforfeitable benefit attributable to such service which he elected

to receive. Clause (i) of the first sentence of this subparagraph shall apply only if such distribution was made on termination of the employee's participation in the plan. Clause (ii) of the first sentence of this subparagraph shall apply only if such distribution was made on termination of the employee's participation in the plan or under such other circumstances as may be provided under regulations prescribed by the Secretary or his delegate.

"(6) NORMAL RETIREMENT AGE.—For purposes of this section, 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 10th anniversary of the time a plan participant commenced participation in the plan.

"(7) SPECIFICATION OF VESTING SCHEDULE.—A plan shall not satisfy the requirements of paragraph (2) unless the plan specifies whether the vesting schedule specified in subparagraph (A), (B), or (C) of paragraph (2) shall be the applicable minimum schedule for purposes of such plan.

"(8) CHANGES IN VESTING SCHEDULE.—A plan amendment changing any vesting schedule under the plan shall be treated as not satisfying the requirements of paragraph (2) if the nonforfeitable percentage of the accrued benefit derived from employer contributions (determined for any year of service) of any employee who is a participant in the plan on the date such amendment is adopted, or on the date such amendment becomes effective, is less than such nonforfeitable percentage computed under the plan without regard to such amendment.

"(b) ACCRUED BENEFIT REQUIREMENTS.—

"(1) GENERAL RULES.—

"(A) 3-PERCENT METHOD.—A defined benefit plan satisfies the requirements of this paragraph if the annual rate at which any participant accrues retirement benefits under the plan for any year of participation before the end of 33⅓ years of participation is not less than 3 percent of the maximum benefit to which such participant would be entitled if he commenced participation at the earliest possible entry age under the plan and served continuously until the earlier of age 65 or the normal retirement age specified under the plan. In the case of a plan providing retirement benefits based on compensation during any period, the maximum benefit to which a participant would be entitled shall be determined as if he continued to earn annually the average rate of compensation which he earned during consecutive years of service, not in excess of 10, for which his compensation was the highest. For purposes of this subparagraph, social security benefits and all other relevant factors used to compute benefits shall be treated as remaining constant as of the current year for all years after such current year.

"(B) 133⅓ PERCENT RULE.—A defined benefit plan satisfies the requirements of this paragraph unless under the plan the annual rate at which any participant can accrue the retirement benefits payable at normal retirement age under the plan for any plan year is more than 133⅓ percent of the annual rate at which he can accrue benefits for any other plan year; except that an accrual rate for any year before the 11th year of service which exceeds by more than 133⅓ percent the accrual rate for any year after the 10th year of service may be disregarded. For purposes of this subparagraph—

"(i) the accrual rate for any plan year after the participant is eligible to retire with benefits which are not actuarially reduced on account of age or service shall not be taken into account;

"(ii) any amendment to the plan which is in effect for the current year shall be treated as in effect for all other plan years;

"(iii) any change in an accrual rate which does not apply to any participant in the current year shall be disregarded;

"(iv) the fact that benefits under the plan may be payable to certain employees before normal retirement age shall be disregarded; and

"(v) social security benefits and all other relevant factors used to compute benefits shall be treated as remaining constant as of the current year for all years after the current year.

"(C) CERTAIN INSURED DEFINED BENEFIT PLANS.—Notwithstanding subparagraphs (A) and (B), a defined benefit plan satisfies the requirements of this paragraph if such plan—

"(i) is funded exclusively by the purchase of individual insurance contracts, and

"(ii) satisfies the requirements of paragraphs (2) and (3) of section 412(f) (relating to certain insurance contract plans).

but only if an employee's accrued benefit as of any applicable date is not less than the cash surrender value his insurance contracts would have on such applicable date if the requirements of paragraphs (4), (5), and (6) of section 412(f) were satisfied.

"(2) SEPARATE ACCOUNTING REQUIRED IN CERTAIN CASES.—A plan satisfies the requirements of this paragraph if—

"(A) in the case of a defined benefit plan, the plan requires separate accounting for the portion of each employee's accrued benefit derived from any voluntary employee contributions permitted under the plan; and

"(B) in the case of any plan which is not a defined benefit plan, the plan requires separate accounting for each employee's accrued benefit.

"(3) YEAR OF SERVICE.—For purposes of determining an employee's accrued benefit, the term 'year of service' means a period of service (beginning not later than the date on which the employee first becomes a participant in the plan) as determined under regulations prescribed by the Secretary or his delegate which provide for the calculation of such period on any reasonable and consistent basis.

"(c) ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS.—

"(1) ACCRUED BENEFIT DERIVED FROM EMPLOYER CONTRIBUTIONS.—For purposes of this section, an employee's accrued benefit derived from employer contributions as of any applicable date is the excess of the accrued benefit for such employee as of such applicable date over the accrued benefit derived from contributions made by such employee as of such date.

"(2) ACCRUED BENEFIT DERIVED FROM EMPLOYEE CONTRIBUTIONS.—

"(A) PLANS OTHER THAN DEFINED BENEFIT PLANS.—In the case of a plan other than a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is—

"(i) except as provided in clause (ii), the balance of the employee's separate account consisting only of his contributions and the income, expenses, gains, and losses attributable thereto, or

"(ii) if a separate account is not maintained with respect to an employee's contributions under such a plan, the amount which bears the same ratio to his total accrued benefits at the total amount of the employee's contributions (less withdrawals) bears to the sum of such contributions and the contributions made on his behalf by the employer (less withdrawals).

"(B) DEFINED BENEFIT PLANS.—

"(i) IN GENERAL.—In the case of a defined benefit plan providing an annual benefit in the form of a single life annuity (without ancillary benefits) commencing at normal retirement age, the accrued benefit derived from contributions made by an employee as of any applicable date is the annual benefit equal to the employee's accumulated contributions multiplied by the appropriate conversion factor.

"(ii) APPROPRIATE CONVERSION FACTOR.—For purposes of clause (i), the term 'appropriate conversion factor' means the factor necessary to convert an amount equal to the accumulated contributions to a single life annuity (without ancillary benefits) commencing at normal retirement age and shall be 10 percent for a normal retirement age of 65 years. For other normal retirement ages the conversion factor shall be determined in accordance with regulations prescribed by the Secretary or his delegate.

"(C) DEFINITION OF ACCUMULATED CONTRIBUTIONS.—For purposes of this subsection, the term 'accumulated contributions' means the total of—

"(i) all mandatory contributions made by the employee,

"(ii) interest (if any) under the plan to the end of the last plan year to which subsection (a)(2) does not apply (by reason of the applicable effective date), and

"(iii) interest on the sum of the amounts determined under clauses (i) and (ii) compounded annually at the rate of 5 percent per annum from the beginning of the first plan year to which subsection (a)(2) applies (by reason of the applicable effective date) to the date upon which the employee would attain normal retirement age.

For purposes of this subparagraph, the term 'mandatory contributions' means amounts contributed to the plan by the employee which are required as a condition of employment, as a condition of participation in such plan, or as a condition of obtaining benefits under the plan attributable to employer contributions.

"(D) ADJUSTMENTS.—The Secretary or his delegate is authorized to adjust by regulation the conversion factor described in subparagraph (B), the rate of interest described in clause (iii) of subparagraph (C), or both, from time to time as he may deem necessary. The rate of interest shall bear the relationship to 5 percent which the Secretary or his delegate determines to be comparable to the relationship which the long-term money rates and investment yields for the last period of 10 calendar years ending at least 12 months before the beginning of the plan year bear to the long-term money rates and investment yields for the 10-calendar year period 1964 through 1973. No such adjustment shall be effective for a plan year beginning before the expiration of 1 year after such adjustment is determined and published.

"(E) LIMITATION.—The accrued benefit derived from employee contributions shall not exceed the employee's accrued benefit under the plan.

"(3) ACTUARIAL ADJUSTMENT.—For purposes of this section, in the case of any defined benefit plan, if an employee's accrued benefit is to be determined as an amount other than an annual benefit commencing at normal retirement age, or if the accrued benefit derived from contributions made by an employee is to be determined with respect to a benefit other than an annual benefit in the form of a single life annuity (without ancillary benefits) commencing at normal retirement age, the employee's accrued benefit, or the accrued benefits derived from contributions made by an employee, as the case may be, shall be the actuarial equivalent of such benefit or amount determined under paragraph (1) or (2).

"(d) SPECIAL RULES.—

"(1) COORDINATION WITH SECTION 401(a)

(4).—A plan which satisfies the requirements of this section shall be treated as satisfying any vesting requirements resulting from the application of section 401(a)(4) 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.

"(2) PROHIBITED DISCRIMINATION.—Subsection (a) shall not apply to benefits which may not be provided for designated employees in the event of early termination of the plan under provisions of the plan adopted pursuant to regulations prescribed by the Secretary or his delegate to preclude the discrimination prohibited by section 401(a)(4).

"(3) TERMINATION OR PARTIAL TERMINATION; DISCONTINUANCE OF CONTRIBUTIONS.—Notwithstanding the provisions of subsection (a), a trust shall not constitute a qualified trust under section 401(a) unless the plan of which such trust is a part provides that—

"(A) upon its termination or partial termination, or

"(B) in the case of a plan to which section 412 does not apply, upon complete discontinuance of contributions under the plan, the rights of all affected employees to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, or the amounts credited to the employees' accounts, are nonforfeitable. This paragraph shall not apply to benefits or contributions which, under provisions of the plan adopted pursuant to regulations prescribed by the Secretary or his delegate to preclude the discrimination prohibited by section 401(a)(4), may not be used for designated employees in the event of early termination of the plan.

"(4) CLASS YEAR PLANS.—The requirements of subsection (a)(2) shall be deemed to be satisfied in the case of a class year plan if such plan provides that 100 percent of each employee's right to or derived from the contributions of the employer on his behalf with respect to any plan year are nonforfeitable not later than the end of the 5th plan year following the plan year for which such contributions were made (within the meaning of section 404(a)(6)). For purposes of this section, the term 'class year plan' means a profit-sharing or stock bonus plan which provides for the separate nonforfeitability of employees' rights to or derived from the contributions for each plan year.

"(5) TREATMENT OF VOLUNTARY EMPLOYEE CONTRIBUTIONS.—In the case of a defined benefit plan which permits voluntary employee contributions, the portion of an employee's accrued benefit derived from such contributions shall be treated as an accrued benefit derived from employee contributions under a plan other than a defined benefit plan.

"(e) EXCLUSION OF CERTAIN PLANS.—This section shall not apply to—

"(1) a governmental plan, if the plan meets any vesting requirements resulting from the application of section 401(a)(4) as in effect on the day before the date of the enactment of this section,

"(2) a church plan—

"(A) which meets any vesting requirements resulting from the application of section 401(a)(4) as in effect on the day before the date of the enactment of this section, and

"(B) with respect to which the election provided by section 410(d) has not been made, and

"(3) a plan which has not, at any time after the date of the enactment of this section, provided for employer contributions.

"(f) RECORDKEEPING REQUIREMENTS.—

"(1) SINGLE EMPLOYER PLAN.—Except as provided by paragraph (2), every employer shall, in accordance with regulations prescribed by the Secretary or his delegate, maintain records with respect to each of his employees sufficient to determine the benefits due or which may become due to such employees.

"(2) MORE THAN ONE EMPLOYER.—If more than one employer adopts a plan, each such employer shall, in accordance with regulations prescribed by the Secretary or his delegate, furnish to the plan administrator the information necessary for the administrator to maintain the records required by paragraph (1). Such administrator shall maintain the records required by paragraph (1).

"(g) CROSS REFERENCE.—

"For penalty for failure to furnish the information or maintain the records required under this section, see section 6690."

(b) PENALTY FOR FAILURE TO FURNISH INFORMATION.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6690. FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.

"(a) CIVIL PENALTY.—If any person who is required, under section 411(f), to furnish information or maintain records for any plan year fails to comply with such requirement, he shall pay a penalty of $10 for each employee with respect to whom such failure occurs, unless it is shown that such failure is due to reasonable cause.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply to the assessment or collection of any penalty imposed by subsection (a)."

(c) COMPARABILITY OF PLANS.—Section 401(a) (relating to requirements for qualification) is amended by adding at the end of paragraph (5) the following: "For purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the amount of contributions on behalf of the employees allowed as a deduction under section 404 for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate. For purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary or his delegate to take account of the differences in such rates, the plans shall not be considered discriminatory merely because of the differences in such rates."

SEC. 1013. MINIMUM FUNDING STANDARDS.

(a) IN GENERAL.—Subpart B of part I of subchapter D of chapter 1 is amended by adding after section 411 the following new section:

"SEC. 412. MINIMUM FUNDING STANDARDS.

"(a) GENERAL RULE.—Except as provided in subsection (e), this section applies to a plan if, for any plan year beginning on or after the effective date of this section for such plan—

"(1) such plan included a trust which qualified (or was determined by the Secretary or his delegate to have qualified) under section 401(a), or

"(2) such plan satisfied (or was determined by the Secretary or his delegate to have satisfied) the requirements of section 404(a)(2) or 405(a).

A plan to which this section applies shall have satisfied the minimum funding standard for such plan for a plan year at the end of which the plan does not have an accumulated funding deficiency. For purposes of this section and section 4971, the term 'accumulated funding deficiency' means for any plan the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years.

"(b) FUNDING STANDARD ACCOUNT.—

"(1) ACCOUNT REQUIRED.—Each plan to which this section applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

"(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

"(A) the normal cost of the plan for the plan year,

"(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) in the case of a plan in existence on January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 40 plan years,

"(ii) in the case of a plan which comes into existence after January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 30 plan years (40 plan years in the case of multiemployer plan),

"(iii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 30 plan years (40 plan years in the case of a multiemployer plan), and

"(iv) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years (20 plan years in the case of a multiemployer plan),

"(C) the excess (if any) for such plan year of—

"(i) the annual amount which would be necessary to amortize in equal annual installments from such year over a period of 20 years the excess (if any) of the present value of all nonforfeitable benefits (computed using appropriate mortality and interest assumptions) over the value of the plan's assets, over

"(ii) the excess (if any) of the sum of the amounts computed under subparagraphs (A) and (B) of paragraph (2) over the amount computed under paragraph (3)(B), and

"(D) the amount necessary to amortize each waived funding deficiency (within the meaning of subsection (d)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years.

"(3) CREDITS TO ACCOUNT.—For a plan year, the funding standard account shall be credited with the sum of—

"(A) the amount considered contributed by the employer to or under the plan (within the meaning of section 404(a)(6)) for the plan year,

"(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

"(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 30 plan years (40 plan years in the case of a multiemployer plan), and

"(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years (20

plan years in the case of a multiemployer plan), and

"(C) the amount of the waived funding deficiency (within the meaning of subsection (d)(3)) for the plan year.

"(4) COMBINING AND OFFSETTING AMOUNTS TO BE AMORTIZED.—Under regulations prescribed by the Secretary or his delegate, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

"(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

"(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

"(5) INTEREST.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary or his delegate) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(c) SPECIAL RULES.—

"(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this section, normal costs, accrued liability, past service labilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

"(2) VALUATION OF ASSETS.—

"(A) IN GENERAL.—For purposes of this section, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary or his delegate.

"(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary or his delegate shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of the Secretary or his delegate.

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions which, in the aggregate, are reasonable.

"(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) a change in the definition of the term 'wages' under section 3121, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5),

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

(5) CHANGE IN FUNDING METHOD OR IN PLAN YEAR REQUIRES APPROVAL.—If the funding method for a plan is changed, the new funding method shall become the funding method used to determine costs and liabilities under the plan only if the change is approved by the Secretary or his delegate. If the plan year for a plan is changed, the new plan year shall become the plan year for the plan only if the change is approved by the Secretary or his delegate.

"(6) FULL FUNDING.—If, as of the close of a plan year, a plan would (but for the application of this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) all amounts described in paragraphs (2)(B) and (D) and (3)(B) of subsection (b) which are required to be amortized shall be considered fully amortized for purposes of such paragraphs.

"(7) FULL FUNDING LIMITATION.—For purposes of paragraph (6), the term 'full funding limitation' means the excess (if any) of—

"(A) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding methods if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(B) the lesser of the fair market value of the plan's assets or the value of such assets determined under paragraph (2).

"(8) CERTAIN RETROACTIVE PLAN AMENDMENTS.—

"(A) AMENDMENTS WITHOUT APPROVAL OF SECRETARY OF LABOR.—For purposes of this section, any amendment applying to a plan year which—

"(i) is adopted after the close of such plan year but no later than the time prescribed by law (including extensions) for filing the return of the employer for the taxable year with which or within which the plan year ends (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year), and

"(ii) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year.

"(B) AMENDMENTS WITH APPROVAL OF SECRETARY OF LABOR.—For purposes of this section, any amendments adopted after the close of the plan year which reduces benefits, whether or not otherwise nonforfeitable (determined as of the end of the preceding plan year) shall, except for purposes of section 4971(a) (relating to initial 5 percent tax on failure to meet minimum funding standards), be deemed to have been made on the first day of the first plan year to which such amendment applies if the Secretary of Labor approves such retroactive application of such amendment. The Secretary of Labor shall approve such application on his own motion (or having received the petition of the plan administrator) after giving interested persons an opportunity to be heard and after determining that—

"(i) such amendment affects the plan only to such extent (and for such limited period of time) as is necessary or appropriate to carry out the purposes of the Employee Benefit Security Act of 1974 and to provide adequate protection to the participants and beneficiaries in the plan,

"(ii) but for such amendment, there would result a substantial risk to the voluntary continuation of the plan or a substantial curtailment of pension benefit levels or the levels of employee compensation, and

"(iii) failure to make such amendment would be adverse to the interests of plan participants in the aggregate.

No retroactive amendment may be approved under this subparagraph unless the Secretary of Labor is satisfied that all plan participants and other interested persons (as determined under regulations prescribed by the Secretary of Labor) have received adequate prior notice from the plan administrator of any hearing to be held under this subparagraph. The Secretary of Labor shall notify the Secretary of the Treasury of any such hearing.

"(9) 3-YEAR VALUATION.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every 3 years, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary or his delegate.

"(d) VARIANCE FROM MINIMUM FUNDING STANDARD; EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—

"(1) WAIVER IN CASE OF SUBSTANTIAL BUSINESS HARDSHIP.—If an employer is unable to satisfy the minimum funding standard for a plan year without substantial business hardship and if application of the standard would be adverse to the interests of plan participants in the aggregate, the Secretary or his delegate may waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard other than the portion thereof determined under subsection (b)(2)(D). The Secretary or his delegate shall not waive the minimum funding standard with respect to a plan for more than 5 of any 15 consecutive plan years.

"(2) DETERMINATION OF SUBSTANTIAL BUSINESS HARDSHIP.—For purposes of this section, the factors taken into account in determining substantial business hardship shall include (but shall not be limited to) whether or not—

"(A) the employer is operating at an economic loss,

"(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

"(C) the sales of profits of the industry concerned are depressed or declining, and

"(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.

"(3) WAIVED FUNDING DEFICIENCY.—For purposes of this section, the term 'waived funding deficiency' means the portion of the minimum funding standard (determined without regard to subsection (b)(3)(C)) for a plan year waived by the Secretary or his delegate and not satisfied by employer contributions.

"(4) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—If 10 percent or more of the number of employers contributing to or under a multiemployer plan demonstrate to the satisfaction of the Secretary of Labor that they would experience substantial business hardship if required to amortize in equal annual installments any unfunded liability (described in any clause of subsection (b)(2)(B)) of such plan over a period of years and if such requirement would be adverse to the interests of plan participants in the aggregate, then the period of years described in such clause shall be extended for such plan for the period of time (not in excess of 10 years) which is certified for this purpose by the Secretary of Labor to the Secretary of the Treasury.

"(5) BENEFITS MAY NOT BE INCREASED DURING WAIVER OR EXTENSION PERIOD.—No amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforeitable under the plan shall be adopted if a waiver under paragraph (1), an extension of time under paragraph (4), or an alternate method prescribed under section 1015(b) of the Employee Benefit Security Act of 1974 is in effect with respect to the plan. If a plan is amended in violation of the preceding sentence, any such waiver, extension of time, or alternate method shall not apply to any plan year ending on or after the day on which such amendment is adopted.

"(e) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) any profit-sharing or stock bonus plan,

"(2) any insurance contract plan described in subsection (f),

"(3) any governmental plan which meets the requirements of section 401(a)(7) as in effect on the day before the date of the enactment of this section,

"(4) any church plan—

"(A) which meets the requirements of section 401(a)(7) as in effect on the day before the date of the enactment of this section, and

"(B) with respect to which the election provided by section 410(d) has not been made, and

"(5) a plan which has not, at any time after the date of the enactment of this section, provided for employer contributions.

"(f) CERTAIN INSURANCE CONTRACT PLANS.—A plan is described in this subsection if—

"(1) the plan is funded exclusively by the purchase of individual insurance contracts,

"(2) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

"(3) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

"(4) premiums payable for the plan year, and all prior plan years under such contracts have been paid before lapse or there is reinstatement of the policy,

"(5) no rights under such contracts have been subject to a security interest at any time during the plan year, and

"(6) no policy loans are outstanding at any time during the plan year."

(b) EXCISE TAX ON FAILURE TO MEET MINIMUM FUNDING STANDARDS.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 43—QUALIFIED PENSION, ETC., PLANS

"SEC. 4971. TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARDS.

"(a) INITIAL TAX.—For each taxable year of an employer who maintains a plan to which section 412 applies, there is hereby imposed a tax of 5 percent on the amount of the accumulated funding deficiency under the plan, determined as of the end of the plan year ending with or within such taxable year. The tax imposed by this subsection shall be paid by the employer responsible for contributing to or under the plan the amount described in section 412(b)(3)(A).

"(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed by subsection (a) on an accumulated funding deficiency and such accumulated funding deficiency is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of such accumulated funding deficiency to the extent not corrected. The tax imposed by this subsection shall be paid by the employer described in subsection (a).

"(c) DEFINITIONS.—For purposes of this section—

"(1) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given to such term by the last sentence of section 412(a).

"(2) CORRECT.—The term 'correct' means, with respect to an accumulated funding deficiency, the contribution, to or under the plan, of the amount necessary to reduce such accumulated funding deficiency as of the end of a plan year in which such deficiency arose to zero.

"(3) CORRECTION PERIOD.—The term 'correction period' means, with respect to an accumulated funding deficiency, the period beginning with the end of a plan year in which there is an accumulated funding deficiency and ending 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a), extended—

"(A) by any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) by any other period which the Secretary or his delegate determines is reasonable and necessary to permit a reduction of the accumulated funding deficiency to zero under this section.

"(d) CROSS REFERENCE.—

"For disallowance of deduction for taxes paid under this section, see section 275."

(c) AMENDMENTS TO SECTION 404.—

(1) Paragraph (1) of section 404(a) (relating to deduction for employer contributions to pension trusts) is amended to read as follows:

"(1) PENSION TRUSTS.—In the taxable year when paid, if the contributions are paid into a pension trust, and if such taxable year ends within or with a taxable year of the trust for which the trust is exempt under section 501(a), in an amount determined as follows:

"(A) the amount necessary to satisfy the minimum funding standard provided by section 412(a) for plan years ending within or with such taxable year (or for any prior plan year), if such amount is greater than the amount determined under subparagraph (B) or (C) (whichever is applicable with respect to the plan),

"(B) the amount necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the Secretary or his delegate, but if such remaining unfunded cost with respect to any 3 individuals is more than 50 percent of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least 5 taxable years, or

"(C) an amount equal to the normal cost of the plan, as determined under regulations prescribed by the Secretary or his delegate, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount necessary to amortize such credits in equal annual payments (until fully amortized) over 10 years, as determined under regulations prescribed by the Secretary or his delegate.

In determining the amount deductible in such year under the foregoing limitations, the funding method and the actuarial assumptions shall be those used for such year under section 412, and the maximum amount deductible for such year under the foregoing limitations shall be an amount equal to the full funding limitation for such year determined under section 412. Any amount paid in a taxable year in excess of the amount deductible in such year under the foregoing limitations shall be deductible in the succeeding taxable years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and the maximum amount deductible for such year under the foregoing limitations."

(2) Paragraph (6) of section 404(a) (relating to taxpayers on accrual basis) is amended to read as follows:

"(6) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraphs (1), (2), and (3), a taxpayer shall be deemed to have made a payment on the last day of the preceding taxable year if the payment is on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)."

(3) Paragraph (7) of section 404(a) (relating to limit on deductions) is amended to read as follows:

"(7) LIMIT ON DEDUCTIONS.—If amounts are deductible under paragraphs (1) and (3), or (2) and (3), or (1), (2), and (3), in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under such trusts and plans shall not exceed the greater of 25 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries of the trusts or plans, or the amount of contributions made to or under the trusts or plans to the extent such contributions do not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 412 for the plan year which ends with or within such taxable year (or for any prior plan year). In addition, any amount paid into such trust or under such annuity plans in any taxable year in excess of the amount allowable with respect to such year under the preceding provisions of this paragraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this paragraph shall not exceed 25 percent of the compensation otherwise paid or accrued during such taxable years to the beneficiaries under the trusts or plans. This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraph (1), (2), and (3), if no employee is a beneficiary under more than one trust or a trust and an annuity plan."

SEC. 1014. COLLECTIVELY BARGAINED PLANS.

Subpart B of part I of subchapter D of chapter 1 (relating to special rules) is amended by inserting after section 412 the following new section:

"SEC. 413. COLLECTIVELY BARGAINED PLANS.

"(a) APPLICATION OF SECTION.—This section applies to—

"(1) a plan maintained pursuant to an agreement which the Secretary or his delegate finds to be a collective-bargaining agreement between employee representatives and one or more employers, and

"(2) each trust which is a part of such plan.

"(b) GENERAL RULE.—If this section applies to a plan, notwithstanding any other provision of this title—

"(1) PARTICIPATION.—Section 410 shall be applied as if all employees of each of the employers who are parties to the collective-bargaining agreement and who are subject to the same benefit computation formula under the plan were employed by a single employer.

"(2) DISCRIMINATION, ETC.—Sections 401(a)(4) and 411(d)(3) shall be applied as if all participants who are employed by employers who are required to contribute to or under the plan on the same basis were employed by a single employer.

"(3) EXCLUSIVE BENEFIT. For purposes of section 401(a), in determining whether the plan of an employer is for the exclusive benefit of his employees and their beneficiaries, all plan participants shall be considered to be his employees.

"(4) VESTING.—Section 411 (other than subsection (d)(3)) shall be applied as if all employers who have been parties to the

collective-bargaining agreement constituted a single employer, except that the application of any rules with respect to breaks in services shall be made under regulations prescribed by the Secretary or his delegate.

"(5) PLAN YEAR.—The minimum funding standard provided by section 412 shall be determined as if all participants in the plan were employed by a single employer. For purposes of section 412 (other than for purposes of determining the portion of a liability required to be amortized for a plan year), a plan year shall be considered (A) to begin on the date the collective-bargaining agreement is first effective (treating an agreement to extend a prior agreement as a new agreement) and to end on the expiration date of the agreement determined under such agreement, or (B) to be such other period as may be determined under regulations prescribed by the Secretary or his delegate.

"(6) LIABILITY FOR FUNDING TAX.—For a plan year the liability under section 4971 of each employer who is a party to the collective bargaining agreement shall be determined, in accordance with regulations prescribed by the Secretary or his delegate—

"(A) first on the basis of their respective delinquencies in meeting required employer contributions under the plan, and

"(B) then on the basis of their respective liabilities for contributions under the plan.

"(7) DEDICATION LIMITATIONS.—Each applicable limitation provided by section 404(a) shall be determined for a plan year (within the meaning of paragraph (5)) as if all participants in the plan were employed by a single employer. The amounts contributed to or under the plan by each employer who is a party to the agreement, for the portion of his taxable year which is included within such a plan year, shall be considered not to exceed such a limitation if the anticipated employer contributions for such plan year (determined in a manner consistent with the manner in which actual employer contributions for such plan year are determined) do not exceed such limitation. If such anticipated contributions exceed such a limitation, the portion of each such employer's contributions which is not deductible under section 404 shall be determined in accordance with regulations prescribed by the Secretary or his delegate."

SEC. 1015. DEFINITIONS AND SPECIAL RULES.

(a) IN GENERAL.—Subpart B of part I of subchapter D of chapter 1 is amended by inserting after section 413 the following new section:

"SEC. 414. DEFINITIONS AND SPECIAL RULES.

"(a) SERVICE FOR PREDECESSOR EMPLOYER.—For purposes of this part, service for a predecessor of the employer shall, to the extent provided in regulations prescribed by the Secretary or his delegate, be treated as service for the employer.

"(b) EMPLOYEES OF CONTROLLED GROUP OF CORPORATIONS.—For purposes of sections 401, 410, 411, and 415, all employees of all corporations which are members of a controlled group of corporations (within the meaning of section 1563(a), determined without regard to section 1563(a)(4) and (e)(3)(C)) shall be treated as employed by a single employer. With respect to a plan adopted by more than one such corporation, the minimum funding standard of section 412, the tax imposed by section 4971, and the applicable limitations provided by section 404(a) shall be determined as if all such employers were a single employer, and allocated to each employer in accordance with regulations prescribed by the Secretary or his delegate.

"(c) EMPLOYEES OF PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—For purposes of sections 401, 410, 411, and 415, under regulations prescribed by the Secretary or his delegate, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer. The regulations prescribed under this subsection shall be based on principles similar to the principles which apply in the case of subsection (b).

"(d) GOVERNMENTAL PLAN.—For purposes of this part, 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.

"(e) CHURCH PLAN.

"(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this part 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.

"(2) CERTAIN UNRELATED BUSINESS OR MULTIEMPLOYER PLANS.—The term 'church plan' does not include a plan—

"(A) 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), or

"(B) 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.

"(3) CERTAIN CHURCH AGENCIES NOW UNDER CHURCH PLAN.—For purposes of this subsection, if—

"(A) a plan described in paragraph (1) was in existence on January 1, 1974, and

"(B) such plan on such date covered employees of any organization which is (i) exempt from tax under section 501 and (ii) 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.

"(f) MULTIEMPLOYER PLAN.—

"(1) IN GENERAL.—For purposes of this part, the term 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to a collective bargaining agreement between employee representatives and more than one employer,

"(C) 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

"(D) which satisfies such other requirements as the Secretary or his delegate may by regulations prescribe.

"(2) SPECIAL RULES.—For purposes of this subsection—

"(A) If a plan is a multiemployer plan within the meaning of paragraph (1) for any plan year, subparagraph (C) of paragraph (1) shall be applied by substituting '75 percent' of '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.

"(B) All corporations which are members of a controlled group of corporations (within the meaning of section 1563(a), determined without regard to section 1563(e)(3)(C) shall be deemed to be one employer.

"(g) PLAN ADMINISTRATOR.—For purposes of this part, the term 'plan administrator' means—

"(1) the person specifically so designated by the terms of the instrument under which the plan is operated;

"(2) in the absence of a designation referred to in paragraph (1)—

"(A) in the case of a plan maintained by a single employer, such employer,

"(B) in the case of a plan maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who maintained the plan, or

"(C) in any case to which subparagraph (A) or (B) does not apply, such other person as the Secretary or his delegate may prescribe.

"(h) TAX TREATMENT OF CERTAIN CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this title, any amount contributed—

"(A) to an employees' trust described in section 401(a), or

"(B) under a plan described in section 403(a) or 405(a),

shall not be treated as having been made by the employer if it is designated as an employee contribution.

"(2) DESIGNATION BY UNITS OF GOVERNMENT.—For purposes of paragraph (1), in the case of any plan established by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing, where the contributions of employing units are designated as employee contributions but where any employing unit picks up the contributions, the contributions so picked up shall be treated as employer contributions.

"(i) DEFINED CONTRIBUTION PLAN.—For purposes of this part, the term 'defined contribution plan' means a plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account.

"(j) DEFINED BENEFIT PLAN.—For purposes of this part, the term 'defined benefit plan' means any plan which is not a defined contribution plan.

"(k) REGULATIONS UNDER THIS SUBPART TO BE APPROVED BY SECRETARY OF LABOR.—Any regulation prescribed by the Secretary or his delegate for purposes of this subpart, other than a regulation relating to the application of section 401(a)(4) or 415 or to subsection (h) of this section, shall be effective for any plan year beginning after December 31, 1975, only if approved by the Secretary of Labor."

(b) VARIATIONS FROM CERTAIN VESTING AND FUNDING REQUIREMENTS FOR MULTIEMPLOYER PLANS.—In the case of any multiemployer plan (within the meaning of section 414(f) of the Internal Revenue Code of 1954), the Secretary of Labor on his own motion or after having received the petition of a plan administrator may, after giving interested persons an opportunity to be heard, prescribe an alternate method which will satisfy the requirements of subsection (a)(2) of section 411 of the Internal Revenue Code of 1954, subsection (b)(1) of such section 411, paragraphs (2) and (3) of section 412(b) of such Code, or section 412(c)(5) of such Code for such limited period of time as is necessary or appropriate to carry out the purposes of this Act and which will provide adequate protection to the participants and benefi-

ciaries in the plan, whenever he finds that the application of such requirements would—

(1) increase the costs of the parties to the plan to such an extent that there would result a substantial risk to the voluntary continuation of the plan or a substantial curtailment of benefit levels or the levels of employees' compensation, or

(2) impose unreasonable administrative burdens with respect to the operation of the plan, having due regard to the particular characteristics of the plan or the type of plan involved,

and where the application of such requirements or discontinuance of the plan would be adverse to the interests of plan participants in the aggregate. No alternate method may be prescribed under this subsection unless the Secretary of Labor is satisfied that all plan participants and other interested persons (as determined under regulations prescribed by the Secretary of Labor) have received adequate prior notice from the plan administrator of any hearing to be held under this subsection. The Secretary of Labor shall notify the Secretary of the Treasury of any such hearing.

SEC. 1016. CONFORMING AND CLERICAL AMENDMENTS.

(a) CONFORMING AMENDMENTS.—

(1) Section 275(a) (relating to denial of deduction for certain taxes) is amended by adding at the end thereof the following new paragraph:

"(6) Taxes imposed by chapter 42 and chapter 43."

(2) Section 401(a) (relating to requirements for qualification) is amended—

(A) by striking out paragarph (3) and inserting in lieu thereof:

"(3) if the plan of which such trust is a part satisfies the requirements of section 410 (relating to minimum participation standards); and",

(B) by striking out "paragraph (3)(B) or (4)" in paragraph (5) and inserting in lieu thereof "paragraph (4) or section 410(b) (without regard to paragraph (1)(A) thereof)", and

(C) by striking out paragraph (7) and inserting in lieu thereof:

"(7) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part satisfies the requirements of section 411 (relating to minimum vesting standards)."

(3) Section 404(a)(2) (relating to deduction for contributions of an employer to employee's annuity plan) is amended by striking out "and (8)," and inserting in lieu thereof "(8), (11), (12), (13), (14), and (15),".

(4) Section 406(b)(1) (relating to certain employees of foreign subsidiaries) is amended by striking out "paragraphs (3)(B) and (4) of section 401(a)" and inserting in lieu thereof "section 401(a)(4) and section 410(b) (without regard to paragraph (1)(A) thereof)".

(5) Section 407(b)(1) (relating to certain employees of domestic subsidiaries engaged in business outside the United States) is amended by striking out "paragraphs (3)(B) and (4) of section 401(a)" and inserting in lieu thereof "section 401(a)(4) and section 410(b) (without regard to paragraph (1)(A) thereof)".

(6) Section 805(d)(1)(C) (relating to definition of pension plan reserves) is amended by striking out "and (8)" and inserting in lieu thereof "(8), (11), (12), (13), (14), and (15)".

(7) Section 6161(b)(1) (relating to extensions of time for paying tax) is amended by striking out "or 42" and inserting in lieu thereof "42 or 43". The second sentence of section 6161(b) is amended by striking out "or 42" and inserting in lieu thereof ", 42, or chapter 43".

(8) Section 6201(d) (relating to assessment authority) is amended by striking out "and chapter 42" and inserting in lieu thereof ", chapter 42, and chapter 43".

(9) Section 6211 (defining deficiency) is amended—

(A) by striking out so much of subsection (a) as precedes paragraph (1) thereof and inserting in lieu thereof the following:

"(a) IN GENERAL.—For purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A and B and excise taxes imposed by chapters 42 and 43, the term 'deficiency' means the amount by which the tax imposed by subtitle A or B, or chapter 42 or 43, exceeds the excess of—"; and

(B) by striking out "chapter 42" in subsection (b)(2) and inserting in lieu thereof "chapter 42 or 43".

(10) Section 6212 (relating to notice of deficiency) is amended—

(A) by striking out "chapter 42" in subsection (a) and inserting in lieu thereof "chapter 42 or 43",

(B) by striking out "or chapter 42" in subsection (b)(1) and inserting in lieu thereof "chapter 42, or chapter 43",

(C) by striking out "chapter 42, and this chapter" in subsection (b)(1) and inserting in lieu thereof "chapter 42, chapter 43, and this chapter", and

(D) by striking out "of the same decedent," in subsection (c) and inserting in lieu thereof "of the same decedent, of chapter 43 tax for the same taxable years,".

(11) Section 6213 (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended—

(A) by striking out "or chapter 42" in subsection (a) and inserting in lieu thereof ", chapter 42 or 43",

(B) by striking out the heading of subsection (e) and inserting in lieu thereof:

"(e) SUSPENSION OF FILING PERIOD FOR CERTAIN EXCISE TAXES.—",

(C) by striking out "or 4945 (relating to taxes on taxable expenditures)" in subsection (e) and inserting in lieu thereof "4945 (relating to taxes on taxable expenditures), 4971 (relating to excise taxes on failure to meet minimum funding standard)"; and

(D) by striking out "or 4945(h)(2)" in subsection (e) and inserting in lieu thereof ", 4945(i)(2), or 4971(c)(3),".

(12) Section 6214 (relating to determinations by Tax Court) is amended—

(A) by amending the heading of subsection (c) to read as follows:

"(c) TAXES IMPOSED BY SECTION 507 OR CHAPTER 42 or 43.—",

(B) by inserting after "chapter 42" each place it appears in subsection (c) "or 43"; and

(C) by striking out "chapter 42" in subsection (d) and inserting in lieu thereof "chapter 42 or 43".

(13) Section 6344(a)(1) (relating to cross references) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 43".

(14) Section 6501(e)(3) (relating to limitations on assessment and collection) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 43".

(15) Section 6503 (relating to suspension of running of period of limitations) is amended—

(A) by striking out "chapter 42 taxes)" in subsection (a)(1) and inserting in lieu thereof "certain excise taxes)", and

(B) by inserting after "section 507" in subsection (h) "or section 4971", and by striking out "or 4945(h)(2)" in subsection (h) and inserting in lieu thereof "4945(i)(2), or 4971(c)(3)".

(16) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out "chapter 42" each place it appears therein and inserting in lieu thereof "chapter 42 or 43".

(17) Section 6601(d) (relating to interest on underpayment, nonpayment, or extensions of time for payment of tax) is amended by—

(A) striking out in the heading thereof "CHAPTER 42" and inserting in lieu thereof "CHAPTER 42 OR 43", and

(B) striking out "chapter 42" and inserting in lieu thereof "certain excise".

(18) Section 6653(c)(1) (relating to income, estate, gift, and chapter 42 taxes) is amended by striking out "chapter 42" each place it appears therein (including the heading) and inserting in lieu thereof "certain excise".

(19) Section 6659(b) (relating to applicable rules) is amended by striking out "chapter 42" and inserting in lieu thereof "certain excise".

(20) Section 6676(b) (relating to failure to supply identifying numbers) is amended by striking out "chapter 42" and inserting in lieu thereof "and certain excise".

(21) Section 6677(b) (relating to failure to file information returns with respect to certain foreign trusts) is amended by striking out "chapter 42" and inserting in lieu thereof "and certain excise".

(22) Section 6679(b) (relating to failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by striking out "chapter 42" and inserting in lieu thereof "and certain excise".

(23) Section 6682(b) (relating to false information with respect to withholding allowances based on itemized deductions) is amended by striking out "chapter 42" and inserting in lieu thereof "and certain excise".

(24) The heading of section 6861 (relating to jeopardy assessments of income, estate, and gift taxes) is amended by striking out "AND GIFT TAXES.", and inserting in lieu thereof ", GIFT, AND CERTAIN EXCISE TAXES."

(25) Section 6862 (relating to jeopardy assessment of taxes other than income, estate, and gift taxes) is amended—

(A) by striking out "AND GIFT TAXES.", in the heading and inserting in lieu thereof ", GIFT, AND CERTAIN EXCISE TAXES.",

(B) by striking out "and gift tax)" in subsection (a) and inserting in lieu thereof "gift tax, and certain excise taxes)".

(26) Section 7422 (relating to civil actions for refund) is amended—

(A) by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 43" in subsection (e),

(B) by striking out "CHAPTER 42" in the heading of subsection (g) and inserting in lieu thereof "CHAPTER 42 or 43",

(C) by striking out "or 4945" in subsection (g)(1) and inserting in lieu thereof "4945 or 4971",

(D) by striking out "section 4945(a) (relating to initial taxes on taxable expenditures)" in subsection (g)(1) and inserting in lieu thereof "section 4945(a) (relating to initial taxes on taxable expenditures), 4971(a) (relating to initial tax on failure to meet minimum funding standard)",

(E) by striking out "or section 4945(b) (relating to additional taxes on taxable expenditures)" in subsection (g)(1) and inserting in lieu thereof "section 4945(b) (relating to additional taxes on taxable expenditures), or section 4971(b) (relating to additional tax on failure to meet minimum funding standard)", and

(F) by striking out "or 4945" in paragraphs (2) and (3) of subsection (g) and inserting in lieu thereof "4945, or 4971".

(27) Section 6204(b) (relating to supplemental assessments) is amended by striking out "and gift taxes" and inserting in lieu thereof "gift, and certain excise taxes".

(b) CLERICAL AMENDMENTS.—

(1) Part I of subchapter D of chapter 1 is amended by inserting after the heading and before the table of sections the following:

"Subpart A. General rule.
"Subpart B. Special rules.

"Subpart A—General Rule".

(2) The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"CHAPTER 43. Qualified pension, etc., plans."

(3) The table of sections for subchapter B of chapter 68 is amended—

(A) by striking out the item relating to the section captioned "Assessable penalties with respect to information required to be furnished under section 7654" and inserting in lieu thereof:

"Sec. 6688. Assessable penalties with respect to information required to be furnished under section 7654.",

(B) by inserting at the end thereof the following new item:

"Sec. 6690. Failure to furnish information or maintain records."

(4) Subchapter B of chapter 68 is amended by striking out the heading of the section immediately preceding section 6689 and inserting in lieu thereof:

"SEC. 6688. ASSESSABLE PENALTIES WITH RESPECT TO INFORMATION REQUIRED TO BE FURNISHED UNDER SECTION 7654."

(5) The table of sections for part II of subchapter A of chapter 70 is amended by striking out "and gift taxes" in the items relating to sections 6861 and 6862 and inserting in lieu thereof "gift, and certain excise taxes".

SEC. 1017. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply in the case of plan years beginning after the date of the enactment of this Act.

(b) EXISTING PLANS.—

(1) IN GENERAL.—Except as otherwise provided in subsections (c) and (d), in the case of a plan in existence on January 1, 1974, the amendments made by this part shall apply in the case of plan years beginning after December 31, 1975. In any case described in paragraph (2) or (3) of this subsection, such paragraphs shall apply if (and only if) their application results in a later effective date for the amendments made by this part.

(2) COLLECTIVE-BARGAINING AGREEMENTS.—In the case of a plan maintained on January 1, 1974, pursuant to one or more agreements which the Secretary of the Treasury or his delegate finds to be collective-bargaining agreements between employee representatives and one or more employers, paragraph (1) shall be applied by substituting for December 31, 1975, the earlier of—

(A) the date on which the last of such agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) December 31, 1980, but in no event shall a date earlier than December 31, 1976, be substituted.

(3) LABOR ORGANIZATION CONVENTIONS.—In the case of a plan maintained by a labor organization which is exempt from tax under section 501(c)(5) of the Internal Revenue Code of 1954 exclusively for the benefit of its employees and their beneficiaries, paragraph (1) shall be applied by substituting for December 31, 1975, the earlier of—

(A) the date on which the second convention of such labor organization held after the date of the enactment of this Act ends, or

(B) December 31, 1980, but in no event shall a date earlier than December 31, 1976, be substituted.

(c) EXISTING PLANS MAY ELECT NEW PROVISIONS.—In the case of a plan in existence on January 1, 1974, the provisions of the Internal Revenue Code of 1954 relating to participation, vesting, funding, and form of benefit (as in effect from time to time) shall apply in the case of the plan year (which begins after the date of the enactment of this Act but before the applicable date determined under subsection (b)) selected by the plan administrator and to all subsequent plan years, if the plan administrator elects (in such manner and at such time as the Secretary of the Treasury or his delegate shall by regulations prescribe) to have such provisions so apply. Any election made under this subsection, once made, shall be irrevocable.

(d) CERTAIN DEFINITIONS.—Section 414 of the Internal Revenue Code of 1954 (other than subsections (b) and (c) of such section 414), as added by section 1015(a) of this Act, shall take effect on the date of the enactment of this Act.

PART II—CERTAIN OTHER PROVISIONS RELATING TO QUALIFIED RETIREMENT PLANS

SEC. 1021. ADDITIONAL PLAN REQUIREMENTS.

(a) JOINT AND SURVIVOR ANNUITY REQUIREMENT.—

(1) IN GENERAL.—Section 401(a) (relating to requirements for qualification) is amended by inserting after paragraph (10) the following new paragraph:

"(11)(A) A trust shall not constitute a qualified trust under this section if the plan of which such trust is a part provides for the payment of benefits in the form of an annuity and if—

"(i) the participant and his spouse have been married throughout the 5-year period ending on the annuity starting date, or

"(ii) the participant dies after his earliest retirement age and before the annuity starting date, and the participant and his spouse have been married throughout the 5-year period ending on the date of his death.

unless such plan provides for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity.

"(B) A plan shall be treated as satisfying the requirements of this paragraph if, under the plan, each participant has a reasonable period (as prescribed by the Secretary or his delegate by regulations) before the annuity starting date during which he may elect in writing (after having received a written explanation of the terms and conditions of the joint and survivor annuity and the effect of an election under this subparagraph) not to take such joint and survivor annuity.

"(C) A plan shall not be treated as not satisfying the requirements of this paragraph merely because, under the plan, any election under subparagraph (B), and any revocation of any such election, does not become effective (or ceases to be effective) if the participant dies within a period (not in excess of 2 years) beginning on the date of such election or revocation, as the case may be.

"(D) For purposes of this paragraph—

"(i) the term 'annuity starting date' means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or by reason of disability),

"(ii) the term 'earliest retirement age' means the earliest date on which, under the plan, the participant could elect to receive retirement benefits, and

"(iii) the term 'qualified joint and survivor annuity' means an annuity for the life of the participant with a survivor annuity for the life of his spouse which is not contingent upon survivorship of such spouse beyond the earliest age at which the participant could elect to receive retirement benefits under the plan and which is not less than one-half of the amount of the annuity payable during the joint lives of the participant and his spouse.

"(E) This paragraph shall apply only if—

"(i) the annuity starting date did not occur before the effective date of this paragraph, and

"(ii) the participant was an active participant in the plan or or after such effective date."

(2) CERTAIN ADDITIONAL REQUIREMENTS APPLY ONLY TO PLANS TO WHICH VESTING REQUIREMENTS APPLY.—Section 401(a) (relating to requirements for qualification) is amended by adding at the end thereof the following new sentences: "Paragraphs (11), (12), (13), (14), (15), and (19) shall apply only in the case of a plan to which section 411 (relating to minimum vesting standards) applies. Any regulation prescribed the Secretary or his delegate for purposes of paragraphs (11), (12), (13), (14), (15), or (19) shall be effective for any plan year beginning after December 31, 1975, only if approved by the Secretary of Labor."

(b) REQUIREMENTS IN CASE OF MERGERS AND CONSOLIDATIONS OF PLANS OR TRANSFERS OF PLAN ASSETS.—Section 401(a) is amended by inserting after paragraph (11) the following new paragraph:

"(12) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that—

"(A) in the case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan after October 22, 1973, each participant in the plan would (if the plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the plan had then terminated); and

"(B) no merger, consolidation, or transfer of assets or liabilities to another plan may be made after the date of the enactment of this paragraph unless the plan administrator has filed with the Secretary or his delegate, at least 30 days before such merger, consolidation, or transfer, an actuarial statement of valuation evidencing compliance with the requirements of subparagraph (A)."

(c) RETIREMENT BENEFITS MAY NOT BE ASSIGNED OR ALIENATED.—Section 401(a) is amended by inserting after paragraph (12) the following new paragraph:

"(13) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides 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."

(d) REQUIREMENT THAT PAYMENT OF BENEFITS BEGIN NOT LATER THAN WHEN THE PARTICIPANT ATTAINS AGE 65 OR HAS COMPLETED 10 YEARS OF PARTICIPATION.—Section 401(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that, unless the participant otherwise elects, the payment of benefits under the plan to the participant will begin not later than the 60th day after the latest of the close of the plan year in which—

"(A) the date on which the participant attains age 65,

"(B) occurs the 10th anniversary of the year in which the participant commenced participation in the plan, or

"(C) the participant terminates his service with the employer."

(e) REQUIREMENT THAT PLAN BENEFITS ARE NOT DECREASED BY CERTAIN SOCIAL SECURITY INCREASES.—Section 401(a) is amended by inserting after paragraph (14) the following new paragraph:

"(15) a trust shall not constitute a qualified trust under this section unless under the plan of which such trust is a part—

"(A) in the case of a participant or beneficiary who is receiving benefits under such plan, or

"(B) in the case of a participant who is

separated from the service and who has nonforfeitable rights to benefits,

such benefits are not decreased by reason of any increase in the benefit levels payable under title II of the Social Security Act, if such increase in benefit levels takes place after the date of the enactment of this paragraph or (if later) the date of first receipt of such benefits or the date of such separation, as the case may be."

(f) REQUIREMENT OF NONFORFEITABILITY IN CASE OF CERTAIN WITHDRAWALS.—Section 401 (a) is amended by inserting after paragraph (18) the following new paragraph:

"(19) A trust shall not constitute a qualified trust under this section if under the plan of which such trust is a part any part of a participant's accrued benefit derived from employer contributions, to the extent nonforfeitable as determined under section 411, is forfeitable solely because of withdrawal by such participant of any amount attributable to the benefit derived from contributions made by such participant."

SEC. 1022. MISCELLANEOUS PROVISIONS.

(a) REQUIREMENT THAT PLAN NOT BE DISCRIMINATORY.—Section 401(a)(4) (disqualifying discriminatory plans) is amended to read as follows:

"(4) If the contributions or the benefits provided under the plan do not descriminate in favor of employees who are—

"(A) officers,

"(B) shareholders, or

"(C) highly compensated."

(b) AMENDMENTS RELATING TO SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—

(1) AMENDMENT OF SECTION 401(A)(10).—So much of subparagraph (A) of section 401(a)(10) as precedes clause (i) thereof is amended to read as follows:

"(A) paragraph (3), the first and second sentences of paragraph (5), and section 410 shall not apply, but—".

(2) AMENDMENT OF SECTION 401(D)(3).—Section 401(d)(3) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(3)(A) The plan benefits each employee having 3 or more years of service (within the meaning of section 410(a)(3)).

"(B) For purposes of subparagraph (A), the term 'employee' does not include—

"(i) any employee included in a unit of employees covered by a collective bargaining agreement described in section 410(b)(2)(A), and

"(ii) any employee who is a nonresident alien individual described in section 410(b)(2)(C)."

(c) PERSONS OTHER THAN BANKS MAY BE TRUSTEES OF TRUSTS BENEFITING OWNER-EMPLOYEES.—

(1) The first sentence of section 401(d)(1) is amended to read as follows: "In the case of a trust which is created on or after October 10, 1962, or which was created before such date but is not exempt from tax under section 501(a) as an organization described in subsection (a) on the day before such date, the assets thereof are held by a bank or other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which he will hold such assets will be consistent with the requirements of this section. A trust shall not be disqualified under this paragraph merely because a person (including the employer) other than the trustee or custodian so holding plan assets may be granted, under the trust instrument, the power to control the investment of the trust funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, or exchanges)."

(2) The second sentence of section 401(d)(1) is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "October 10, 1962,".

(d) CERTAIN CUSTODIAL ACCOUNTS.—Effective as of January 1, 1974, subsection (f) of section 401 (relating to certain custodial accounts) is amended to read as follows:

"(f) CERTAIN CUSTODIAL ACCOUNTS AND ANNUITY CONTRACTS.—For purposes of this title, a custodial account or an annuity contract shall be treated as a qualified trust under this section if—

"(1) the custodial account or annuity contract would, except for the fact that it is not a trust, constitute a qualified trust under this section, and

"(2) the assets thereof are held by a bank (as defined in subsection (d)(1)) or another person who demonstrates, to the satisfaction of the Secretary or his delegate, that the manner in which he will hold the assets will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or annuity contract treated as a qualified trust under this section by reason of this subsection, the person holding the assets of such account or holding such contract shall be treated as the trustee thereof."

(e) CUSTODIAL ACCOUNTS FOR REGULATED INVESTMENT COMPANY STOCK.—Effective January 1, 1974, section 403(b) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph:

"(7) CUSTODIAL ACCOUNTS FOR REGULATED INVESTMENT COMPANY STOCK.—

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title, amounts paid by an employer described in paragraph (1)(A) to a custodial account which satisfies the requirements of section 401(f)(2) shall be treated as amounts contributed by him for an annuity contract for his employee if the amounts are paid to provide a retirement benefit for that employee and are to be invested in regulated investment company stock to be held in that custodial account.

"(B) ACCOUNT TREATED AS PLAN.—For purposes of this title, a custodial account which satisfies the requirements of section 401(f)(2) shall be treated as an organization described in section 401(a) solely for purposes of subchapter F and subtitle F with respect to amounts received by it (and income from investment thereof) which are excluded under this subsection from the gross income of the employees on whose behalf such amounts are paid.

"(C) REGULATED INVESTMENT COMPANY.—For purposes of this paragraph, the term 'regulated investment company' means a domestic corporation which is a regulated investment company within the meaning of section 851(a), and which issues only redeemable stock."

(f) INSURED CREDIT UNIONS.—Effective as of January 1, 1974, the last sentence of section 401(d)(1) is amended by striking out "section 581," and inserting in lieu thereof "section 581, an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act),".

(g) PUBLIC INSPECTION OF CERTAIN INFORMATION WITH RESPECT TO PENSION, PROFIT-SHARING, AND STOCK BONUS PLANS.—

(1) AMENDMENT OF SECTION 6104(a).—Paragraph (1) of section 6104(a) (relating to public inspection of applications for tax exemption) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D) and by inserting after subparagraph (A) the following new subparagraphs:

"(B) PENSION, ETC., PLANS.—The following shall be open to public inspection at such times and in such places as the Secretary or his delegate may prescribe:

"(i) any application filed with respect to the qualification of a pension, profit-sharing, or stock bonus plan under section 401(a), 403(a), or 405(a), under an individual retirement account described in section 408(a), or under an individual retirement annuity described in section 408(b),

"(ii) any application filed with respect to the exemption from tax under section 501(a) of an organization forming part of a plan or account referred to in clause (i),

"(iii) any papers submitted in support of an application referred to in clause (i) or (ii), and

"(iv) any letter or other document issued by the Internal Revenue Service and dealing with the qualification referred to in clause (i) or the exemption from tax referred to in clause (ii).

"(C) CERTAIN NAMES AND COMPENSATION NOT TO BE OPENED TO PUBLIC INSPECTION.—In the case of any application, document, or other papers, referred to in subparagraph (B), information from which the compensation (including deferred compensation) of any participant may be ascertained shall not be opened to public inspection under subparagraph (B)."

(B) The heading of subparagraph (A) of section 6104(a)(1) is amended to read as follows:

"(A) ORGANIZATIONS DESCRIBED IN SECTION 501.—".

(C) The heading of subparagraph (D) of section 6104(a)(1) (as redesignated by subparagraph (A) of this paragraph) is amended to read as follows:

"(D) WITHHOLDING OF CERTAIN OTHER INFORMATION.—".

(D) Subparagraph (D) of section 6104(a)(1) (as so redesignated) is amended by striking out "subparagraph (A)" each place it appears and inserting in lieu thereof "subparagraph (A) or (B)".

(2) AMENDMENT OF SECTION 6104(a)(2).—Subparagraph (A) of section 6104(a)(2) is amended by adding at the end thereof "any application referred to in subparagraph (B) of subsection (a)(1) of this section, and".

(3) AMENDMENT OF SECTION 6104(b).—Section 6104(b) (relating to inspection of annual information returns) is amended by striking out "and 6056" and inserting in lieu thereof "6056, and 6058".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed (or documents issued) after December 31, 1975.

(h) CERTAIN PUERTO RICAN PENSION, ETC., PLANS TO BE EXEMPT FROM TAX UNDER SECTION 501(a).—Effective for taxable years beginning after December 31, 1973, for purposes of section 501(a) of the Internal Revenue Code of 1954 (relating to exemption from tax), any trust forming part of a pension, profit-sharing, or stock bonus plan all of the participants of which are residents of the Commonwealth of Puerto Rico shall be treated as an organization described in section 401(a) of such Code if such trust—

(1) forms a part of a pension, profit-sharing, or stock bonus plan, and

(2) is exempt from income tax under the laws of the Commonwealth of Puerto Rico.

(i) YEAR OF DEDUCTION FOR CERTAIN EMPLOYER CONTRIBUTIONS FOR SEVERANCE PAYMENTS REQUIRED BY FOREIGN LAW.—Effective for taxable years beginning after December 31, 1973, if—

(1) an employer is engaged in a trade or business in a foreign country,

(2) such employer is required by the laws of that country to make payments, based on periods of service, to its employees or their beneficiaries after the employees' retirement, death, or other separation from the service, and

(3) such employer establishes a trust (whether organized within or outside the

United States) for the purpose of funding the payments required by such law,

then, in determining for purposes of paragraph (5) of section 404(a) of the Internal Revenue Code of 1954 the taxable year in which any contribution to or under the plan is includible in the gross income of the nonresident alien employees of such employer, such paragraph (5) shall be treated as not requiring that separate accounts be maintained for such nonresident alien employees.

SEC. 1023. STUDY OF GOVERNMENTAL PLANS.

(a) STUDY.—The Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives shall study retirement plans established and maintained or financed (directly or indirectly) by the Government of the United States, by any State (including the District of Columbia) or political subdivision thereof, or by any agency or instrumentality of any of the foregoing. Such study shall include an analysis of—

(1) the adequacy of existing levels of participation, vesting, and financing arrangements,

(2) existing fiduciary standards,

(3) the unique circumstances affecting mobility of government employees and individuals employed under Federal procurement, construction, or research contracts or grants, and

(4) the necessity for Federal legislation and standards with respect to such plans.

In determining whether any such plan is adequately financed, each committee shall consider the necessity for minimum funding standards, as well as the taxing power of the government maintaining the plan.

(b) REPORTS AND RECOMMENDATIONS.—Not later than December 31, 1976, the Committee on Ways and Means and the Committee on Education and Labor shall each submit to the House of Representatives the results of the studies conducted under subsection (a), together with such recommendations as may be appropriate.

SEC. 1024. PROTECTION FOR EMPLOYEES UNDER FEDERAL PROCUREMENT, CONSTRUCTION, OR RESEARCH CONTRACTS OR GRANTS.

(a) SECRETARY OF LABOR TO CONDUCT STUDY.—The Secretary of Labor shall, during the 2-year period beginning on the date of the enactment of this Act, conduct a full and complete study and investigation of the steps necessary to be taken 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 forfeitures of pension or retirement rights or benefits, otherwise provided, as a consequence of job transfers or loss of employment resulting from terminations or modifications of Federal contracts, grants, or procurement policies. The Secretary of Labor shall report the results of its study and investigation to the Congress within 2 years after the date of the enactment of this Act.

(b) CONSULTATION.—In the course of conducting the study and investigation described in subsection (a), and in developing the regulations referred to in subsection (c), the Secretary of Labor shall consult—

(1) with appropriate professional societies, business organizations, and labor organizations, and

(2) with the heads of interested Federal departments and agencies.

(c) DEVELOPMENT OF REGULATIONS.—Within 1 year after the date on which he submits his report to the Congress under subsection (a), the Secretary of Labor shall, if he determines it to be feasible, develop regulations which will provide the protection of pension and retirement rights and benefits referred to in subsection (a).

(d) EITHER HOUSE MAY DISAPPROVE REGULATIONS.—

(1) IN GENERAL.—Any regulations developed pursuant to subsection (c) shall take effect if, and only if—

(A) the Secretary of Labor, not later than the day which is 3 years after the date of the enactment of this Act, delivers a copy of such regulations to the House of Representatives and a copy to the Senate, and

(B) before the close of the 90-day period which begins on the day on which the copies of such regulations are delivered to the House of Representatives and to the Senate, neither the House of Representatives nor the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval.

(2) RESOLUTION OF DISAPPROVAL.—For purposes of this subsection, the term "resolution of disapproval" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the _____ does not favor the taking effect of the regulations transmitted to the Congress by the Secretary of Labor on _____", the first blank space therein being filled with the name of the resolving House and the second blank space therein being filled with the day and year.

(3) REFERENCE OF RESOLUTION TO COMMITTEE.—A resolution of disapproval in the House of Representatives shall be referred to the Committee on Education and Labor. A resolution of disapproval in the Senate shall be referred to the Committee on Labor and Public Welfare.

(4) DISCHARGE OF COMMITTEE CONSIDERING RESOLUTION.—

(A) If the Committee to which a resolution of disapproval has been referred has not reported it at the end of 7 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution of disapproval which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution of disapproval), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of disapproval.

(5) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEE; DEBATE.—

(A) When the committee has reported, or has been discharged from further consideration of, a resolution of disapproval, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution of disapproval shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6) DECISIONS WITHOUT DEBATE ON MOTION TO POSTPONE OR PROCEED.—

(A) Motions to postpone, made with respect to the discharge from committee or the consideration of a resolution of disapproval, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution of disapproval shall be decided without debate.

(7) COPIES TO BE PRESENTED ON SAME DAY.—Whenever the Secretary of Labor transmits copies of the regulations to the Congress, a copy of such regulations shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(8) DETERMINATION OF 90-DAY PERIOD.—The 90-day period referred to in paragraph (1) shall be computed by excluding—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.

(9) RULES OF HOUSE OF REPRESENTATIVES AND SENATE ON RESOLUTIONS OF DISAPPROVAL.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval described in paragraph (2); and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 1025. RETROACTIVE CHANGES IN PLAN.

Section 401(b) (relating to certain retroactive changes in plan) is amended to read as follows:

"(b) CERTAIN RETROACTIVE CHANGES IN PLAN.—A stock bonus, pension, profit-sharing, or annuity plan shall be considered as satisfying the requirements of subsection (a) for the period beginning with the date on which it was put into effect, or for the period beginning with the earlier of the date on which there was adopted or put into effect any amendment which caused the plan to fail to satisfy such requirements, and ending with the time prescribed by law for filing the return of the employer for his taxable year in which such plan or amendment was adopted (including extensions thereof) or such later time as the Secretary or his delegate may designate, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes for the whole of such period."

SEC. 1026. EFFECTIVE DATES.

The amendments made by section 1021 shall apply to plan years to which part I applies. Except as otherwise provided in section 1022, the amendments made by section 1022 shall apply to plan years to which part I applies. Sections 1023 and 1024 and the amendment made by section 1025 shall take effect on the date of the enactment of this Act.

PART III—REGISTRATION AND INFORMATION

SEC. 1031. REGISTRATION AND INFORMATION.

(a) ANNUAL REGISTRATION AND INFORMATION RETURNS.—Part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new subpart;

"SUBPART E—REGISTRATION OF AND INFORMATION CONCERNING PENSION, ETC., PLANS

"Sec. 6057. Annual registration, etc.
"Sec. 6058. Information required in connection with certain plans of deferred compensation.
"Sec. 6059. Periodic report by actuary.

"SEC. 6057. ANNUAL REGISTRATION, ETC.

"(a) ANNUAL REGISTRATION.—

"(1) GENERAL RULE.—Within such period after the end of a plan year as the Secretary or his delegate may by regulations prescribe, the plan administrator (within the meaning of section 414(g) of each funded plan to which part I of subchapter D of chapter 1 applied for such plan year shall file a registration statement with the Secretary or his delegate.

"(2) CONTENTS.—The registration statement required by paragraph (1) shall set forth—

"(A) the name of the plan,

"(B) the name and address of the plan administrator,

"(C) the name and taxpayer identifying number of each participant in the plan—

"(i) who, during such plan year, separated from the service covered by the plan,

"(ii) who is entitled to a deferred vested benefit under the plan as of the end of such plan year, and

"(iii) with respect to whom retirement benefits were not paid under the plan during such plan year,

"(D) the nature, amount, and form of the deferred vested benefit to which such participant is entitled, and

"(E) such other information as the Secretary or his delegate may require.

At the time he files the registration statement under this subsection, the plan administrator shall furnish evidence satisfactory to the Secretary or his delegate that he has complied with the requirement contained in subsection (e).

"(6) NOTIFICATION OF CHANGE IN STATUS.—Any plan administrator required to register under subsection (a) shall also notify the Secretary or his delegate, 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 plan 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) VOLUNTARY REPORTS.—To the extent provided in regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may receive from—

"(1) any plan to which subsection (a) applies, and

"(2) any other plan (including any governmental plan or church plan (within the meaning of section 414)),

such information (including information relating to plan years beginning before January 1, 1974) as the plan administrator may wish to file with respect to the deferred vested benefit rights of any participant separated from the service covered by the plan during any plan year.

"(d) TRANSMISSION OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.—The Secretary or his delegate 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) INDIVIDUAL STATEMENT TO PARTICIPANT.—Each plan administrator required to file a registration statement under subsection (a) shall, before the expiration of the time prescribed for the filing of such registration statement, also furnish to each participant described in subsection (a)(2)(C) an individual statement setting forth the information with respect to such participant required to be contained in such registration statement.

"(f) REGULATIONS.—

"(1) IN GENERAL.—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. Regulations prescribed for purposes of this section shall be effective with respect to plan years beginning after December 31, 1975, only if approved by the Secretary of Labor.

"(2) MULTIEMPLOYER PLANS.—This section shall apply to any multiemployer plan only to the extent provided in regulations prescribed under this subsection. For purposes of this paragraph, the term 'multiemployer plan' means a plan to which more than one employer is required to contribute.

"(g) CROSS REFERENCE.—

"For provisions relating to penalties for failure to register or furnish statements required by this section, see section 6652(e) and section 6690.

"SEC. 6058. INFORMATION REQUIRED IN CONNECTION WITH CERTAIN PLANS OF DEFERRED COMPENSATION.

"(a) IN GENERAL.—Every employer who maintain a pension, annuity, stock bonus, profit-sharing, or other funded plan of deferred compensation described in part I of subchapter D of chapter 1, or the plan administrator (within the meaning of section 414(g)) of the plan, shall file an annual return stating such information as the Secretary or his delegate may by regulations prescribe with respect to the qualification, financial condition, and operations of the plan; except that, in the discretion of the Secretary or his delegate, the employer may be relieved from stating in his return any information which is reported in other returns.

"(b) EMPLOYER.—For purposes of this section, the term 'employer' includes a person described in section 401(c)(4) and an individual who establishes an individual retirement account or annuity described in section 408.

"(c) CROSS REFERENCE.—

"For provisions relating to penalties for failure to file a return required by this section, see section 6652(f)."

(b) SANCTIONS.—

(1) FAILURE TO FILE REGISTRATION STATEMENTS OF NOTIFICATION OF CHANGE IN STATUS.—

(A) Section 6652 (relating to failure to file certain information returns) is amended by redesignating subsection (e) as subsection (g) and by inserting after subsection (d) the following new subsections:

"(e) ANNUAL REGISTRATION AND OTHER NOTIFICATION BY PENSION PLAN.—

"(1) REGISTRATION.—In the case of any failure to file a registration statement required under section 6057(a) (relating to annual registration of certain plans) which includes all participants required to be included in such statement, on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file, an amount equal to $1 for each participant with respect to whom there is a failure to file, multiplied by the number of days during which such failure continues, but the total amount imposed under this paragraph on any person for any failure to file with respect to any plan year shall not exceed $5,000.

"(2) NOTIFICATION OF CHANGE OF STATUS.—In the case of failure to file a notification required under section 6057(b) (relating to notification of change of status) on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file, $1 for each day during which such failure continues, but the total amounts imposed under this paragraph on any person for failure to file any notification shall not exceed $1,000.

"(f) INFORMATION REQUIRED IN CONNECTION WITH CERTAIN PLANS OF DEFERRED COMPENSATION.—In the case of failure to file a return required under section 6058 (relating to information required in connection with certain plans of deferred compensation) or 6047 (relating to information relating to certain trusts and annuity and bond purchase plans) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file, $10 for each day during which such failure continues, but the total amount imposed under this subsection on any person for failure to file any return shall not exceed $5,000."

(B) (i) The section heading for section 6652 is amended by adding ", REGISTRATION STATEMENTS, ETC." before the period at the end thereof.

(ii) The item relating to section 6652 in the table of contents for subchapter A of chapter 68 is amended by adding ", registration statements, etc." before the period at the end thereof.

(2) FAILURE TO FURNISH STATEMENT TO PARTICIPANT.—

(A) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6691. FRAUDULENT STATEMENT OR FAILURE TO FURNISH STATEMENT TO PLAN PARTICIPANT.

"Any person required under section 6057(e) to furnish a statement to a participant who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6057(e), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty under this subchapter of $50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111."

(B) The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6691. Fraudulent statement or failure to furnish statements to plan participant."

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for such part III is amended by adding at the end thereof the following:

"Subpart E. Registration of and information concerning pension, etc., plans."

(2) Section 6033(c) (relating to cross references) is amended by adding at the end thereof the following:

"For provisions relating to information required in connection with certain plans of deferred compensation, see section 6058."

(3) Subsection (d) of section 6047 (relating to information with respect to certain trusts and annuity and bond purchase plans) is amended to read as follows:

"(d) CROSS REFERENCES.—

"(1) For provisions relating to penalties for failure to file a return required by this section, see section 6652(f).

"(2) For criminal penalty for furnishing fraudulent information, see section 7207."

SEC. 1032. DUTIES OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE.

Title XI of the Social Security Act (relating to general provisions) is amended by adding at the end of part A thereof the following new section:

"NOTIFICATION OF SOCIAL SECURITY CLAIMANT WITH RESPECT TO DEFERRED VESTED BENEFITS

"SEC. 1131. (a) Whenever—

"(1) the Secretary makes a finding of fact and a decision as to—

"(A) the entitlement of any individual to monthly benefits under section 202, 223, or 228,

"(B) the entitlement of any individual to a lump-sum death payment payable under section 202(1) on account of the death of any person to whom such individual is related by blood, marriage, or adoption, or

"(C) the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or

"(2) the Secretary is requested to do so—

"(A) by any individual with respect to whom the Secretary holds information obtained under section 6057 of the Internal Revenue Code of 1954, or

"(B) in the case of the death of the individual referred to in subparagraph (A), by the individual who would be entitled to payment under section 204(d) of this Act,

he shall transmit to the individual referred to in paragraph (1) or the individual making the request under paragraph (2) any information, as reported by the employer, regarding any deferred vested benefit transmitted to the Secretary pursuant to such section 6057 (or under section 106 of the Employee Benefit Security Act of 1974) with respect to the individual referred to in paragraph (1) or (2)(A) or the person on whose wages and self-employment income entitlement (or claim of entitlement) is based.

"(b)(1) For purposes of section 201(g)(1), expenses incurred in the administration of subsection (a) shall be deemed to be expenses incurred for the administration of title II.

"(2) There are hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for each fiscal year (commencing with the fiscal year ending June 30, 1974) such sums as the Secretary deems necessary on account of additional administrative expenses resulting from the enactment of the provisions of subsection (a)."

SEC. 1033. ENROLLMENT OF AND REPORTS BY ACTUARIES.

(a) REPORTS BY ACTUARIES.—Subpart E of part III of subchapter A of chapter 61 (relating to registration of and information concerning pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 6059. PERIODIC REPORT OF ACTUARY.

"(a) GENERAL RULE.—The actuarial report described in subsection (b) shall be filed by the plan administrator (as defined in section 414(g)) of each defined benefit plan to which section 412 applies, for the first plan year for which section 412 applies to the plan and for each third plan year thereafter (or more frequently if the Secretary or his delegate determines that more frequent reports are necessary).

"(b) ACTUARIAL REPORT.—The actuarial report of a plan required by subsection (a) shall be prepared and signed by an enrolled actuary (within the meaning of section 7517) and shall contain—

"(1) a description of the plan,

"(2) a description of the funding method and actuarial assumptions used to determine costs under the plan,

"(3) a certification as to whether the funding standard account required under section 412(b)(1) has been maintained during the period to which the report relates,

"(4) such other information regarding the plan as the Secretary or his delegate may by regulations require, and

"(5) a statement—

"(A) that to the best of his knowledge the report is complete and accurate, and

"(B) of his opinion regarding the reasonableness of the funding method and actuarial assumption used to determine the normal costs under the plan.

"(c) TIME AND MANNER OF FILING.—The actuarial report and statement required by this section shall be filed at the time and in the manner provided by regulations prescribed by the Secretary or his delegate."

(b) ASSESSABLE PENALTIES.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6692. FAILURE TO FILE ACTUARIAL REPORT.

"The plan administrator (as defined in section 414(g)) of each defined benefit plan to which section 412 applies who fails to file the report required by section 6059 at the time and in the manner required by section 6059, shall pay a penalty of $1,000 for each such failure unless it is shown that such failure is due to reasonable cause."

(c) ENROLLMENT OF ACTUARIES.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting at the end thereof the following new section:

"SEC. 5717. ENROLLMENT OF ACTUARIES.

"The Secretary or his delegate shall, by regulations, establish reasonable standards and qualifications for persons performing actuarial services described in section 401(a)(12 or 6059 and, upon application by any individual, shall enroll such individual if the Secretary or his delegate 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—

"(1) education and training in actuarial mathematics and methodology, as evidenced by—

"(A) a degree in actuarial mathematics or its equivalent from an accredited college or university, or

"(B) successful completion of an examination in actuarial mathematics and methodology to be given by the Secretary or his delegate, or

"(C) successful completion of other actuarial examinations deemed adequate by the Secretary or his delegate, and

"(2) an appropriate period of responsible actuarial experience.

The Secretary or his delegate may, after notice and an opportunity for a hearing, suspend or terminate the enrollment of an individual under this section if the Secretary or his delegate finds that such individual does not satisfy the requirements for enrollment which were in effect at the time of his application. For purposes of this title, the term 'enrolled actuary' means a person who is enrolled by the Secretary or his delegate pursuant to this section. Regulations prescribed for purposes of this section shall be effective after December 31, 1975, only if approved by the Secretary of Labor."

SEC. 1034. EFFECTIVE DATES.

This part shall take effect upon the date of the enactment of this Act; except that—

(1) the requirements of section 6059 of the Internal Revenue Code of 1954 shall apply only with respect to plan years to which part I of this title applies,

(2) the requirements of section 6057 of such Code shall apply only with respect to plan years beginning after December 31, 1975, and

(3) the requirements of section 6058 of such Code shall apply only with respect to plan years beginning after the date of the enactment of this Act.

PART IV—DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN RETIREMENT PLANS

SEC. 1041. TAX COURT PROCEDURE.

(a) IN GENERAL.—Subchapter C of chapter 76 (relating to the Tax Court) is amended by adding at the end thereof the following new part:

"PART IV—DECLARATORY JUDGMENT RELATING TO QUALIFICATION OF CERTAIN RETIREMENT PLANS

"Sec. 7476. Declaratory Judgments.

"SEC. 7476. DECLARATORY JUDGMENTS.

"(a) CREATION OF REMEDY.—In a case of actual controversy involving a determination by the Secretary or his delegate with respect to the initial qualification or continuing qualification under subchapter D of chapter 1 of a retirement plan, or involving a failure to make a determination with respect to such an issue, upon the filing of an appropriate pleading, the United States Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by a petitioner who is the employer, the plan administrator, or an employee who has qualified under regulations prescribed by the Secretary or his delegate as an interested party for purposes of pursuing administrative remedies within the Internal Revenue Service.

"(2) NOTICE.—For purposes of this section, the filing of a pleading by any petitioner may be held by the Tax Court to be premature, unless the petitioner establishes to the satisfaction of the court that he has complied with the requirements prescribed by regulations of the Secretary or his delegate with respect to notice to other interested parties that the proceeding is being initiated.

"(3) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Internal Revenue Service to make a determination with respect to initial qualification or continuing qualification of a retirement plan before the expiration of 270 days after the request for such determination was made.

(4) PLAN PUT INTO EFFECT.—No proceeding may be maintained under this section unless the plan (and, in the case of a controversy involving the continuing qualification of the plan because of an amendment to the plan, the amendment) with respect to which a decision of the Tax Court is sought has been put into effect before the filing of the pleading. A plan or amendment shall be treated as in effect even though under the plan the funds contributed to the plan may be re-

funded if the plan (or the plan as so amended) is found to be not qualified.

"(5) TIME FOR BRINGING ACTION.—If the Secretary or his delegate sends by certified or registered mail his determination with respect to the qualification of the plan to the person requesting such determination, no proceeding may be initiated under this section by any person unless the pleading is filed before the 91st day after the date such person is notified by the Internal Revenue Service of such mailing.

"(c) COMMISSIONERS.—The chief judge of the Tax Court may assign proceedings under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to enter the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.

"(d) RETIREMENT PLAN.—For purposes of this section, the term 'retirement plan' means—

"(1) a pension, profit-sharing, or stock bonus plan described in section 401(a) or a trust which is part of such a plan,

"(2) an annuity plan described in section 403(a), or

"(3) a bond purchase plan described in section 405(a)."

(b) TECHNICAL AMENDMENTS.—

(1) FEE FOR FILING PETITION.—Section 7451 (relating to fee for filing petition) is amended by striking out "deficiency" and inserting in lieu thereof "deficiency or for a declaratory judgment under part IV of this subchapter".

(2) DATE OF DECISION.—Section 7459(c) (relating to date of decision) is amended by inserting before the period at the end of the first sentence the following: "or, in the case of a declaratory judgment proceeding under part IV of subchapter C, the date of the court's order entering the decision".

(3) VENUE FOR APPEAL OF DECISION.—Section 7482(b)(1) (relating to venue) is amended by adding at the end thereof the following new sentence: "In the case of a declaratory decision of the Tax Court, the rules of this paragraph shall be applied with respect to the employer who maintains the plan."

(c) CLERICAL AMENDMENT.—The table of parts for subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"PART IV. Declaratory judgments relating to qualification of certain retirement plans.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1978.

PART V—INTERNAL REVENUE SERVICE

SEC. 1051. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—Section 7802 (relating to Commissioner of Internal Revenue) is amended to read as follws:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONER (EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS).

"(a) COMMISSIONER OF INTERNAL REVENUE.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of Internal Revenue shall have such duties and powers as may be prescribed by the Secretary.

"(b) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—There is established within the Internal Revenue Service an office to be known as the 'Office of Employee Plans and Exempt Organizations' to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary or his delegate may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies)."

(b) CLERICAL AMENDMENT.—The item relating to section 7802 in the table of sections for subchapter A of chapter 80 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONER (EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 1052. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of the Treasury for the purpose of carrying out all functions of the Office of Employee Plans and Exempt Organizations—

(1) for the fiscal year ending June 30, 1974, $20,000,000, and

(2) for each fiscal year thereafter, $70,000,000.

SUBTITLE B—OTHER AMENDMENTS TO THE INTERNAL REVENUE CODE RELATING TO RETIREMENT PLANS

SEC. 2001. CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS AND SHAREHOLDER-EMPLOYEES.

(a) INCREASE IN MAXIMUM AMOUNT DEDUCTIBLE FOR SELF-EMPLOYED INDIVIDUALS.—

(1) Paragraph (1) of section 404(e) (relating to special limitations for self-employed individuals) is amended—

(A) by striking out "$2,500, or 10 percent" and inserting in lieu thereof "$7,500, or 15 percent", and

(B) by striking out "subject to the provisions of paragraph (2)" and inserting in lieu thereof "subject to paragraphs (2) and (4)".

(2) Paragraph (2)(A) of section 404(e) is amended by striking out "shall not exceed $2,500, or 10 percent" and inserting in lieu thereof "shall (subject to paragraph (4)) not exceed $7,500, or 15 percent".

(3) Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS CANNOT BE LOWER THAN $750 OR 100 PERCENT OF EARNED INCOME.—The limitations under paragraphs (1) and (2)(A) for any employee shall not be less than the lesser of—

"(A) $750, or

"(B) 100 percent of the earned income derived by such employee from the trades or businesses taken into account for purposes of paragraph (1) or (2)(A), as the case may be."

(b) INCREASE IN MAXIMUM AMOUNT DEDUCTIBLE FOR SHAREHOLDER-EMPLOYEES.—Paragraph (1) of section 1379(b) (relating to taxability of shareholder-employees) is amended—

(1) by striking out "10 percent" in subparagraph (A) and inserting in lieu thereof "15 percent", and

(2) by striking out "$2,500" in subparagraph (B) and inserting in lieu thereof "$7,500".

(c) ONLY FIRST $100,000 OF ANNUAL COMPENSATION TO BE TAKEN INTO ACCOUNT.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (16) the following new paragraph:

"(17) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of subsection (c)(1), or are shareholder-employees within the meaning of section 1379(d), only if the basic or regular rate of annual compensation of each employee taken into account under the plan does not exceed the first $100,000 of such compensation."

(d) DEFINED BENEFIT PLANS FOR SELF-EMPLOYED.—

(1) Subsection (a) of section 401 is amended by inserting after paragraph (17) the following new paragraph:

"(18) In the case of a trust which is part of a plan providing a defined benefit for employees some or all of whom are employees within the meaning of subsection (c)(1), or are shareholder-employees within the meaning of section 1379(d), only if such plan satisfies the requirements of subsection (j)."

(2) Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) DEFINED BENEFIT PLANS PROVIDING BENEFITS FOR SELF-EMPLOYED INDIVIDUALS AND SHAREHOLDER-EMPLOYEES.—

(1) IN GENERAL.—A defined benefit plan satisfies the requirements of this subsection only if the plan provides that the basic benefit accruing for each plan year of participation by an employee within the meaning of subsection (c)(1) (or a shareholder-employee) does not exceed the limitation on such accrual set forth in regulations prescribed by the Secretary or his delegate under this subsection to ensure that there will be reasonable comparability (assuming level funding) between the maximum retirement benefits which may be provided with favorable tax treatment under this title for such employees under—

"(A) defined contribution plans,

"(B) defined benefit plans, and

"(C) a combination of defined contribution plans and defined benefit plans.

"(2) GUIDELINE REGULATIONS.—The regulations prescribed under this subsection shall provide that a plan does not satisfy the requirements of this subsection if, under the plan, the basic benefit of any employee within the meaning of subsection (c)(1) (or a shareholder-employee) may exceed the sum of the products for each plan year of participation of—

"(A) his annual compensation (not in excess of $50,000) for such year, and

"(B) the applicable percentage determined under paragraph (3).

"(3) APPLICATION PERCENTAGE.—

"(A) TABLE.—For purposes of paragraph (2), the applicable percentage for any individual for any plan year shall be based on the percentage shown on the following table opposite his age when his current period of participation in the plan began:

"Age when participation began:	Applicable percentage
30 or less	6.5
35	5.4
40	4.4
45	3.6
50	3.0
55	2.5
60 or over	2.0

"(B) ADDITIONAL REQUIREMENTS.—The regulations prescribed under this subsection shall include provisions—

"(i) for applicable percentages for ages between any two ages shown on the table,

"(ii) for adjusting the applicable percentages in the case of plans providing benefits other than a basic benefit,

"(iii) that any increase in the rate of accrual, and any increase in the compensation base which may be taken into account, shall, with respect only to such increase, begin a new period of participation in the plan, and

"(iv) when appropriate, in the case of periods beginning after December 31, 1977, for adjustments in the applicable percent-

ages based on changes in prevailing interest and mortality rates occurring after 1973.

"(4) CERTAIN CONTRIBUTIONS AND BENEFITS MAY NOT BE TAKEN INTO ACCOUNT.—A defined benefit plan which provides contributions or benefits for owner-employees shall not satisfy the requirements of this subsection unless such plan meets the requirements of subsection (a)(4) without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, or any other Federal or State law.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) BASIC BENEFIT.—The term 'basic benefit' means a benefit in the form of a straight life annuity commencing at the later of—

"(i) age 65, or

"(ii) the day 5 years after the day the participant's current period of participation began,

under a plan which provides no ancillary benefits and to which employees do not contribute.

"(B) SHAREHOLDER-EMPLOYEE.—The term 'shareholder-employee' has the same meaning as when used in section 1379(d).

"(C) COMPENSATION.—The term 'compensation' means—

"(i) in the case of an employee within the meaning of subsection (c)(1), the earned income of such individual, or

"(ii) in the case of a shareholder-employee, the compensation received or accrued by the individual from the electing small business corporation.

"(6) SPECIAL RULES.—Section 404(e) (relating to special limitations for self-employed individuals) shall not apply to a trust to which this subsection applies."

(e) REPEAL OF EXISTING TAX TREATMENT OF EXCESS CONTRIBUTIONS.—

(1) The last sentence of section 401(d)(5) is amended to read as follows: "Subparagraphs (A) and (B) shall not apply to contributions described in subsection (e)."

(2) Paragraph (8) of section 401(d) is hereby repealed.

(3) Subsection (e) of section 401 is amended to read as follows:

"(e) CONTRIBUTIONS FOR PREMIUMS ON ANNUITY, ETC., CONTRACTS.—A contribution by the employer on behalf of an owner-employee is described in this subsection if—

"(1) under the plan such contribution is required to be applied (directly or through a trustee) to pay premiums or other consideration for one or more annuity, endowment, or life insurance contracts on the life of such owner-employee issued under the plan,

"(2) the amount of such contribution exceeds the amount deductible under section 404 with respect to contributions made by the employer on behalf of such owner-employee under the plan, and

"(3) the amount of such contribution does not exceed the average of the amounts which were deductible under section 404 with respect to contributions made by the employer on behalf of such owner-employee under the plan (or which would have been deductible if such section had been in effect) for the first three taxable years (A) preceding the year in which the last such annuity, endowment, or life insurance contract was issued under the plan, and (B) in which such owner-employee derived earned income from the trade or business with respect to which the plan is established, or for so many of such taxable years as such owner-employee was engaged in such trade or business and derived earned income therefrom.

In the case of any individual on whose behalf contributions described in paragraph (1) are made under more than one plan as an owner-employee during any taxable year, the preceding sentence shall not apply if the amount of such contributions under all such plans for all such years exceeds $7,500. Any contribution which is not considered to be an excess contribution by reason of the application of this subsection shall, for purposes of section 4972(b), be taken into account as a contribution made by such owner-employee as an employee to the extent that the amount of such contribution is not deductible under section 404 for the taxable year."

(4) Clause (ii) of section 401(a)(10)(A) is amended by striking out "subsection (e)(3)(A)" and inserting in lieu thereof "subsection (e)".

(5) Subparagraph (A) of section 72(m)(5) is amended—

(A) by inserting "and" at the end of clause (i),

(B) by striking out the comma at the end of clause (ii) and inserting in lieu thereof a period, and

(C) by striking out clause (iii).

(f) TAX ON EXCESS CONTRIBUTIONS.—

(1) Chapter 43 (relating to qualified pension, etc., plans) is amended by inserting after section 4971 the following new section:

"SEC. 4972. TAX ON EXCESS CONTRIBUTIONS FOR SELF-EMPLOYED INDIVIDUALS.

"(a) TAX IMPOSED.—In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1), there is hereby imposed, for each taxable year of the employer who maintains such plan, a tax in an amount equal to 6 percent of the amount of the excess contributions under the plan (determined as of the close of the taxable year). The tax imposed by this subsection shall be paid by the employer who maintains the plan.

"(b) EXCESS CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess contributions' means the sum of the amounts (if any) determined under paragraphs (2), (3), and (4). For purposes of this subsection, the amount of any contribution which is allocable (determined under regulations prescribed by the Secretary or his delegate) to the purchase of life, accident, health, or other insurance shall not be taken into account.

"(2) CONTRIBUTIONS BY OWNER-EMPLOYEES.—In the case of a plan which provides contributions or benefits for employees some or all of whom are owner-employees (within the meaning of section 401(c)(3)), the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed under the plan by each owner-employee (as an employee) for the taxable year, over

"(ii) the amount permitted to be contributed by each owner-employee (as an employee) for such year, and

"(B) the amount determined under this paragraph for the preceding taxable year of the employer.

reduced by the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

"(3) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, any amount contributed under the plan by the employer during the taxable year or any prior taxable year beginning after December 31, 1975, if—

"(A) as of the close of the taxable year, the full funding limitation of the plan (determined under section 412(c)(7)) is zero, and

"(B) such amount has not been deductible for the taxable year or any prior taxable year.

"(4) DEFINED CONTRIBUTION PLANS.—In the case of a plan other than a defined benefit plan, the portion of the amounts contributed under the plan by the employer during the taxable year and each prior taxable year beginning after December 31, 1975, which has not been deductible for the taxable year or any prior taxable year.

"(c) AMOUNT PERMITTED TO BE CONTRIBUTED BY OWNER-EMPLOYEE.—For the purposes of subsection (b)(2), the amount permitted to be contributed under a plan by an owner-employee (as an employee) for any taxable year is the smallest of the following:

"(1) $2,500,

"(2) 10 percent of the earned income for such taxable year derived by such owner-employee from the trade or business with respect to which the plan is established, or

"(3) the amount of the contribution which would be contributed by the owner-employee (as an employee) if such contribution were made at the rate of contributions permitted to be made by employees other than owner-employees.

In any case in which there are no employees other than owner-employees, the amount determined under the preceding sentence shall be zero.

"(d) CROSS REFERENCE.—

"For disallowance of deduction for taxes paid under this section, see section 275."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by inserting after the item relating to section 4971 the following new item:

"Sec. 4972. Tax on excess contributions for self-employed individuals."

(g) PREMATURE DISTRIBUTIONS TO OWNER-EMPLOYEES.—

(1) IN GENERAL. Subparagraph (B) of section 72(m(5) (relating to penalties applicable to certain amounts received by owner-employees) is amended to read as follows:

"(D) If a person receives an amount to which this paragraph applies, his tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of the amount so received which is includible in his gross income for such taxable year."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraphs (C), (D), and (E) of section 72(m)(5) are hereby repealed.

(B) The second sentence of section 46(a)(3) and the second sentence of section 50(a)(3) are each amended by striking out "tax preferences)," and inserting in lieu thereof "tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees),".

(C) The third sentence of section 901(a) is amended by striking out "tax preferences)," and inserting in lieu thereof "tax preferences), against the tax imposed for the taxable year under section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees),".

(D) Subparagraph (A) of section 56(a)(2) and paragraph (1) of section 56(c) are each amended by striking out "402(e)" and inserting in lieu thereof "72(m)(5)(B), 402(e)".

(E) Section 404(a)(2) is amended by striking out "(16)" and inserting in lieu thereof "(16), (17), (18), and (19)".

(h) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c) shall apply to taxable years beginning after December 31, 1973.

(2) The amendments made by subsections (d), (e), (f), and (g) shall apply to taxable years beginning after December 31, 1975.

SEC. 2002. DEDUCTION FOR RETIREMENT SAVINGS.

(a) ALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220 and by inserting after section 218 the following new section:

"SEC. 219. RETIREMENT SAVINGS.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there shall be allowed as a

deduction amounts paid in cash during the taxable year by or on behalf of such individual for his benefit—

"(1) to an individual retirement account described in section 408(a),

"(2) for an individual retirement annuity described in section 408(b), or

"(3) for a retirement bond described in section 409 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this title, any amount paid by an employer to such a retirement account or for such a retirement annuity or bond shall constitute payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

"(b) LIMITATIONS AND RESTRICTIONS.—

"(1) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) to an individual for any taxable year shall not exceed an amount equal to 20 percent of the compensation includible in his gross income for such taxable year, or $1,500, whichever is the lesser.

"(2) COVERED BY CERTAIN OTHER PLANS.—No deduction shall be allowed under subsection (a) for an individual for the taxable year if for any part of such year—

"(A) he was an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a),

"(iii) a qualified bond purchase plan described in section 405(a), or

"(iv) a plan established for its employees by the United States, by a State or political division thereof, or by an agency or instrumentality of any of the foregoing, or

"(B) amounts were contributed by his employer for an annuity contract described in section 403(b) (whether or not his rights in such contract are nonforfeitable).

"(3) CONTRIBUTIONS AFTER AGE 70½.—No deduction shall be allowed under subsection (a) with respect to any payment described in subsection (a) which is made during the taxable year of an individual who has attained age 70½ before the close of such taxable year.

"(4) RECONTRIBUTED AMOUNTS.—No deduction shall be allowed under this section with respect to a rollover contribution described in section 402(a)(5), 403(a)(4), or 408(d)(3).

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401 (c)(2).

"(2) MARRIED INDIVIDUALS.—The maximum deduction under subsection (b)(1) shall be computed separately for each individual, and this section shall be applied without regard to the community property laws of a State."

(2) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (9) the following new paragraph:

"(10) RETIREMENT SAVINGS.—The deduction allowed by section 219 (relating to deduction of certain retirement savings)."

(b) INDIVIDUAL RETIREMENT ACCOUNTS.—Subpart A of part I of subchapter D of chapter 1 (relating to retirement plans) is amended by adding at the end thereof the following new section:

"SEC. 408. INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this section, the term 'individual retirement account' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:

"(1) Except in the case of a rollover contribution described in subsection (d)(3) or in section 402(a)(5) or 403(a)(4), contributions will not be accepted for the taxable year in excess of $1,500 on behalf of any individual.

"(2) The trustee is a bank (as defined in section 401(d)(1)) or such other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) No part of the trust funds will be invested in life insurance contracts.

"(4) The interest of an individual in the balance in his account will be nonforfeitable.

"(5) The assets of the trust will not be commingled with other property except in a common trust fund.

"(6) The entire interest of an individual for whose benefit the trust is maintained will be distributed to him not later than the close of his taxable year in which he attains age 70½, or will be distributed, commencing before the close of such taxable year, in accordance with regulations prescribed by the Secretary or his delegate, over—

"(A) the life of such individual or the lives of such individual and his spouse, or

"(B) a period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse.

"(7) If an individual for whose benefit the trust is maintained dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (6) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within 5 years after his death (or the death of the surviving spouse) be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence shall have no application if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (6).

"(b) INDIVIDUAL RETIREMENT ANNUITY.—For purposes of this section, the term 'individual retirement annuity' means an annuity contract issued by an insurance company which meets the following requirements:

"(1) The contract is not transferable by the owner.

"(2) The annual premium under the contract will not exceed $1,500, and any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

"(3) The entire interest of the owner will be distributed to him not later than the close of his taxable year in which he attains age 70½, or will be distributed, in accordance with regulations prescribed by the Secretary or his delegate, over—

"(A) the life of such owner or the lives of such owner and his spouse, or

"(B) a period not extending beyond the life expectancy of such owner or the life expectancy of such owner and his spouse.

"(4) If the owner dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (3) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within 5 years after his death (or the death of the surviving spouse) be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence shall have no application if distributions over a term certain commenced before the death of the owner and the term cetrain is for a period permitted under paragraph (3).

"(5) The entire interest of the owner is nonforfeitable.

Such term does not include such an annuity contract for any taxable year of the owner in which it is disqualified on the application of subsection (e) or for any subsequent taxable year.

"(c) ACCOUNTS ESTABLISHED BY EMPLOYERS AND CERTAIN ASSOCIATIONS OF EMPLOYEES.—A trust created or organized in the United States by an employer for the exclusive benefit of his employees or their beneficiaries, or by an association of employees (which may include employees within the meaning of section 401(c)(1)) for the exclusive benefit of its members or their beneficiaries, shall be treated as an individual retirement account (described in subsection (a)), but only if the written governing instrument creating the trust meets the following requirements:

"(1) The trust satisfies the requirements of paragraphs (1) through (7) of subsection (a).

"(2) There is a separate accounting for the interest of each employee or member.

The assets of the trust may be held in a common fund for the account of all individuals who have an interest in the trust.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement account or under an individual retirement annuity, shall be included in gross income by the payee for the taxable year in which the payment or distribution is received. The basis of any person in such an account or annuity shall be zero.

"(2) DISTRIBUTIONS OF ANNUITY CONTRACTS.—Paragraph (1) shall not apply to any annuity contract which meets the requirements of paragraphs (1), (3), (4), and (5) of subsection (b) and which is distributed from an individual retirement account. Section 72 shall apply to any such annuity contract, and for purposes of section 72 the investment in such contract shall be zero.

"(3) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (1) shall not apply to any amount paid or distributed out of an individual retirement account or individual retirement annuity to an individual if—

"(i) such individual is a person for whose benefit the account is maintained, and

"(ii) the entire amount received (including any property other than money) is paid into an individual retirement account or individual retirement annuity (created for such individual's benefit) not later than the 60th day after the day on which he receives the payment or distribution.

"(B) LIMITATION.—This subsection shall not apply to any amount received by an individual from an individual retirement ac-

count or individual retirement annuity if at any time during the 3-year period ending on the day of such receipt such individual received any other amount from an individual retirement account or individual retirement annuity which was not includible in his gross income because of the application of this paragraph.

"(4) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to an individual retirement account or for an individual retirement annuity to the extent that such contribution exceeds the amount allowable as a deduction under section 219 if—

"(A) such distribution is received on or before the day prescribed by law (including extensions) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under section 219 with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which received.

"(e) TAX TREATMENT OF ACCOUNTS AND ANNUITIES.—

"(1) EXEMPTION FROM TAX.—Any individual retirement account shall be exempt from taxation under this subtitle unless such account has ceased to be an individual retirement account by reason of paragraph (2). Notwithstanding the preceding sentence, any such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE EMPLOYEE ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If during any taxable year of the individual for whose benefit any individual retirement account was established there is any transaction described in subsection (b) or (g) of section 503, such account shall cease to be an individual retirement account as of the first day of such taxable year. For purposes of this paragraph—

"(i) the individual for whose benefit any account was established shall be treated as the creator of such account, and

"(ii) the separate account for any individual within an individual retirement account maintained by an employer or association of employees shall be treated as a separate individual retirement account.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an individual retirement account by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subsection (d) shall apply as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF BORROWING ON ANNUITY CONTRACT.—If during any taxable year the owner of an individual retirement annuity borrows any money under or by use of such contract, the contract shall cease to be an individual retirement annuity as of the first day of such taxable year. Such owner shall include in gross income for such year an amount equal to the fair market value of such contract as of such first day.

"(4) LOSS OF EMPLOYER DEDUCTIONS WHERE EMPLOYER ENGAGES IN PROHIBITED TRANSACTION.—If during any taxable year of an employer there is any transaction described in subsection (b) or (g) of section 503 with respect to any individual retirement account maintained by such employer, all deductions of such employer for compensation paid or accrued for such taxable year and for all prior taxable years shall be disallowed to the extent of contributions to such individual retirement account paid during such year. For purposes of this paragraph, the employer shall be treated as the creator of each individual retirement account maintained by him.

"(f) PENALTY TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME BEFORE AGE 59½.—

"(1) EARLY DISTRIBUTIONS FROM AN INDIVIDUAL RETIREMENT ACCOUNT, ETC.—If a distribution from an individual retirement account or under an individual retirement annuity to the individual for whose benefit such account or annuity was established is made before such individual attains age 59½, his tax under this chapter for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includible in his gross income for such taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includible in gross income for a taxable year under subsection (e) and the taxpayer has not attained age 59½ before the beginning of such taxable year, his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount so required to be included in his gross income.

"(3) DISABILITY CASES.—Paragraphs (1) and (2) shall not apply if the amount paid or distributed, or the disqualification of the account or annuity under subsection (e), is attributable to the taxpayer becoming disabled within the meaning of section 72(m)(7).

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to the community property laws of any State.

"(h) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 401(d)(1) or another person who demonstrates, to the satisfaction of the Secretary or his delegate, that the manner in which he will hold the assets will be consistent with the requirements of this section. For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) REPORTS.—The trustee of an individual retirement account or the issuer of an individual retirement annuity shall submit to the Secretary or his delegate such reports regarding contributions to such account or annuity distributions from such account or annuity, and other matters relating to such account or annuity as may be required by regulations prescribed by the Secretary or his delegate. Such reports shall be filed at such time and in such manner as may be required by such regulations.

"(j) CROSS REFERENCES.—

"(1) For tax on excess contributions to individual retirement accounts or annuities, see section 4973.

"(2) For tax on certain accumulations in individual retirement accounts for annuities, see section 4974."

(c) RETIREMENT BONDS.—Subpart A of part I of subchapter D of chapter 1 (relating to retirement plans) is amended by inserting after section 408 the following new section:

"SEC. 409. RETIREMENT BONDS.

"(a) RETIREMENT BOND.—For purposes of this section and section 219(a), the term 'retirement bond' means a bond issued under the Second Liberty Bond Act, as amended, which by its terms, or by regulations prescribed by the Secretary under such Act—

"(1) provides for payment of interest, or investment yield, only on redemption;

"(2) provides that no interest, or investment yield, is payable if the bond is redeemed within 12 months after the date of its issuance;

"(3) provides that it ceases to bear interest, or provide investment yield, on the earlier of—

"(A) the date on which the individual in whose name it is purchased (hereinafter in this section referred to as the 'registered owner') attains age 70½; or

"(B) 5 years after the date on which the registered owner dies, but not later than the date on which he would have attained the age 70½ had he lived;

"(4) may be redeemed before the death of the registered owner only if such owner—

"(A) has attained age 59½,

"(B) has become disabled (within the meaning of section 72(m)(7)), or

"(C) tenders the bond for redemption within 12 months after the date of its issuance; and

"(5) is not transferable.

"(b) INCOME TAX TREATMENT OF BONDS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, on the redemption of a retirement bond the entire proceeds shall be included in the gross income of the taxpayer entitled to the proceeds on redemption. If the registered owner has not tendered it for redemption before the close of the taxable year in which he attains age 70½, such individual shall include in his gross income for such taxable year the amount of proceeds he would have received if the bond had been redeemed at age 70½. The provisions of section 72 (relating to annuities) and section 1232 (relating to bonds and other evidences of indebtedness) shall not apply to a retirement bond.

"(2) BASIS.—The basis of a retirement bond shall be zero, whether or not the registered owner was allowed a deduction under section 219 for the amount paid for the bond.

"(3) EXCEPTIONS.—

"(A) REDEMPTION WITHIN 12 MONTHS.—If a retirement bond is redeemed within 12 months after the date of its issuance, the proceeds shall be excluded from gross income if no deduction is allowed under section 219 on account of the purchase of such bond.

"(B) REDEMPTION AFTER AGE 70½.—If a retirement bond is redeemed after the close of the taxable year in which the registered owner attains age 70½, there shall be included in gross income on the redemption of the bond only the amount by which the proceeds on redemption exceed the amount included in his gross income for such taxable year."

(d) EXCISE TAX ON EXCESS CONTRIBUTIONS.—Chapter 43 (relating to qualified pension, etc., plans) is amended by inserting after section 4972 the following new section:

"SEC. 4973. TAX ON EXCESS CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) TAX IMPOSED.—In the case of—

"(1) any individual retirement account (within the meaning of section 408(a)), or

"(2) any individual retirement annuity (within the meaning of section 408(b)),

established for the benefit of any individual, there is hereby imposed for each taxable year a tax in an amount equal to 6 percent of the amount of the excess contributions to such individual's accounts or annuities (determined as of the close of the taxable year). The tax imposed by this subsection shall be paid by such individual.

"(b) EXCESS CONTRIBUTIONS.—For purposes of this subsection in the case of individual retirement accounts or individual retirement annuties, the term 'excess contributions' means the sum of—

"(1) the excess (if any) of—

"(A) the amount contributed for the taxable year to the accounts or for the an-

nuities (other than a rollover contribution described in section 402(a)(5), 403(a)(4), or 408(d)(3)), over

"B) the amount allowable as a deduction under section 219 for such contributions, and

"(2) the amount determined under this paragraph for the preceding taxable year, reduced by the excess (if any) of the maximum amount allowable as a deduction under section 219 for the taxable year over the amount contributed to the accounts or for the annuities for the taxable year and reduced by the sum of the distributions out of the account (for the taxable year and all prior taxable years) which were included in the gross income of the payee under section 408(d)(1). For purposes of this paragraph, any contribution which is distributed out of the individual retirement account or individual retirement annuity in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed."

(e) EXCISE TAX ON EXCESSIVE ACCUMULATIONS.—Chapter 43 is amended by inserting after section 4973 the following new section:

"SEC. 4974. EXCISE TAX ON CERTAIN ACCUMULATIONS IN INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES.

"(a) IMPOSITION OF TAX.—If, in the case of an individual retirement account or individual retirement annuity, the amount distributed during the taxable year of the payee is less than the minimum amount required to be distributed under section 408(a)(6) or (7), or 408(b)(3) or (4) during such year, there is hereby imposed a tax equal to 50 percent of the amount by which the minimum amount required to be distributed during such year exceeds the amount actually distributed during the year. The tax imposed by this section shall be paid by such payee.

"(b) REGULATIONS.—For purposes of this section, the minimum amount required to be distributed during a taxable year under section 408(a)(6) or (7), or 408(b)(3) or (4) shall be determined under regulations prescribed by the Secretary or his delegate."

(f) PENALTY FOR FAILURE TO PROVIDE REPORTS ON INDIVIDUAL RETIREMENT ACCOUNTS.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6693. FAILURE TO PROVIDE REPORTS ON INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES.

"(a) The person required by section 408(1) to file a report regarding an individual retirement account or individual retirement annuity at the time and in the manner required by section 408(1) shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply to the assessment or collection of any penalty imposed by subsection (a)."

(g) CONFORMING AMENDMENTS.—

(1) Section 37(c)(1) (defining retirement income) is amended—

(A) by adding at the end of subparagraph (E) the following: "retirement bonds described in section 409, or".

(B) by adding the following new subparagraph:

"(F) an individual retirement account described in section 408(a) or an individual retirement annuity described in section 408(b), or".

(2) The second sentence of section 46(a)(3) and the second sentence of section 50A(a)(3) are each amended by striking out "tax preferences)," and inserting in lieu thereof "tax preferences), section 408(e) (relating to additional tax on income from certain retirement accounts),".

(3) The third sentence of section 901(a) is amended by striking out "tax preferences)," and inserting in lieu thereof "tax preferences, against the tax imposed for the taxable year by section 408(e) (relating to additional tax on income from certain retirement accounts),".

(4) Subparagraph (A) of section 56(a)(2) and paragraph (1) of section 56(c) are each amended by striking out "531" and inserting in lieu thereof "408(f), 531,".

(5) Section 402(a) (relating to taxability of beneficiaries of exempt trust) is amended by inserting after paragraph (4) the following new paragraph:

"(5) TRANSFER TO INDIVIDUAL RETIREMENT ACCOUNT.—In the case of an employees' trust described in section 401(a) which is exempt from tax under section 501(a), if—

"(A) the balance to the credit of an employee is paid to him in one or more distributions within 1 taxable year of the employee on account of his separation from the service,

"(B) the employee transfers all the property he receives in such distributions to an individual retirement account described in section 408(a) or to an individual retirement annuity described in section 408(b) on or before the 60th day after the day on which he received such property, to the extent the fair market value of such property exceeds the amount referred to in subsection (e)(1)(D)(i), and

"(C) the amount so transferred consists of the property (other than money) distributed, to the extent that the fair market value of such property does not exceed the amount required to be transferred pursuant to subparagraph (B),

then such distributions shall not be includible in gross income for the year in which paid. Such transfer shall be treated as a rollover contribution as described in section 408(d)(3)."

(6) Section 403(a) (relating to taxation of employee annuities) is amended by adding after paragraph (3) the following new paragraph:

"(4) TRANSFER TO INDIVIDUAL RETIREMENT ACCOUNT.—In the case of an employees' trust described in section 401(a) which is exempt from tax under section 501(a), if—

"(A) the balance to the credit of an employee is paid to him in one or more distributions within 1 taxable year of the employee on account of his separation from the service,

"(B) the employee transfers all the property he receives in such distributions to an individual account described in section 408(a) or to an individual retirement annuity described in section 408(b) on or before the 60th day after the day on which he received such property to the extent the fair market value of such property exceeds the amount referred to in subsection (e)(4)(D)(i), and

"(C) the amount so transferred consists of the property distributed, to the extent that the fair market value of such property does not exceed the amount required to be transferred pursuant to subparagraph (B),

then such transfer shall be treated as a rollover contribution (within the meaning of section 408(d)(3), and such distributions shall not be includible in gross income for the year in which paid."

(7) Section 3401(a)(12) (relating to exemption from collection of income tax at source on certain wages) is amended by adding at the end thereof the following new subparagraph:

"(D) for a payment described in section 219(a) if, at the time of such payment, it is reasonable to believe that the employee will be entitled to a deduction under such section for such payment; or".

(8) Section 6047 (relating to information relating to certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) OTHER PROGRAMS.—To the extent provided by regulations prescribed by the Secretary or his delegate, the provisions of this section shall be applicable with respect to any payment described in section 219(a) and to transactions of any trust described in section 408(a) or under an individual retirement annuity described in section 408(b)."

(9) PENSION PLAN RESERVES.—Section 805(d)(1) (relating to definition of pension plan reserves) is amended by striking out "or" at the end of subparagraph (C), by striking out "foregoing." at the end of subparagraph (D) and inserting in lieu thereof "foregoing; or", and by adding at the end thereof the following new subparagraph:

"(E) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b)."

(10) TREATMENT OF DISTRIBUTION FROM INDIVIDUAL RETIREMENT ACCOUNTS.—Section 72 (relating to annuities) is amended—

(A) by inserting after "501(a)" in subsection (m)(4)(A) ", an individual retirement account described in section 408(a), an individual retirement annuity described in section 408(b)".

(B) by striking out at the end of subsection (m)(6) "401(c)(3)" and inserting in lieu thereof "401(c)(3) and includes an individual for whose benefit an individual retirement account or annuity described in section 408 (a) or (b) is maintained".

(11) BASIS FOR ASSETS HELD FOR CERTAIN CONTRACTS.—Section 801(g)(7) (relating to basis of assets held for qualified pension plan contracts) is amended by striking out "or (D)" and inserting in lieu thereof "(D), or (E)".

(h) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 219 and inserting in lieu thereof the following:

"Sec. 219. Retirement savings.

"Sec. 220. Cross references."

(2) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following:

"Sec. 408. Individual retirement accounts.

"Sec. 409. Retirement bonds.".

(3) The table of sections for chapter 43 is amended by inserting after the item relating to section 4972 the following new items:

"Sec. 4973. Tax on excess contributions to individual retirement accounts.

"Sec. 4974. Tax on certain accumulations in individual retirement accounts.

(i) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1973. The amendments made by this section (other than subsection (a)) shall take effect January 1, 1974.

SEC. 2003. LIMITATIONS ON BENEFITS AND CONTRIBUTIONS.

(a) PLAN REQUIREMENTS.—

(1) Section 401(a) (relating to requirements for qualification) is amended by inserting after paragraph (15) the following new paragraph:

"(16) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides for benefits or contributions which do not exceed the limitations of section 415."

(2) Subpart B of part I of subchapter D of chapter 1 is amended by inserting after section 414 the following new section:

"SEC. 415. LIMITATIONS ON BENEFITS AND CONTRIBUTIONS UNDER QUALIFIED PLANS.

"(a) GENERAL RULE.—

"(1) TRUSTS.—A trust which is a part of a pension, profit-sharing, or stock bonus plan shall not constitute a qualified trust under section 401(a) if—

"(A) in the case of a defined benefit plan, the plan provides for the payment of benefits with respect to a participant which exceed the limitations of subsection (b),

"(B) in the case of a defined contribution plan, under the plan contributions and other additions with respect to any participant for any taxable year exceed the limitation of subsection (c), or

"(C) in any case in which an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by the employer, the trust has been disqualified under subsection (e)(5).

"(2) SECTION APPLES TO CERTAIN ANNUITIES AND ACCOUNTANTS.—In the case of—

"(A) an employee annuity plan described in section 403(a),

"(B) any annuity contract described in section 403(b),

"(C) an individual retirement account described in section 408(a), or

"(D) an individual retirement annuity described in section 408(b),

such contract, annuity plan, account, or annuity shall not be considered to be described in section 403(a), 403(b), 408(a), or 408(b), as the case may be, unless it satisfies the requirements of subparagraph (A) or subparagraph (B) of paragraph (1), whichever is appropriate, and has not been disqualified under subsection (e)(5).

"(b) LIMITATION FOR DEFINED BENEFIT PLANS.—

"(1) IN GENERAL.—Benefits with respect to a participant exceed the limitation of this subsection if, when expressed as an annual benefit (within the meaning of paragraph (2)), such annual benefit is greater than the lesser of—

"(A) $75,000, or

"(B) 100 percent of the participant's average compensation for his high 3 years.

"(2) ANNUAL BENEFIT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'annual benefit' means a benefit payable annually in the form of a straight life annuity (with no ancillary benefit) under a plan to which employees do not contribute.

"(B) ADJUSTMENT FOR CERTAIN OTHER FORMS OF BENEFITS OR FOR EMPLOYEE CONTRIBUTIONS.—If the benefit under the plan is payable in any form other than the form set forth in subparagraph (A), or if the employees contribute to the plan, the determination as to whether the limitation set forth in paragraph (1) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary or his delegate, by adjusting such benefit so that it is equivalent to the benefit referred to in subparagraph (A). For purposes of this subparagraph, any ancillary benefit which is not directly related to retirement income benefits shall not be taken into account; and that portion of any joint and survivor feature which constitutes a qualified joint and survivor annuity shall not be taken into account.

"(C) ADJUSTMENT TO $75,000 LIMIT WHERE BENEFIT BEGINS BEFORE AGE 55.—If the retirement income benefit under the plan begins before age 55, the determination as to whether the $75,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary or his delegate, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 55.

"(D) QUALIFIELD JOINT AND SURVIVOR BENEFIT.—For purposes of this paragraph, the term 'qualified joint and survivor benefit' means a form of benefit under which (i) there is a joint and survivor annuity for the benefit of the participant and his spouse, and (ii) the benefit payable to the survivor is not greater than the benefit which would be payable if both the participant and his spouse were alive.

"(3) AVERAGE COMPENSATION FOR HIGH 3 YEARS.—For purposes of paragraph (1), a participant's high 3 years shall be the period of consecutive calendar years (not more than 3) during which the participant was both an active participant in the plan and had the greatest aggregate compensation from the employer. In the case of an employee within the meaning of section 401(c)(1), the preceding sentence shall be applied by substituting for 'compensation from the employer' the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911).

"(4) TOTAL ANNUAL BENEFITS NOT IN EXCESS OF $10,000.—Notwithstanding the preceding provisions of this subsection, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitation of this subsection if—

"(A) the retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed $10,000 for the plan year, and do not exceed $10,000 for any prior plan year, and

"(B) the employer has not at any time maintained a defined contribution plan in which the participant participated.

(5) REDUCTION FOR SERVICE LESS THAN 10 YEARS.—In the case of an employee who has less than 10 years of service with the employer, the limitation referred to in paragraph (1), and the limitation referred to in paragraph (4), shall be the limitation determined under such paragraph (without regard to this paragraph), multiplied by a fraction, the numerator of which is the number of years (or part thereof, of service with the employer and the denominator of which is 10.

"(c) LIMITATION FOR DEFINED CONTRIBUTION PLANS.—

"(1) IN GENERAL.—Contributions and other additions with respect to a participant exceed the limitation of this subsection if, when expressed as an annual addition to the participant's account (within the meaning of paragraph (2)), such annual addition is greater than the lesser of—

"(A) $25,000, or

"(B) 25 percent of the participant's compensation.

"(2) ANNUAL ADDITION.—For purposes of paragraph (1), the term 'annual addition' means the sum for any year of—

"(A) employer contributions,

"(B) the lesser of—

"(i) the amount of the employee contributions in excess of 6 percent of his compensation, or

"(ii) one-half of the employee contribution, and

"(C) forfeitures.

"(3) PARTICIPANT'S COMPENSATION.—For purposes of paragraph (1), the term 'participant's compensation' means the compensation of the participant from the employer for the year. In the case of an employee within the meaning of section 401(c)(1), the preceding sentence shall be applied by substituting for 'compensation of the participant from the employer' the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911).

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary or his delegate shall adjust annually—

"(A) the $75,000 amount in subsection (b)(1)(A),

"(B) the $25,000 amount in subsection (c)(1)(A), and

"(C) in the case of a participant who is separated from the service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost of living in accordance with regulations prescribed by the Secretary or his delegate. Such regulations shall provide for adjustment procedures which are similar to the procedures used to adjust primary insurance amounts under section 215(i)(2)(A) of the Social Security Act.

"(2) BASE PERIODS.—The base period taken into account—

"(A) for purposes of subparagraphs (A) and (B) of paragraph (1) shall be the calendar quarter beginning October 1, 1973, and

"(B) for purposes of subparagraph (C) of paragraph (1) shall be the last calendar quarter of the calendar year before the calendar year in which the participant is separated from the service.

"(e) LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE.—

"(1) IN GENERAL.—In any case in which an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by the employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any year shall not exceed 1.4.

"(2) DEFINED BENEFIT PLAN FRACTION.—For purposes of this subsection, the defined benefit plan fraction for any year is a fraction—

"(A) the numerator of which is the projected benefit of the participant under the plan (determined as of the close of the year), and

"(B) the denominator of which is the projected benefit of the participant under the plan (determined as of the close of the year) if the plan provided the maximum benefit allowable under subsection (b).

For purposes of this paragraph, the term 'benefit' means an annual benefit as defined in subsection (b)(2).

"(3) DEFINED CONTRIBUTION PLAN FRACTION.—For purposes of this subsection, the defined contribution plan fraction for any year is a fraction—

"(A) the numerator of which is the sum of the annual additions to the participant's account as of the close of the year, and

"(B) the denominator of which is the sum of the maximum amount of annual additions to such account which could have been made under subsection (c) for such year and for each prior year of service with the employer.

"(4) SPECIAL TRANSITION RULES FOR DEFINED CONTRIBUTION FRACTION.—In applying paragraph (3) with respect to years beginning before January 1, 1976—

"(A) the aggregate amount taken into account under paragraph (3)(A) shall not exceed the aggregate amount taken into account under paragraph (3)(B), and

"(B) the amount taken into account under subsection (c)(2)(B)(i) for any year concerned shall be an amount equal to—

"(i) the excess of the aggregate amount of employee contributions for all years beginning before January 1, 1976, during which the employee was an active participant of the plan, over 10 percent of the employee's aggregate compensation for all such years, multiplied by

"(ii) a fraction the numerator of which is 1 and the denominator of which is the number of years beginning before January 1, 1976, during which the employee was an active participant in the plan.

Employee contributions made on or after October 2, 1973, shall be taken into account

under subparagraph (B) of the preceding sentence only to the extent that the amount of such contributions does not exceed the maximum amount of contributions permissible under the plan as in effect on October 2, 1973.

"(5) DISQUALIFICATION OF TRUSTS AND PLANS.—If, but for this paragraph, the sum referred to in paragraph (1) would exceed 1.4, the Secretary or his delegate shall, under regulations, disqualify one or more trusts, one or more plans, or both, until such sum does not exceed 1.4. In addition to taking into account such other factors as may be necessary to carry out the purposes of this subsection, the regulations prescribed under this paragraph shall provide that—

"(A) no plan which has terminated shall be disqualified until all other plans have been disqualified, and

"(B) the plan (or combination of plans) having the least number of participants shall be disqualified first.

"(6) SPECIAL RULES FOR SECTION 403(b) AND 408.—For purposes of this subsection, any annuity contract described in section 403(b), any individual retirement account described in section 408(a), and any individual retirement annuity described in section 408(b) for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subsection (b) or (c) of section 414 (as modified by subsection (h)). In the case of any annuity contract described in section 403(b), the amount of the contribution disqualified by reason of paragraph (5) of this subsection shall reduce the exclusion allowance provided in section 403(b)(2).

"(f) COMBINING PLANS.—

"(1) IN GENERAL.—For purposes of applying the limitations of subsections (b), (c), and (e) (other than subsection (e)(5))—

"(A) all defined benefit plans (whether or not terminated) of an employer shall be treated as one defined benefit plan, and

"(B) all defined contribution plans (whether or not terminated) of an employer shall be treated as one defined contribution plan.

"(2) ANNUAL COMPENSATION TAKEN INTO ACCOUNT FOR DEFINED BENEFIT PLANS.—If the employer has more than one defined benefit plan—

"(A) subsection (b)(1)(B) shall be applied separately with respect to each such plan, but

"(B) in applying subsection (b)(1)(B) to the aggregate of such defined benefit plans for purposes of this subsection, the high 3 years of compensation taken into account shall be the period of consecutive calendar years (not more than 3) during which the individual had the greatest aggregate compensation from the employer.

"(g) PAYMENT OF ADDITIONAL BENEFITS.—Nothing in this section or section 412 shall be construed to require the disqualification of any plan solely by reason of the provision of benefits for any individual in addition to the benefits which may be provided under the limitations of subsections (b), (c), and (e) if the contributions of the employer for the purpose of providing such additional benefits are not allowable as a deduction to the employer before they are includible in the gross income of the individual.

"(h) 50 PERCENT CONTROL.—For purposes of applying subsections (b) and (c) of section 414 to this section, the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1).

"(i) RECORDS NOT AVAILABLE FOR PAST PERIODS.—Where for the period before January 1, 1976, or (if later) the first day of the first plan year of the plan, the records necessary for the application of this section are not available, the Secretary or his delegate may by regulations prescribe alternative methods for determining the amounts to be taken into account for such period."

(b) LIMIT ON EMPLOYER DEDUCTIONS.—The second sentence of section 404(a)(3)(A) (relating to limits on deductible contributions) is amended by striking out "beneficiaries under the plan." and inserting in lieu thereof "beneficiaries under the plan, but the amount so deductible under this sentence in any one succeeding taxable year together with the amount so deductible under the first sentence of this subparagraph shall not exceed 25 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plan."

(c) CERTAIN ANNUITY AND BOND PURCHASE PLANS.—

(1) Section 404(a)(2) (relating to the general rule for deduction for employee annuities) is amended by striking out "(15)" and inserting in lieu thereof "(15), (16), and (19)".

(2) Section 405(a)(1) (relating to requirements for qualified bond purchase plans) is amended by striking out "and (8)," and inserting in lieu thereof "(8), (16), and (19)".

(3) Section 805(d)(1)(C) (relating to pension plan reserves) is amended by striking out "and (15)" and inserting in lieu thereof "(15), (16), and (19)".

(4) Section 403(b)(2) (relating to exclusion allowance) is amended by adding at the end thereof the following new sentence: "The exclusion allowance for any employee for the taxable year shall be reduced to the maximum amount not disqualified by section 415(e) (relating to limitations on benefits and contributions under qualified plans)."

(d) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendments made by this section shall apply to contributions made or benefits accrued in years beginning after December 31, 1975.

(2) TRANSITION RULE FOR DEFINED BENEFIT PLANS.—In the case of an individual who was an active participant in a defined benefit plan on October 2, 1973, if—

(A) the annual benefit (within the meaning of section 415(b)(2) of the Internal Revenue Code of 1954) payable to such participant on retirement does not exceed 100 percent of his annual rate of compensation on such date, and

(B) such annual benefit is no greater than the annual benefit which would have been payable to such participant on retirement if (i) all the terms and conditions of such plan in existence on such date had remained in existence until such retirement, and (ii) his compensation taken into account for any period after October 2, 1973, had not exceeded his annual rate of compensation on such date,

then such annual benefit shall be treated as not exceeding the limitation of subsection (b) of section 415 of the Internal Revenue Code of 1954.

SEC. 2004. TAXATION OF CERTAIN LUMP SUM DISTRIBUTIONS.

(a) TREATMENT OF TOTAL DISTRIBUTION.—Section 402(e) (relating to certain plan terminations) is amended to read as follows:

"(e) TAX ON LUMP SUM DISTRIBUTIONS.—

"(1) IMPOSITION OF SEPARATE TAX ON LUMP SUM DISTRIBUTIONS.—

"(A) SEPARATE TAX.—There is hereby imposed a tax (in the amount determined under subparagraph (B)) on the ordinary income portion of a lump sum distribution.

"(B) AMOUNT OF TAX.—The amount of tax imposed by subparagraph (A) for any taxable year shall be an amount equal to the amount of the initial separate tax for such taxable year multiplied by a fraction, the numerator of which is the ordinary income portion of the lump sum distribution for the taxable year and the denominator of which is the total taxable amount of such distribution for such year.

"(C) INITIAL SEPARATE TAX.—The initial separate tax for any taxable year is an amount equal to 10 times the tax which would be imposed by subsection (c) of section 1 if the recipient were an individual referred to in such subsection and the taxable income were an amount equal to one-tenth of the excess of—

"(i) the total taxable amount of the lump sum distribution for the taxable year, over

"(ii) the minimum distribution allowance.

"(D) MINIMUM DISTRIBUTION ALLOWANCE.—For purposes of this paragraph, the minimum distribution allowance for the taxable year is an amount equal to—

"(i) the lesser of $10,000 or one-half of the total taxable amount of the lump sum distribution for the taxable year, reduced (but not below zero) by

"(ii) 20 percent of the amount (if any) by which such total taxable amount exceeds $20,000.

"(E) LIABILITY FOR TAX.—The recipient shall be liable for the tax imposed by this paragraph.

"(2) MULTIPLE DISTRIBUTIONS AND DISTRIBUTIONS OF ANNUITY CONTRACTS.—In the case of any recipient of a lump sum distribution for the taxable year with respect to whom during the 6-taxable-year period ending on the last day of the taxable year there has been one or more other lump sum distributions after December 31, 1973, in computing the tax imposed by paragraph (1)(A), the total taxable amounts of all such distributions during such 6-taxable-year period shall be aggregated, but the amount of tax so computed shall be reduced by the amount of the tax imposed by paragraph (1)(A) paid with respect to such other distributions. For purposes of this paragraph, a beneficiary of a trust to which a lump sum distribution is made shall be treated as the recipient of such distribution if the beneficiary is an employee (including an employee within the meaning of section 401(c)(1)) with respect to the plan under which the distribution is made or if the beneficiary is treated as the owner of such trust for purposes of subpart E of part I of subchapter J. In the case of the distribution of an annuity contract, the taxable amount of such distribution shall be deemed to be the fair market value of the contract, determined on the date of such distribution. The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

"(3) ALLOWANCE OF DEDUCTION.—The ordinary income portion of a lump sum distribution for the taxable year shall be allowed as a deduction from gross income for such taxable year, but only to the extent included in the taxpayer's gross income for such taxable year.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) LUMP SUM DISTRIBUTION.—For purposes of this section and section 403, the term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(i) on account of the employee's death,

"(ii) after the employee attains age 59½

"(iii) on account of the employee's separation from the service, or

"(iv) after the employee has become disabled (within the meaning of section 72(m)(7))

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a)(2). Clause (iii) of this subparagraph shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and clause (iv) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this subparagraph, a distribution of an annuity

contract from a trust or annuity plan referred to in the first sentence of this subparagraph shall be treated as a lump sum distribution.

"(B) ELECTION OF LUMP SUM TREATMENT.—For purposes of this section and section 403, no amount which is not an annuity contract may be treated as a lump sum distributed under subparagraph (A) unless the taxpayer elects for the taxable year to have all such amounts received during such year so treated at the time and in the manner provided under regulations prescribed by the Secretary or his delegate. Not more than one election may be made under this subparagraph with respect to any individual after such individual has attained age 59½. No election may be made under this subparagraph by any taxpayer other than an individual, an estate, or a trust. The preceding sentence shall apply to a trust in the case of any distribution only if—

"(i) the trust is the sole recipient of the entire balance to the credit of the employee under subparagraph (A), and

"(ii) the use of the trust device does not affect the includibility of the distribution in the gross estate of the employee.

"(C) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under subparagraph (A)—

"(i) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(ii) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(D) TOTAL TAXABLE AMOUNT.—For purposes of this section and section 403, the term 'total taxable amount' means, with respect to a lump sum distribution, the amount of such distribution which exceeds the sum of—

"(i) the amounts considered contributed by the employee (determined by applying section 72(f)), which employee contributions shall be reduced by any amounts theretofore distributed to him which were not includible in gross income, and

"(ii) the net unrealized appreciation attributable to that part of the distribution which consists of the securities of the employer corporation so distributed.

"(E) ORDINARY INCOME PORTION.—For purposes of this section, the term 'ordinary income portion' means, with respect to a lump sum distribution, so much of the total taxable amount of such distribution as is equal to the product of such total taxable amount multiplied by a fraction—

"(i) the numerator of which is the number of calendar years of active participation by the employee in such plan after December 31, 1973, and

"(ii) the denominator of which is the number of calendar years of active participation by the employee in such plan.

"(F) EMPLOYEE.—For purposes of this subsection and subsection (a)(2), except as otherwise provided in subparagraph (A), the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) and the employer of such individual is the person treated as his employer under section 401(c)(4).

"(G) COMMUNITY PROPERTY LAWS.—The provisions of this subsection, other than paragraph (3), shall be applied without regard to the community property laws of any State.

"(H) MINIMUM PERIOD OF SERVICE.—This subsection shall apply to amounts distributed to an employee from or under a plan only if he has been a participant in the plan for 5 or more taxable years before the taxable year in which such amounts are distributed.

"(I) AMOUNTS SUBJECT TO PENALTY.—This subsection shall not apply to amounts described in clause (ii) of subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(J) UNREALIZED APPRECIATION OF EMPLOYER SECURITIES.—In the case of a lump sum distribution including securities of the employer corporation, the amount of net unrealized appreciation of such securities and the resulting adjustments to the basis of such securities shall be determined under regulations prescribed by the Secretary or his delegate.

"(K) SECURITIES.—For purposes of this subsection, the terms 'securities' and 'securities of the employer corporation' have the respective meanings provided by subsection (a)(3)."

(b) PHASEOUT OF CAPITAL GAINS TREATMENT.—

(1) IN GENERAL.—Section 402(a)(2) (relating to capital gains treatment for certain distributions) is amended to read as follows:

"(2) CAPITAL GAINS TREATMENT FOR PORTION OF LUMP SUM DISTRIBUTIONS.—In the case of an employee trust described in section 401(a), which is exempt from tax under section 501(a), so much of the total taxable amount (as defined in subparagraph (D) of subsection (e)(4)) of a lump sum distribution as is equal to the product of such total taxable amount multiplied by a fraction—

"(A) the numerator of which is the number of calendar years of active participation by the employee in such plan before January 1, 1974, and

"(B) the denominator of which is the number of calendar years of active participation by the employee in such plan,

shall be treated as a gain from the sale or exchange of a capital asset held for more than 6 months. For purposes of computing the fraction under this paragraph, the Secretary or his delegate may prescribe regulations under which plan years may be used in lieu of calendar years."

(2) AMENDMENT OF SECTION 403.—That part of paragraph (2)(A) of section 403(a) which follows clause (ii) thereof is amended to read as follows:

"(iii) a lump sum distribution (as defined in section 402(e)(4)(A)) is paid to the recipient,

so much of the total taxable amount (as defined in section 402(e)(4)(D)) of such distribution as is equal to the product of such total taxable amount multiplied by the fraction described in section 402(a)(2) shall be treated as a gain from the sale or exchange of a capital asset held for more than 6 months.

"(B) CROSS-REFERENCE.—

"For imposition of separate tax on ordinary income portion of lump sum distribution, see section 402(e).".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 402(a)(3) is repealed.

(2) Paragraph (5) (as in effect on December 31, 1973) of section 402(a) is repealed.

(3) Section 72 is amended by striking out subsection (n) thereof and by redesignating subsections (o) and (p) as (n) and (o), respectively.

(4) The second sentence of section 46(a)(3) and the second sentence of section 50A(a)(3) are each amended by inserting "section 402(e) (relating to tax on lump sum distributions)," before "section 408(f)".

(5) The third sentence of section 901(a) is amended by inserting "against the tax imposed by section 402(e) (relating to tax on lump sum distributions)," before "against the tax imposed by section 408(f)".

(6) Subsection 1304(b) (relating to special rules) is amended by striking out paragraph (2) and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(7) Subparagraph (A) of section 56(a)(2) and paragraph (1) of section 56(c) are each amended by inserting before "408(f)" the following: "402(e),".

(8) Sections 871(b)(1) and 877(b) are each amended by inserting ", 402(e)(1)," after "section 1".

(9) Section 62 (defining adjusted gross income) is amended by inserting after paragraph (10) the following new paragraph:

"(11) CERTAIN PORTION OF LUMP-SUM DISTRIBUTIONS FROM PENSION PLANS TAXED UNDER SECTION 402(e).—The deduction allowed by section 402(e)(3)."

(10) Section 122(b)(2) (relating to consideration for the contract) is amended by striking out "72(o)" and inserting "72(n)".

(11) Section 405(e) (relating to capital gains treatment and limitation of tax not to apply to bonds distributed by trusts) is amended by striking out "Section 72(n) and section 402(a)(2)" and inserting "Subsections (a)(2) and (e) of section 402".

(12) Section 406(c) (relating to termination of status as deemed employee, etc.) is amended by striking out "section 72(n), section 402(a)(2)" and inserting "subsections (a)(2) and (e) of section 402".

(13) Section 407(c) (relating to termination of status as deemed employee, etc.) is amended by striking out "section 72(n), section 402(a)(2)" and inserting "subsections (a)(2) and (e) of section 402".

(14) Section 1348(b)(1) (relating to earned income) is amended by striking out "72(n), 402(a)(2)" and inserting "402(a)(2), 402(e)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to distributions or payments made after December 31, 1973, in taxable years beginning after such date.

SEC. 2005. SALARY REDUCTION REGULATIONS.

(a) NO REGULATIONS TO TAKE EFFECT BEFORE MARCH 16, 1975.—

(1) The Secretary of the Treasury is hereby directed to withdraw the proposed salary reduction regulations (37 Fed. Reg. 25938).

(2) On or before December 31, 1974, no other proposed salary reduction regulations may be issued.

(3) On or before March 15, 1975, no salary reduction regulations may be issued in final form.

(4) Until salary reduction regulations have been issued in final form, the law shall be administered—

(A) without regard to the proposed salary reduction regulations described in paragraph (1) and without regard to any other proposed salary reduction regulations, and

(B) in the manner such law was administered before January 1, 1972.

(b) ADMINISTRATION IN THE CASE OF QUALIFIED PROFITS-SHARING PLANS.—In applying subsection (a)(4) to the tax treatment of contributions to qualified profit-sharing plans where the contributed amounts are distributable only after a period of deferral, the law shall be administered in a manner consistent with the following revenue rulings:

(1) Revenue Ruling 56-497 (1956-2 C.B. 284),

(2) Revenue Ruling 63-180 (1963—2 C.B. 189), and

(3) Revenue Ruling 68-89 (1968—1 C.B. 402).

(c) LIMITATION ON RETROACTIVITY OF FINAL REGULATIONS.—In the case of any salary reduction regulations which become final after March 15, 1975—

(1) for purposes of chapter 1 of the Internal Revenue Code of 1954, such regulations shall not take effect before January 1, 1975; and

(2) for purposes of chapter 21 of such Code

(relating to Federal Insurance Contributions Act) and for purposes of chapter 24 of such Code (relating to withholding of income tax at sources), such regulations shall not take effect before the day on which such regulations are issued in final form.

(d) SALARY REDUCTION REGULATIONS DEFINED.—For purposes of this section, the term "salary reduction regulations" means regulations dealing with the includibility in gross income (at the time of contribution) of amounts contributed to pension, etc., plans.

SEC. 2006. RULES FOR CERTAIN NEGOTIATED PLANS.

(a) TREATMENT OF CERTAIN PARTICIPANTS IN THE PLAN.—Section 404(c) (relating to certain negotiated plans) is amended by inserting after the first sentence the following new sentences: "For purposes of this chapter and subtitle B, in the case of any individual who before July 1, 1974, was a participant in a plan described in the preceding sentence—

"(A) such individual, if he is or was an employee within the meaning of section 401(c)(1), shall be treated (with respect to service covered by the plan) as being an employee other than an employee within the meaning of section 401(c)(1) and as being an employee of a participating employer under the plan,

"(B) earnings derived from service covered by the plan shall be treated as not being earned income within the meaning of section 401(c)(2), and

"(C) such individual shall be treated as an employee of a participating employer under the plan with respect to service before July 1, 1975, covered by the plan.

Section 277 (relating to deductions incurred by certain membership organizations in transactions with members) shall not apply to any trust described in this subsection.".

(b) OTHER AMENDMENTS TO SECTION 404(c)(1).—

(1) Paragraph (1) of the first sentence of section 404(c) is amended by striking out "and pensions" and inserting in lieu thereof "or pensions".

(2) The last sentence of section 404(c) is amended by striking out "This subsection" and inserting in lieu thereof "The first and third sentences of this subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after June 30, 1972.

AMENDMENTS OFFERED BY MR. ULLMAN

Mr. ULLMAN. Mr. Chairman, I offer a series of both technical and conforming amendments I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ULLMAN:

Page 163, beginning in line 17, strike out "the later" and insert in lieu thereof "any".

Page 164, strike out line 1 through line 4, and insert in lieu thereof the following:

"(A) in the case of an employee who begins his period of service on or after the date he attains the age of 24, the date on which he completes 1 year of service; or

"(B) in the case of an employee who begins his period of service before he attains the age of 24, the date on which he completes 3 years of service or the date on which he attains 25 years of age, whichever date is earlier.

Page 164, line 9, strike out "subparagraph (B)" and insert in lieu thereof "this paragraph".

Page 164, strike out line 10 and insert in lieu thereof the following:

by substituting for subparagraphs (A), and (B) "the date on which he completes 3 years of service".

Page 224, line 7, strike out "and (15)," and insert in lieu thereof "(15)".

Page 293, line 17, strike out ", and (19)".

Page 315, line 20, strike out "preferences" and insert in lieu thereof "preferences)".

Page 323, line 7, after the period insert: "In the case of an annuity contract described in section 403(b), the preceding sentence shall apply only to the portion of the annuity contract which exceeds the limitation of subsection (b) or the limitation of subsection (c), whichever is appropriate, and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in section 403(b)(2)".

Page 332, line 12, after "allowance" insert "as".

Page 335, line 9, strike out "(e)".

Page 327, after line 23, insert the following new paragraph:

"(4) SPECIAL RULE FOR SECTION 403(B) CONTRACTS PURCHASED BY EDUCATIONAL INSTITUTIONS.—In applying paragraph (1)(B) in the case of amounts contributed for an annuity contract described in section 403(b) for the year in which occurs a participants' separation from service for an educational institution (within the meaning of section 151(e)(4)), the amount taken into account under paragraph (1)(B) shall be not less than the amount of the exclusion allowance which would be determined under section 403(b)(2) (without regard to this section) for the participant's taxable year in which such separation occurs if—

"(A) the participant's years of service were computed only by taking into account his service for the employer during the 4-year period ending on the date of such separation, and

"(B) the participant's includible compensation were an amount equal to one-fourth of the aggregate amount of compensation for such 4-year period which is received from the educational institution and which is includible in gross income (computed without regard to sections 105(d) and 911 and computed by excluding any amount contributed by the employer for any annuity contract to which section 403(b) applies).

This paragraph shall apply only if the taxpayer elects its application at the time and in the manner provided under regulations prescribed by the Secretary or his delegate. Not more than one election may be made under this paragraph with respect to any individual."

Page 338, strike out lines 15 and 16 and insert: "by the sum of (A) the amount of the tax imposed by paragraph (1)(A) paid with respect to such other distributions, plus (A) that portion of the tax on the aggregated total taxable amounts which is attributable to annuity contracts."

Page 343, strike out line 14 and all that follows down through line 19 and insert in lieu thereof the following:

(H) MINIMUM PERIOD OF SERVICE.—No amount distributed to an employee from or under a plan may be treated as a lump sum distributed under subparagraph (A) unless he has been a participant in the plan for 5 or more taxable years before the taxable year in which such amounts are distributed.

Mr. ULLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Chairman, on behalf of the Ways and Means Committee I offer the following technical amendments to sections 2003 and 2004 of the substitute. The amendments to section 2004 clarify two items with regard to the tax treatment of lump-sum distributions. The first of these two, on page 338 of the substitute, makes it clear that a tax is not to be imposed on an annuity contract distributed as part of a lump-sum distribution. The second of these amendments, to page 343 of the substitute amendment, makes it clear that there is no change in the present provision of the tax laws that exclude from current taxation the unrealized appreciation in employer securities attributable to the amount contributed by the employee. Any such appreciation will, of course, be taxed when it is realized.

Both of these amendments, I emphasize, are designed to make it clear that present law is unchanged by the bill.

The other two amendments, to section 2003, deal with so-called tax-sheltered annuities. The amendment to page 327 of the substitute amendment permits employers of people such as school teachers to make "catch-up" purchases of tax-sheltered annuities for the school teacher in an amount no greater than that permitted by current law, even though this "catch-up" payment would otherwise violate certain of the limitations on contributions imposed by the bill. Such a "catch-up" contribution could be made, first, only once in the teacher's lifetime; second, could "catch-up" only for contributions not made during the prior 3 years; third, could be made only for the year in which the teacher leaves the job; and fourth, could in no event exceed the $25,000 annual limit on contributions.

The other amendment to this section, to page 323 of the substitute amendment, provides that, if the employer makes a contribution to a tax-sheltered annuity plan in excess of the maximum permitted amounts, then the employee is going to have to take into income the amount of this excess. There was concern that the bill could have been read to require the entire payment to be taken into the employee's income if there was even 1 penny of excess contribution and we did not want to leave room for the bill to be interpreted to reach that very severe result.

Finally we have offered an amendment to conform to the change made by the Abzug amendment to title I.

Mr. SCHNEEBELI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendments, as outlined by the gentleman from Oregon (Mr. ULLMAN), the chairman of the committee.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Oregon (Mr. ULLMAN).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. REUSS

Mr. REUSS. Mr. Chairman, I offer several amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. REUSS: Section 2001 is amended—

(1) at page 280, lines 9 through 17, paragraph (1) of subsection (a), to read as follows:

"(1) Paragraph (1) of section 404(e) is amended by striking out 'subject to the provisions of paragraph (2)' and inserting in lieu thereof 'subject to paragraphs (2) and (4)'."

(2) at page 280, lines 18 through 21, paragraph (2) of subsection (a), by striking out the paragraph and renumbering subsequent paragraphs accordingly.

(3) at page 281, lines 8 through 15, subsection (b), by striking out the subsection and renumbering subsequent subsections accordingly.

(4) at page 288, line 4, paragraph (3) of subsection (e), by striking out "$7,500" and inserting in lieu thereof "$2,500".

Mr. REUSS. Mr. Chairman, the Committee on Ways and Means bill would extend the so-called Keogh plan deduction for professional people, self-employed people, from $2,500, where it has been for some years, to $7,500. My amendment would keep it where it now is.

There are two reasons for my amendment.

In the first place, the $7,500 deduction which would be allowed if the amendment is not adopted would give a doctor or a dentist or an accountant making $50,000 a year the equivalent of a check for $3,750. I say that, because he would be in the 50-percent bracket and allowing him a tax-free deduction of $7,500 would have that effect.

This at a time when millions upon millions of modest-income people, those making $15,000 a year and less, are being very badly hit by the very sharp increases in their payroll taxes of the last year or two, and when they are being further buffeted by an inflation in food and fuel which falls upon them with a particular burden. For us to give a very substantial tax reduction to people in the upper 5 percent of the income receivers while forgetting all about the lower income two-thirds of the American families seems to me to be a badly skewed sense of priorities.

The tax preference being granted here would cost taxpayers $175 million a year. Those who do not get it, of course, will have to pay for it, and that, in my judgment, compounds the inequity.

It will be said, "Oh, you have to do something for the $50,000-a-year doctor, lawyer, or professional person, because if he belonged to a corporate pension plan and was an employee or officer of a corporation, he would be allowed to deduct a very large sum, up to about $35,000 a year." Well, that is true, but the answer is not to pile loophole upon loophole.

We should lower the preference to corporate pension-holders.

Unfortunately, the rule which confronts us, one that does not allow germane amendments except in the one instance, prevents our attacking that which really ought to be attacked; namely, the practically unlimited bonanza offered very wealthy people under corporate pension plans. It is true that the bill does set a limit of about $75,000 a year pension which could be drawn on, a level corresponding to about a $35,000 a year input, but this is wholly out of line in the single equity. If the Ways and Means Committee would let us, we ought to reduce the corporate-plan preference.

A second reason for not going along with the committee in this $7,500 tax preference is that it would leave a terrible hodge-podge in our system. If you are the beneficiary of a qualified corporate pension, you get $35,000 a year, approximately tax free. If you are a self-employed professional with a qualified Keogh plan, you get $7,500 a year. But if you are a mobile engineer or a fishery worker or some one of the 40 million workers in this country who are working for a corporation without a qualified pension plan, then your maximum is $1,500 a year. What kind of justice is this?

I suggest that this $35,000 or $7,500 or $1,500 represents the approximate disparate political weights of these various groups, rather than any real attempt to do equity.

By telling the Committee on Ways and Means that we in the House here are perfectly capable of making basic tax judgments ourselves, and by voting in favor of the amendment I offer, we will get our tax-writing committees to introduce some equity into the disparate differential treatment of these various income tax groups.

Therefore, Mr. Chairman, I urge Members to vote in favor of the amendment I have offered, so as to leave the situation where it now is.

Mrs. GRIFFITHS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I oppose the amendment offered by the gentleman from Wisconsin (Mr. REUSS). I would like to point out that in this bill there are only three efforts to try to bring closer together the tax-deferred retirement savings of different groups. One of those is the limitation of $25,000 per year, or 25 percent of the income which applies to a corporate deferred contribution pension plan. The second one is this effort to raise the Keogh plan from $2,500 to $7,500. And the third is the attempt to give all individuals who were not under corporate Keogh plans the right to save $1,500 a year.

The real effort in this bill is to see to it that the money that has been set aside from the tax stream is used so that the people who are supposed to get pensions really do get them.

All pensions, as far as I know, are paid for, either originally from tax free money, or finally they are paid out of the tax stream.

If there were a real effort on the part of the gentleman from Wisconsin who offered this amendment, to knock down the $25,000 maximum contribution to a corporate plan—that comes out of the tax stream—I might go along with the gentleman. But I would like to show you what the gentleman really is doing.

As most of the Members are aware, I am going to leave the Congress at the end of this year. For 20 years I have paid into a pension fund, along with the rest of the Members, and when I leave here I will draw a pension of $21,250 a year. My husband and I went to the same schools, and got approximately the same grades, and my husband is a lawyer. He has never had an opportunity to pay into a corporate pension fund. The only money that he could have saved before taxes would have been if he had set up a Keogh plan for his law firm covering everybody else, along with himself.

I would like to point out to the Members that we here in Congress are a favored few. The $20,000 that people who retired drew last year, has increased within the last 11 months, I believe 6 percent at one time, and 5 percent at another time. If I were lucky enough to live to the beginning of the next century my pension would be more than $40,000 a year, but every cent that I put into that pension fund will be withdrawn by the time I have been gone for 17 months.

What the gentleman from Wisconsin (Mr. REUSS) is attempting to do is to say that doctors and lawyers who are going to draw their money under the Keogh plan, are all wealthy, but he is quite wrong, because the wealthy law firms have already incorporated, and so have the wealthy medical firms, and so they are putting $25,000 yearly into a plan, which can pay them $75,000 yearly. We have a distinction between those who incorporate and those who do not. And what the gentleman from Wisconsin is attempting to do will affect those who are not incorporated. And those who do not incorporate will include, although perhaps it is not even popular to think of it now, the man who runs the gas station, the man who runs the grocery store, the man who runs the pharmacy, anyone who has a plumbing concern, or any other of these people who run an individual business, the grocer, the candlestick maker, the baker, the farmer, and whoever else may be running individual businesses. If we go along with the gentleman from Wisconsin, we are now saying to these people, we will let you put only $2,500 a year into your pension plan.

Also, we will require them to cover everyone else in their firm in this case. But we will also say, we will let you take $1,500 a year if you do not cover anybody. This does not make sense.

I have the highest regard for the gentleman from Wisconsin, but in this particular amendment he could not be more unfair. He could not be more wrong. What he is really doing is hitting at the person in our society who is taking all of the risks.

The CHAIRMAN. The time of the gentlewoman has expired.

(By unanimous consent, Mrs. GRIFFITHS was allowed to proceed for 2 additional minutes.)

Mrs. GRIFFITHS. He is hitting the private entrepreneur. He is hitting the person who is attempting to cover all of the other employees. He is not objecting to the large corporate pensions. He is not really objecting to the fact that Congressmen are drawing pensions. These pensions all come out of the tax

stream, too. The only person he is objecting to is the very person who made America. It is a part of the American tradition that one start on his own and work. We are doing equity for everybody else, but that man.

Mr. Chairman, I hope the Members resoundingly defeat this amendment and give those who are on their own a chance.

Mr. SCHNEEBELI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I join the gentlewoman from Michigan in opposing this amendment. I should like to supplement some of the figures which she has submitted.

Under existing law there is virtually no limitation on what a corporate officer can put into a pension plan. In this bill we have included separate limitations on defined contribution plans amounting to 25 percent of his income up to $25,000, and for defined benefits plans an amount necessary to fund a pension equal to 100 percent of an employees' high 3-year average salary not to exceed $25,000.

If we went along with the proposal of the gentleman from Wisconsin, the self-employed individual would be limited to $2,500 a year, one-tenth of what this bill proposes for a qualified defined contribution plan. What has happened as a result of this differential? Between 1968 and 1971 the law corporations that were formed by individuals have increased from 158 to 3,000. The medical corporations in that same period of time increased from 1,600 to 19,000. They were driven to incorporate because of the limitation imposed upon the self-employed.

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

Mr. SCHNEEBELI. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I would like to associate myself with his remarks and with the remarks of the gentlewoman from Michigan.

It seems to me this is one of the very important public policy points involved in having a reasonable limitation on Keogh plans instead of the limitation we have had now for the past 12 years. That is, we have been forcing people to incorporate in order to achieve the tax benefits they can get through incorporation, rather than permitting them the natural way in which they would do business, namely, as a proprietorship or partnership. As long as we have the kind of malpractice insurance we have now, there is no other reason for the professional corporation, I suspect, then that they want to take advantage of very generous deductions available to corporate officers. This increase in permitted Keogh deductions is far preferable. We need the symmetry of this in the law.

I should like to support the position enunciated by the gentleman from Pennsylvania and the gentlewoman from Michigan.

Mr. SCHNEEBELI. To proceed further with this comparison, were we to limit the self-employed individual to $2,500 a year—and we are talking about the gas station operator as well as the professional—we would just drive them into corporations. This $2,500 limit was established in 1962. Since that time the income of this class of people has increased by 88 percent.

To get this thing into perspective, the present pension laws cost the Treasury $4 billion.

This bill adds another $460 million in Treasury loss, and of this $460 million there is $175 million which could be attributed to the increase from $2,500 to $7,500 for the self-employed.

Because of all the facts recited it would seem this House should agree that the amendment offered by the gentleman from Wisconsin should be voted down.

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

Mr. SCHNEEBELI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to ask the gentleman, since he is the ranking minority member on the committee, why it is that the very first tax bill that we come out with in this session of the Congress, after all the pressure that has been put on for some general tax reform and loophole closing and relief for the average person, especially on the payroll tax that has gone up again this year—after all the talk about tax reform during the past several years, that the very first thing we bring out which provides relief for the taxpayer, is for those in the higher tax brackets?

Mr. SCHNEEBELI. We have incorporated a major provision in this legislation—known as IRA—which allows the fellow who works for the gas station owner and is not covered by a pension plan to contribute up to $1,500 to a retirement account and receive a deduction for it. This is something new and takes care of the very limited income people. This was proposed by the administration and is a provision in which the committee is very proud.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. SCHNEEBELI was allowed to proceed for 2 additional minutes.)

Mr. SCHNEEBELI. It allows the individual who works for the gas station owner—just the ordinary attendant or a farmer to provide for his retirement via the tax system. It will cost about $350 million to have this IRA approach incorporated into the bill. It is for the class of people the gentleman is inquiring about.

Mr. SEIBERLING. I still raise the question as to whether this committee is going to deal with the loophole closing and the tax relief which the average employed person in this country is interested in and whether we will close some of the gaping loopholes now existing in the tax laws.

Mr. SCHNEEBELI. As the gentleman knows, currently we are having executive sessions on windfall profits taxes. Following that it is my understanding the majority leaders on our committee plan to begin work on general tax reform. That is my understanding. We are discussing tax reform at the present time which will bring back to the Treasury several billion dollars.

Mr. SEIBERLING. Does that include relief for the people paying the payroll tax? Will that subject be included in this tax reform also?

Mr. SCHNEEBELI. I defer to the chairman of the committee in that regard.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words.

First, in response to the question of my friend, this bill is one that does contain a great deal of tax reform. We have set limits on corporate plans and this provision for the self-employed improves the equity of the law.

Reform sometimes includes increased benefits. What we have to do is to bring into balance as much as we can the tax treatment for the self-employed as compared to the corporate community, and this provision in the bill is an effort in this direction. We are proceeding on tax reform. We are doing it now on an energy bill, as my friend the gentleman from Pennsylvania said, and we will be proceeding forthwith to general tax reform. There will be major tax reform before the House this year.

But let me go on with the subject and point out that the self-employed pension provisions do involve tough antidiscrimination rules. The plan cannot be for just the doctor or the lawyer. The plan has to be for all the employees in the business organization. Let me read into the RECORD percentages which indicate that doctors and lawyers are not the only ones involved of the self-employed under these plans, 33.8 percent were physicians, surgeons, optometrists, and other persons in medical organizations; then the dentists have 8.3 percent and the legal services have 8.9 percent; the accounting and auditing services have 2.8 percent; finance, insurance and real estate, 5.6 percent; agriculture, 9.2 percent of the total; retail and wholesale trade and manufacturing, 15.2 percent; ministers and teachers have less than 1 percent; and all others have 15.9 percent—so these plans are spread across the whole community of self-employment in this Nation. It has been a very basic part of our business life.

It seems to me this is a most equitable treatment and one that deserves the support of the House. I hope we will vote down the amendment.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in support of this bill.

I have a few questions and I will pose them to the gentleman from Oregon (Mr. ULLMAN) after stating a hypothetical case.

My concern is that we are permitting a self-employed person to set aside $7,500 a year as a maximum figure, but another person who is not self-employed, I will call him a wage earner for reference, is only allowed to set aside $1,500 a year.

The thrust of my question is: What equity would there be in permitting the self-employed person to set aside $7,500,

while the one who is not self-employed is limited to $1,500?

Let me give the Members a hypothetical case. We have a couple of nearly identical twins, Abel and Mabel, that go to medical school, that graduate with honors.

Abel joins the Kiwanis Club. He is really quite a guy and the first thing you know he has patients coming in so fast he cannot handle them.

Mabel, on the other hand is a medical genius, but she cannot attract trade. She is starving to death down the street.

Abel says to Mabel, "Come work for me. You are a wage earner. You are not self-employed. I will give you $50,000 a year."

So Mabel goes to work for Abel. Abel has left only $50,000 per year after his practice to set aside $7,500 for his pension; but his dear identical twin sister, Mabel, who is not self-employed, can only set aside $1,500 per year for her pension.

So what happens? At retirement time Abel gets $81,000 per year, but Mabel gets only $13,000 per year.

Mrs. GRIFFITHS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentlewoman from Michigan.

Mrs. GRIFFITHS. The gentleman has stated here if Abel sets aside $7,500, he has to cover all his employees in the plan, so he has to take care of her. He has $80,000 to cover her $1,500.

Mr. DANIELSON. I left one link out of my presentation. Two days after Mabel goes to work for Abel, she went down the street and went to work for someone otherise not covered; but the figures remain the same. However, since she is not self-employed, she is restricted to $1,500, but Abel gets $7,500 toward the $81,000.

Mrs. GRIFFITHS. But Abel gets to cover all his employees. He does not get the benefit of $7,500.

Mr. DANIELSON. But he has no other employees.

Mrs. GRIFFITHS. He can still have $1,500, but most people do not set aside that much.

Mr. DANIELSON. The point is that it is a constitutional classification. Is this a proper classification? Is it proper under our laws to permit a self-employed person to have a tax deferment on $7,500 a year, while a person not self-employed has a tax deferment on only $1,500 per year?

Mrs. GRIFFITHS. How about a corporate president that gets $25,000, does that bother the gentleman?

Mr. DANIELSON. That bothers me, too; but at the moment I am bothered about the reason why this person gets $1,500 and the other person gets $7,500.

Mrs. GRIFFITHS. Because the plan is on $7,500, that covers everybody.

Mr. DANIELSON. I respectfully submit it is not a constitutional classification and I hope that the committee in conference will give serious consideration to this.

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

Mr. DANIELSON. Mr. Chairman. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, I do not know where the gentleman got his illustration from, and I respect the gentleman's right to use it, but the facts are not correct in the illustration.

If Mabel went to work for Abel——

Mr. DANIELSON. Mabel left. They could not get along.

Mr. GIBBONS. The first day she went to work for him, she was covered by a plan. He had to contribute to the fund on a nondiscriminatory basis the same amount for her that he contributed for himself on a percentage basis; the same percentage. He could not discriminate against her. She was covered by the plan on the first day, and that is far more protection for her than she would get if she went to work for a corporate employer.

She may have to work for a corporate employer for 10 years before she would be covered by the plan, so I do not know where the illustration came from, but the facts are wrong.

Mr. DANIELSON. Mr. Chairman, I respectfully submit that there are some non-self-employed people, some wage earners not covered by a pension plan, who would wish to set aside $7,500 per year, but who would be limited to $1,500. My contention is simply this: I am going to support the bill, but everyone should have the same right to set aside a pension.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to rise in support of the provisions of title II which pertain to some very forward looking improvements in the retirement system that we are developing in this country to assist individuals to develop voluntary types of individual retirement programs and to improve H.R. 10 retirement plans.

No one claims that our various types of deferred compensation programs are perfect. Of course, the very fact that we are making these amendments is an acknowledgment that we are trying to improve profit sharing plans and pension programs and various types of retirement programs such as H.R. 10 and also this new innovation, the individual retirement account.

Mr. Chairman, I think that the Ways and Means Committee deserves a great deal of credit for offering for our consideration improved and new benefits for self-employed and wage earners which will bring greater equity into the retirement situation. I want to point out that even with the proposed increase in deductible contributions to H.R. 10 plans, I refer to the $7,500 maximum deduction, there are still many advantages to a corporate type of profit-sharing plan or pension plan as compared to H.R. 10 plans.

So, I support the purpose of these amendments in this legislation. These amendments do help to bring the H.R. 10 plans a little closer to broader benefits permitted now to deferred compensation programs authorized for corporations. Let us not apologize for the type of deferred compensation programs that Congress has already enacted with respect to corporations. As a matter of fact, they are very salutory types of programs, and we want to continue them. They encourage savings and capital formation which is the lifeblood of the free enterprise system. We want voluntary retirement programs that encourages thrift and initiative.

Mr. Chairman, I also point out with respect to the new individual retirement accounts, that these accounts will be inferior in important respects to H.R. 10 plans. H.R. 10 plans continue to be inferior in many important respects to corporate deferred compensation plans. This legislation is starting on the road to providing some equity to the wage earner, the self-employed person, since both can take advantage of the tax savings provisions for establishment of individual retirement accounts.

This proposal as afforded by the Ways and Means Committee is a good proposal. It should not be crippled by the elimination of the higher benefits for H.R. 10 plans. This legislation is an encouragement to the self-employed people of this country. It gives the self-employed middle-income person a more equitable treatment, and it also gives an individual who is not a part of any qualified plan an opportunity to put away some money for his old age instead of having to rely upon social security and the Government to take care of him.

We are talking about the taxpayers' money; he has earned it, and he ought to be allowed to defer the taxes on some of it to a later time the same way the law permits this to corporate employees.

Mr. MAYNE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the Reuss amendment. Ladies and gentlemen of the House, there are many sections in this bill which are designed to provide people who work for wages with legitimate tax relief. I am for those provisions, and the bill's other needed pension reforms, many of them similar to earlier pension reform measures I had cosponsored.

I commend the House Ways and Means Committee for including them in the bill. However, the Reuss amendment now before us will deprive the independent businessman, the small businessmen in the small towns of America, of having adequate opportunity to more equitably and properly participate in legitimate tax relief.

Up until recent years farmers have not enjoyed enough earned income to be very concerned about income tax liability to any great extent. But with farm income having finally reached more adequate levels, there is no question but what this amendment will also prevent the farmers of the country from being able to participate in this type of legitimate tax relief to the extent to which they should be entitled.

I do not feel that we should support such an amendment. We should retain in this bill those provisions which at long last allow some relief to the great middle class of this country which has so long had to bear the principal tax burden. They are the forgotten people of this

country, the self-employed and the small businessmen. It is about time we did something for them.

Mr. Chairman, I believe the committee bill will help provide this needed relief, and that this amendment, by refusing to raise the $2,500 limitation on tax deductibility of contributions to retirement plans, will be very destructive to the interests of the great middle classes, and, more particularly, the small businessmen and the farmers of America.

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

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

Mr. DENNIS. Mr. Chairman, I would like to associate myself with the remarks of the gentleman in the well.

While I am on my feet, I would like to take the opportunity especially to compliment the gentlewoman from Michigan for her very fine presentation. I think we will miss her around here in the future when these matters come before the House.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MAYNE. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in strong opposition to the Reuss amendment which would strip from the bill the increase in benefits for Keough plan programs set up by the self-employed, by small businessmen and by farmers and others.

I am at a loss to understand why, when we are making the effort to upgrade pension programs generally, we should not improve at the same time the individual, self-help retirement programs.

Undoubtedly, the majority of the House will recognize the contradiction of encouraging some to improve their retirement programs while discouraging others that would occur if the Reuss amendment is adopted. I trust it will not be.

While we are constantly doing things to improve the lot of those who work for large corporations or those who receive benefits because of union efforts, we should also seek to help small businessmen and their employees, and farmers, and their employees.

The provisions of the pension bill will help small businessmen attract and reward employees through improved fringe benefits just as larger corporations can do with their larger resources.

Finally, any improvement in the incentives to plan for retirement will increase the number of people not totally dependent upon social security for their retirement annuity. This will permit them to be self-supporting more easily and reduce the number of elderly who are not self-sufficient and dependent upon welfare programs.

I hope the Reuss amendment will be defeated, Mr. Chairman.

Mr. MAYNE. Mr. Chairman, the Reuss amendment would strike those provisions of title II of the pension reform bill which are designed to provide some measure of legitimate tax relief to the middle class which has too often been ignored when the House Ways and Means Committee hands out tax breaks. The amendment would seriously affect some 30 million self-employed persons, and their employees, most of whom are not now covered by any retirement program.

The Self-Employed Individuals Retirement Act of 1962, H.R. 10, self-employed individuals—such as farmers, owners of unincorporated businesses, professional people and partners in partnerships—to defer tax liability on as much as $2,500 or 10 percent of their annual adjusted gross income, whichever is the lesser, when set aside for retirement purposes, in much the same way as these persons could do for their employees under the then-existing law. That legislation was intended to remove discrimination in tax treatment against self-employed persons who wanted to accumulate savings for retirement.

Many self-employed individuals have complied with the H.R. 10 requirements and built up savings for their retirement. By 1968, 246,000 individual taxpayers had taken advantage of Keogh plan deductions.

While H.R. 10 has often been described as being of particular benefit to professional persons, I would like to point out that many farmers have taken the opportunity to set aside for their retirement through Keogh plans, and they would like to increase their participation. More than 20,000 farmers took Keogh plan contribution deductions in 1968, the year most tax returns were surveyed by occupation. That is about 10 percent of the total of those who did.

Thus, there were more farmers than there were lawyers or accountants or dentists or persons in finance, insurance, and real estate who utilized the Keogh plans by 1968.

In the 5 years since 1968, the number of taxpayers utilizing these Keogh plan tax deductions has increased by about 63 percent, to an estimated 402,600 individuals for this last tax year of 1973. The estimated total of $599,500,000 in contributions toward retirement plans qualified for tax deduction represented a tax saving for these self-employed individuals, whether farmers, small businessmen or professional men and women, of some $214 million for the tax year 1973.

Many, many more self-employed Americans are eligible to set up Keogh retirement plans and take the deferral of tax on their contributions until the year they draw their retirement benefit, and they should be encouraged to do so.

I think it is in the national interest to insure this participation by the middle-class American self-employed businessman or farmer in building adequate retirement funds so that he may face his golden years in comfort and without hardship, and without having to rely entirely upon relatively limited social security benefits.

In order to obtain greater participation, however, we must remove inequities in the present law. The steady inflation since enactment of the Self-Employed Individuals Retirement Act in 1962 has made many retirement plans no longer adequate. Many plan participants argue that the $2,500 or 10 percent of earned income maximum is too low to provide an adequate accumulation of funds for retirement. Furthermore, the present low ceiling discriminates against the self-employed compared with corporate executives who are participating in regular corporate pension plans which have no effective tax-deductible limits under the existing law. Because of this inequity, in recent years many self-employed individuals have avoided the limited H.R. 10 plans by incorporating for the sole purpose of setting up qualified corporate pension plans for themselves.

President Nixon early recognized the need to make the Keogh plan more equitable. Many of his proposed reforms were incorporated by the Senate in the pension reform legislation it passed and by the House Ways and Means Committee in title II of the present bill.

The bill raises the existing deduction limitations for H.R. 10 plan contributions from 10 percent of self-employment income up to a $2,500 annual maximum, to a new maximum of 15 percent of income or $7,500, whichever is the lower. A minimum of $750 per year may be deducted without regard to the percentage limitation. For the purposes of the H.R. 10 antidiscrimination test, only the first $100,000 in compensation is to be considered in calculating the contribution percentage. Thus a self-employed plan participant using the full $7,500 contribution allowance would have to make a pension contribution in behalf of all qualified employees equal to 7.5 percent of their compensation.

Without this provision, the percentage contribution of a self-employed owner taking the $7,500 maximum would progressively decline as his income rose above $100,000, thus undermining the protection provided his employees by the antidiscrimination requirement.

The bill further reduces the inequities in the tax treatment of self-employed individuals as compared to corporate employees, by providing overall limitations on the accumulation of funds in qualified pension trusts out of tax-sheltered dollars, in general providing that a qualified pension trust may not provide a defined benefit in excess of $75,000 a year or 100 percent of the employee's average high 3 years of compensation. Thus there will be less incentive for self-employed individuals to incorporate. At the same time, the limitations provided by the House Ways and Means Committee are sufficiently generous to accommodate the vast majority of employees covered by Sears employee-retirement plans and similar plans which might have been endangered by the limitation proposed in the pension bill previously passed by the Senate.

The Reuss amendment would unwisely strike this forward step, these important improvements provided by the House Ways and Means Committee. It would preserve existing inequities in the law. It unfairly discriminates against the burdened middle class taxpayer, self-em-

ployed farmers and small businessmen whose continued vigor and independence are vital to the American system and way of life. I respectfully call upon everyone in this Chamber to join in decisively rejecting this unwise amendment.

The CHAIRMAN. The question is on the amendments, offered by the gentleman from Wisconsin (Mr. REUSS).

The amendments were rejected.

AMENDMENT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONABLE: Page 280, after the period in line 21, insert:

Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(5) Cost-of-living adjustment.—The Secretary or his delegate shall adjust annually the $7,500 amount in paragraph (1), in paragraph (2)(A), in section 401(e), and in section 1379(b)(1)(B) for increases in the cost of living in accordance with regulations prescribed by the Secretary or his delegate. Such regulations shall provide for adjustment procedures which are similar to the procedures used to adjust primary insurance amounts under section 215(1)(2)(A) of the Social Security Act. For purposes of this paragraph, the base period taken into account shall be the calendar quarter beginning October 1, 1973."

Mr. CONABLE. Mr. Chairman, I shall not take 5 minutes to speak in support of this amendment. It is obvious what this amendment does.

It takes the $7,500 maximum provided by the bill on the Keogh-type plan and makes it subject to adjustment for cost of living. We have a similar cost-of-living evaluator elsewhere in the bill.

For instance, with respect to the $75,000 maximum defined benefit limitation, included in the provision relating to corporation pensions, we provide for a cost-of-living adjustment which would permit an upward movement of this already generous figure.

There are many people who are unhappy that we have imposed such a liberal corporate limitation, but we have, and it seems to me entirely appropriate if we are going to do it with respect to corporate pensions, we should also do it with respect to the Keogh-type plan.

The Keogh-type plan has not been changed for 12 years. It may be some time before it is changed again. We should take into account at this time the probability that an upward adjustment would be in keeping with the equities granted to those who serve under corporate pension plans.

Mr. SCHNEEBELI. Will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. SCHNEEBELI. Mr. Chairman, I support the gentleman from New York in his amendment regarding the cost-of-living bonus for Keogh plans, because in two or three other areas of this legislation a cost-of-living amendment has been incorporated. I think the gentleman is entirely right, and I ask my colleagues to support his amendment.

Mr. CONABLE. I thank my colleague. I think one important thing to keep in mind with respect to the Keogh-type plans is that if we have a permissible maximum figure compensating for the complications a Keogh plan imposes on self-employed people, they will have the incentive to go into this type of plan instead of into IRA and in the process they will, of course, have to cover their own employees.

The purpose of this bill generally is to extend the benefits of tax deferral for retirement purposes and to extend the coverage to more people than are presently covered under our piecemeal voluntary retirement system.

Mr. BURLESON of Texas. Will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. BURLESON of Texas. I wish to associate myself with the proposal of the gentleman from New York. It seems to me this is the pattern followed in the retirement plan for Federal employees, including Members of Congress. The cost-of-living provision in the Federal retirement program provides for increases commensurate with increases in the cost of living, whenever there has been at least a 3-percent increase in the Consumer Price Index.

This is a modest approach in view of the current trends and the anticipated situation in the future.

Mr. Chairman, I think the proposal offered by the gentleman from New York (Mr. CONABLE) is a wise proposal, is just, and is equitable under this system.

Mr. CONABLE. Mr. Chairman, I thank the gentleman from Texas.

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

Mr. CONABLE. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I would like to compliment the gentleman from New York on offering his amendment. I think it is a very responsible amendment, and I for one would like to associate myself with the amendment.

Mr. CONABLE. Mr. Chairman, I urge support of the amendment that I have offered.

Mr. ULLMAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. CONABLE) and I move to strike the requisite number of words.

Mr. Chairman, the committee worked its will on this matter in a very careful way. We considered all aspects of the problem. In this instance we are increasing the maximum self-employed contribution from $2,500 to $7,500. The provisions where we did put the cost-of-living feature in were those restricting the corporate outer limits. It seems to me that this threefold increase is enough for now. If further increases are needed in the future Congress can consider the provisions again at some subsequent date. It also seems to me that it would be wise for the House not to extend the cost-of-living factor any further because if we do, then we ought to extend it to the $1,500 provision. So let us leave it in the responsible way in which the committee brought it to the floor, and pass it, and consider this matter further at another time if this becomes necessary.

Mr. REUSS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from New York (Mr. CONABLE).

Mr. Chairman, I will not take the full 5 minutes, but it is odd here to hear four or five members of the tax-writing Committee on Ways and Means trying to devise new ways to give away the revenues. If we adopt this amendment on top of the $7,500 preference which is in there for those Keogh bill beneficiaries who make $50,000 a year, we would be adding in this year of 8-percent inflation, another 4-percent preference, for a total of $11,500.

Nobody talks about a cost-of-living break for the average hard-pressed American worker earning $11,000, $12,000, $14,000 or $15,000 a year, who is being belabored by ever-increasing payroll taxes imposed upon him under a closed rule from the Committee on Ways and Means.

Mr. Chairman, I hope that this amendment will be overwhelmingly voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. CONABLE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ANNUNZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 183, noes 206, answered "present" 1, not voting 41, as follows:

[Roll No. 54]

AYES—183

Abdnor	Edwards, Ala.	McDade
Anderson, Ill.	Erlenborn	McEwen
Archer	Esch	McKinney
Arends	Eshleman	Madigan
Armstrong	Fish	Mallary
Ashley	Frenzel	Mann
Bafalis	Frey	Martin, N.C.
Bauman	Froehlich	Mathias, Calif.
Beard	Fuqua	Mathis, Ga.
Bell	Gilman	Milford
Biester	Goldwater	Minshall, Ohio
Blackburn	Goodling	Mitchell, N.Y.
Bray	Gross	Mizell
Broomfield	Grover	Montgomery
Brotzman	Gubser	Moorhead, Calif.
Brown, Mich.	Gude	Myers
Brown, Ohio	Haley	Nelsen
Broyhill, Va.	Hammer-schmidt	O'Brien
Buchanan	Hanrahan	Parris
Burgener	Hansen, Idaho	Pettis
Burleson, Tex.	Harsha	Peyser
Butler	Hastings	Poage
Byron	Heckler, Mass.	Price, Tex.
Carter	Heinz	Pritchard
Cederberg	Henderson	Quie
Chappell	Hillis	Quillen
Clancy	Hinshaw	Railsback
Clausen, Don H.	Hogan	Regula
Clawson, Del	Horton	Rhodes
Cleveland	Hosmer	Rinaldo
Cochran	Huber	Robinson, Va.
Cohen	Hudnut	Robison, N.Y.
Collier	Hutchinson	Roe
Collins, Tex.	Jarman	Rogers
Conable	Johnson, Colo.	Roncallo, Wyo.
Conlan	Johnson, Pa.	Roncallo, N.Y.
Conte	Kemp	Rousselot
Coughlin	Ketchum	Roy
Cronin	King	Runnels
Daniel, Dan	Landgrebe	Ruppe
Daniel, Robert W., Jr.	Leggett	Ruth
Davis, Ga.	Lent	Sandman
Derwinski	Lott	Sarasin
Dickinson	Lujan	Satterfield
Downing	McClory	Scherle
Duncan	McCloskey	Schneebeli
	McCollister	Shoup

Shriver	Taylor, Mo.	Wiggins
Shuster	Teague	Wilson, Bob
Skubitz	Thomson, Wis.	Wilson, Charles, Tex.
Smith, N.Y.	Thone	Winn
Snyder	Towell, Nev.	Wolff
Spence	Treen	Wyatt
Stanton, J. William	Van Deerlin	Wydler
Steele	Vander Jagt	Wyman
Steelman	Veysey	Young, Alaska
Steiger, Ariz.	Walsh	Young, Fla.
Steiger, Wis.	Wampler	Young, Ill.
Stratton	Ware	Young, S.C.
Symms	White	Zion
Talcott	Whitehurst	Zwach
	Widnall	

NOES—206

Abzug	Gaydos	Natcher
Adams	Gettys	Nedzi
Addabbo	Giaimo	Nix
Alexander	Gibbons	Obey
Anderson, Calif.	Ginn	O'Hara
	Gonzalez	Owens
Andrews, N. Dak.	Grasso	Passman
	Green, Pa.	Patman
Annunzio	Griffiths	Patten
Aspin	Gunter	Pepper
Badillo	Guyer	Perkins
Barrett	Hamilton	Pickle
Bennett	Hanley	Pike
Bergland	Hanna	Podell
Bevill	Hansen, Wash.	Preyer
Biaggi	Harrington	Price, Ill.
Bingham	Hawkins	Randall
Blatnik	Hays	Rangel
Boggs	Hébert	Rarick
Boland	Hechler, W. Va.	Rees
Bolling	Helstoski	Reid
Bowen	Hicks	Reuss
Brademas	Holifield	Riegle
Breaux	Holt	Rodino
Breckinridge	Holtzman	Rooney, Pa.
Brinkley	Howard	Rosenthal
Brooks	Hungate	Roush
Brown, Calif.	Hunt	Roybal
Burke, Calif.	Ichord	Ryan
Burke, Mass.	Johnson, Calif.	St Germain
Burlison, Mo.	Jones, Ala.	Sarbanes
Casey, Tex.	Jones, N.C.	Seiberling
Chisholm	Jones, Okla.	Shipley
Clark	Jordan	Sikes
Clay	Karth	Slack
Collins, Ill.	Kastenmeier	Smith, Iowa
Conyers	Kazen	Staggers
Corman	Koch	Stanton, James V.
Cotter	Kyros	
Culver	Landrum	Stark
Daniels, Dominick V.	Latta	Steed
	Lehman	Stephens
Danielson	Long, La.	Stubblefield
de la Garza	Long, Md.	Stuckey
Delaney	McCormack	Studds
Dellums	McFall	Symington
Denholm	McKay	Taylor, N.C.
Dennis	Macdonald	Thompson, N.J.
Dent	Madden	Thornton
Diggs	Mahon	Tiernan
Dingell	Maraziti	Udall
Donohue	Martin, Nebr.	Ullman
Dorn	Matsunaga	Vander Veen
Drinan	Mayne	Vanik
Dulski	Mazzoli	Vigorito
du Pont	Meeds	Waggonner
Eckhardt	Melcher	Waldie
Edwards, Calif.	Metcalfe	Whalen
Eilberg	Mezvinsky	Whitten
Evans, Colo.	Miller	Williams
Evins, Tenn.	Minish	Wilson, Charles H., Calif.
Fascell	Mink	
Findley	Mitchell, Md.	Wright
Flood	Moakley	Wylie
Flowers	Mollohan	Yates
Flynt	Moorhead, Pa.	Yatron
Ford	Morgan	Young, Ga.
Forsythe	Mosher	Young, Tex.
Fountain	Murphy, Ill.	Zablocki
Fraser	Murphy, N.Y.	
Fulton	Murtha	

ANSWERED "PRESENT"—1

Sebelius

NOT VOTING—41

Andrews, N.C.	Dellenback	Mills
Ashbrook	Devine	Moss
Baker	Fisher	Nichols
Brasco	Foley	O'Neill
Broyhill, N.C.	Frelinghuysen	Powell, Ohio
Burke, Fla.	Gray	Roberts
Burton	Green, Oreg.	Rooney, N.Y.
Camp	Jones, Tenn.	Rose
Carey, N.Y.	Kluczynski	Rostenkowski
Carney, Ohio	Kuykendall	Schroeder
Chamberlain	Litton	Sisk
Crane	McSpadden	Stokes
Davis, S.C.	Mailliard	Sullivan
Davis, Wis.	Michel	

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LONG OF LOUISIANA

Mr. LONG of Louisiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Louisiana: Pages 280, 281, and 288, strike out "7,500" and insert "$6,000".

Mr. LONG of Louisiana. Mr. Chairman, during the period that I was out of the U.S. Congress, I had an opportunity to participate for a number of years under the Keogh plan. Today I voted against the Reuss amendment because of the fact that I felt that there was a need for some increase in the $2,500 that is tax deferrable, but it seems to me to be unconscionable to go from $2,500 to treble that amount, which is $7,500.

Mr. Chairman, I have a great deal of respect for the gentlewoman from Michigan. I thought that the point that she made with respect to the pensions of Members of Congress and corporate executives was a valid point.

Mr. Chairman, the amount that I suggest here as a compromise is $6,000. It more than doubles the amount that is presently tax deferrable. I think that it is a reasonable compromise. I think it is a more than reasonable compromise. I am stretching the limits of my own imagination to be able even to suggest one this large.

Mr. Chairman, there is no reason to go again over the rhetoric we have been over three times today while discussing the other amendments that have been considered.

Mr. Chairman, I earnestly request consideration of my amendment reducing the amount from $7,500 to $6,000. Actually, what the amendment really does is increase the deferrable amount from $2,500 to $6,000 per year.

Mr. Chairman, I ask consideration of my amendment.

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

Mr. LONG of Louisiana. Mr. Chairman, I yield to the gentleman from Wisconsin.

Mr. REUSS. Mr. Chairman, I commend the gentleman for his amendment. Is it not true that under his amendment an engineer working for a corporation which has no qualified pension plan, under this bill would be entitled to a maximum of $1,500 a year of tax free set aside; whereas under the committee proposal a self-employed person, a self-employed engineer, would be entitled to $7,500? All the gentleman wants to do is reduce that to $6,000, which would still be four times as much as the similar engineer working for a corporation gets.

Mr. LONG of Louisiana. Mr. Chairman, as I understand it, that is exactly what would happen. I heard the colloquy here all afternoon, and I have listened intently to the debate because I wanted to offer this amendment. I heard about the small businessman, the average man, the type of people that built America and their need for this $7,500.

Do the Members know what a person would have to make in order to get maximum participation under this program? If this is the average man that helped build America, he did not come from the State of Louisiana and he did not come from the Eighth Congressional District, because he would have to make $50,000 a year to reach maximum participation under this program.

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

Mr. LONG of Louisiana. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I wish to commend our colleague. I think he is offering a very fine and worthy amendment, and I would certainly like to support it.

Mr. Chairman, I will support the amendment of the gentleman from Louisiana (Mr. LONG) to restrict the increase in the level of tax deductible contributions to H.R. 10 plans to $6,000. This is not the time or the place for the committee's proposed 300-percent increase in this special tax program, which benefits relatively few members of our society.

In 1962, the Congress passed H.R. 10, sponsored by our former colleague, Congressman Keogh. This act, known as the Self-Employed Retirement Act of 1962, provided that every self-employed individual can contribute for himself each year a total of 10 percent of his "earned income" for that year or $2,500, whichever is less. To the extent of this limit, the contribution is deductible by him in determining adjusted gross income. His contribution to a plan must be out of his earned income derived from his business.

The bill before us today increases the maximum allowable deductible contribution by the self-employed to 15 percent of earned income up to $7,500 a year.

In other words, at least part of the formula has been increased by 300 percent.

I have no objection to recognizing the impact of inflation by modifying the Keogh plan to adjust it to the cost of living. It seems to me, however, that this change would be better handled in the tax reform efforts of the Ways and Means Committee than hastily incorporated in the pension legislation. These preferences, once granted in the pension bill, will be almost impossible to modify in later tax reform legislation.

There is no question that a 300-percent increase is excessive. Since 1962, the cost of living has gone up about 50 percent. Since 1962, social security benefits have been increased approximately 104 percent. Perhaps self-employment contributions should go up as much as social security benefits—but there is absolutely no justification for them to go up twice as much as social security benefits.

The limited effect of the Keogh plan can be seen by the fact that 45 percent of the plan's benefits go to 1 percent of the Nation's taxpayers. It has been calculated that setting aside $7,500 per year, for 30 years at a 6-percent rate of interest, would accumulate, at the end of that time, $592,500. This would provide a lifetime annuity of $64,000 per year at the retirement age of 65. I question whether the demands on the Federal Treasury and the Tax Code can justify this type of tax subsidy for such a limited number of persons.

I find excessive release of limited tax revenues to this group of citizens incom-

prehensible, when the Congress consistently refuses to provide tax reform and tax relief to those who need it most. For about an hour last month, the Senate adopted an amendment to increase the personal exemption from $750 to $850. That amendment would have helped cut the impact of the recession by increasing consumer spending. The tax savings from the provision would just match the rate of inflation since the personal exemption was increased in 1971. That type of a tax break makes some sense.

The provision before the committee—to triple the maximum tax deductible contribution for savings—makes no sense. It does not stimulate consumer purchasing power—in fact it could have the opposite effect. The size of the increase has no relation to the rate of inflation.

Supporters of the Keogh plan have argued, quite rightly, that benefits under the plan are not as favorable as other pension plans for corporate executives. Many corporate executives are able to take advantage of tax law provisions that permit enormous retirement tax deductions. As a result, many professionals—doctors, accountants, lawyers—have been leaving the Keogh plan and incorporating to take advantage of the better provisions available to people in corporations.

But an overly generous tax provision for corporate executives does not justify excessive increase in the Keogh plan: that argument is the double pickpocket argument—the argument that two wrongs make a right. I would hope that during the tax reform hearings we could deal with questions of corporate retirement and special treatment for executives of closely held corporations. We should seek to close that corporate tax loophole rather than expand it to new areas.

Again, I urge adoption of the amendment limiting the increase in Keogh contributions to $6,000.

WHO BENEFITS FROM NET EXCLUSION OF PENSION CONTRIBUTIONS IN PLANS FOR SELF-EMPLOYED (KEOGH PLANS)

[Calendar year 1971]

Adjusted gross income class	Number of returns per income class	Estimated distribution (in millions)	Tax savings in dollars per return
0 to $3,000	18,063,181	----------	----------
$3,000 to $5,000	10,238,897	$7	$0.68
$5,000 to $7,000	9,410,802	10	1.06
$7,000 to $10,000	12,901,228	13	1.01
$10,000 to $15,000	14,104,611	22	1.56
$15,000 to $20,000	5,541,347	18	3.25
$20,000 to $50,000	3,596,348	96	26.69
$50,000 to $100,000	351,669	71	201.88
$100,000 to up	77,899	13	166.88

Mr. ULLMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am very reluctant to oppose the amendment offered by my good friend, the gentleman from Louisiana, but the fact of the matter is that this issue was very carefully gone into by the committee.

A lawyer working for a corporation could get $25,000 set aside, depending of course upon his salary and upon the corporate plan. A lawyer or an engineer working for himself, we say, should get $7,500. This does not take away the incentive to go to work for a corporation, because he could get much more as a corporate executive in retirement, but at least it does give him some incentive to remain self-employed if that is his desire.

In terms of revenue loss, the difference between $6,000 and $7,500 is $5 million in revenue. There is only $5 million of cost involved. The committee went into the cost of the committee provision and alternatives very carefully.

In my judgment, this is a matter on which the committee position is completely sound. The figure of $7,500 is a sound figure.

Mr. Chairman, I hope that the Members of the House will stay with the committee and stay with that figure.

Mr. SCHNEEBELI. Mr. Chairman, I rise in opposition to the amendment.

I will merely state that I support the position of the gentleman from Oregon. If we limit self-employed contributions to $6,000, it will represent less than 25 percent of what we allowed for employee plans, which is $25,000 a year in the case of defined contribution plans.

It seems to me the self-employed who have the same capacity and needs as salaried employees should be allowed at least 25 percent to 30 percent of what they are allowed.

We have heard the other arguments previously from the gentlewoman from Michigan and the gentleman from Oregon, and I reiterate these arguments.

Mr. Chairman, $7,500 is a reasonable figure, and I urge the Members should stay with that figure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LONG).

RECORDED VOTE

Mr. REUSS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 63, noes 323, answered "present" 1, not voting 44, as follows:

[Roll No. 55]

AYES—63

Abzug	Edwards, Calif.	Passman
Adams	Eilberg	Pickle
Addabbo	Flowers	Quie
Anderson, Calif.	Fraser	Rangel
	Green, Pa.	Reuss
Aspin	Hechler, W. Va.	Riegle
Badillo	Holtzman	Rosenthal
Barrett	Ichord	Ryan
Bevill	Johnson, Calif.	St Germain
Bingham	Kastenmeier	Sarbanes
Boggs	Koch	Seiberling
Bolling	Kyros	Stanton, James V.
Brademas	Lehman	
Breaux	Long, La.	Stark
Brown, Calif.	Long, Md.	Studds
Burke, Mass.	McFall	Tiernan
Chisholm	Madden	Vanik
Clay	Metcalfe	Waldie
Collins, Ill.	Mitchell, Md.	Yates
Dellums	Moakley	Young, Ga.
Diggs	Nelsen	Zwach
Eckhardt	Nix	

NOES—323

Abdnor	Ashbrook	Biester
Alexander	Ashley	Blackburn
Anderson, Ill.	Bafalis	Blatnik
Andrews, N. Dak.	Bauman	Boland
	Beard	Bowen
Annunzio	Bell	Bray
Archer	Bennett	Brinkley
Arends	Bergland	Breckinridge
Armstrong	Biaggi	Brooks
Broomfield	Harrington	Quillen
Brotzman	Harsha	Railsback
Brown, Mich.	Hastings	Randall
Brown, Ohio	Hawkins	Rarick
Broyhill, Va.	Hays	Rees
Buchanan	Hébert	Regula
Burgener	Heckler, Mass.	Reid
Burke, Calif.	Heinz	Rhodes
Burke, Fla.	Helstoski	Rinaldo
Burleson, Tex.	Henderson	Robinson, Va.
Burlison, Mo.	Hicks	Robison, N.Y.
Butler	Hillis	Rodino
Byron	Hinshaw	Roe
Carter	Hogan	Rogers
Casey, Tex.	Holifield	Roncalio, Wyo.
Cederberg	Holt	Roncallo, N.Y.
Chappell	Horton	Rooney, Pa.
Clancy	Hosmer	Roush
Clark	Howard	Rousselot
Clausen, Don H.	Huber	Roy
	Hudnut	Roybal
Clawson, Del	Hungate	Runnels
Cleveland	Hunt	Ruppe
Cochran	Hutchinson	Ruth
Cohen	Jarman	Sandman
Collier	Johnson, Colo.	Sarasin
Collins, Tex.	Johnson, Pa.	Satterfield
Conable	Jones, Ala.	Scherle
Conlan	Jones, N.C.	Schneebeli
Conte	Jones, Okla.	Shipley
Conyers	Jordan	Shoup
Corman	Karth	Shriver
Cotter	Kazen	Shuster
Coughlin	Kemp	Sikes
Cronin	Ketchum	Skubitz
Culver	King	Slack
Daniel, Dan	Landgrebe	Smith, Iowa
Daniel, Robert W., Jr.	Landrum	Smith, N.Y.
	Latta	Snyder
Daniels, Dominick V.	Lent	Spence
	Lott	Staggers
Danielson	Lujan	Stanton, J. William
Davis, Ga.	McClory	
de la Garza	McCloskey	Steed
Delaney	McCollister	Steele
Denholm	McCormack	Steelman
Dennis	McDade	Steiger, Ariz.
Dent	McEwen	Steiger, Wis.
Derwinski	McKay	Stephens
Dickinson	McKinney	Stratton
Dingell	Macdonald	Stubblefield
Donohue	Madigan	Stuckey
Dorn	Mahon	Symington
Downing	Mallary	Symms
Drinan	Mann	Talcott
Dulski	Maraziti	Taylor, Mo.
Duncan	Martin, Nebr.	Taylor, N.C.
du Pont	Martin, N.C.	Teague
Edwards, Ala.	Mathias, Calif.	Thompson, N.J.
Erlenborn	Mathis, Ga.	Thomson, Wis.
Esch	Matsunaga	Thone
Eshleman	Mayne	Thornton
Evans, Colo.	Mazzoli	Towell, Nev.
Evins, Tenn.	Meeds	Treen
Fascell	Melcher	Udall
Findley	Mezvinsky	Ullman
Fish	Milford	Van Deerlin
Flood	Miller	Vander Jagt
Flynt	Minish	Vander Veen
Ford	Mink	Veysey
Forsythe	Minshall, Ohio	Vigorito
Fountain	Mitchell, N.Y.	Waggonner
Frenzel	Mizell	Walsh
Frey	Mollohan	Wampler
Froehlich	Montgomery	Ware
Fulton	Moorhead, Calif.	Whalen
Fuqua		White
Gaydos	Moorhead, Pa.	Whitehurst
Gettys	Morgan	Whitten
Giaimo	Mosher	Widnall
Gibbons	Murphy, Ill.	Wiggins
Gilman	Murphy, N.Y.	Williams
Ginn	Murtha	Wilson, Bob
Goldwater	Myers	Wilson, Charles H., Calif.
Gonzalez	Natcher	
Goodling	Nedzi	
Grasso	O'Brien	Wilson, Charles, Tex.
Griffiths	O'Hara	
Gross	Parris	Winn
Grover	Patman	Wolff
Gubser	Patten	Wright
Gude	Pepper	Wydler
Gunter	Perkins	Wylie
Guyer	Pettis	Wyman
Haley	Peyser	Yatron
Hamilton	Pike	Young, Alaska
Hammer-schmidt	Poage	Young, Fla.
	Podell	Young, Ill.
Hanley	Preyer	Young, S.C.
Hanrahan	Price, Ill.	Young, Tex.
Hansen, Idaho	Price, Tex.	Zablocki
Hansen, Wash.	Pritchard	Zion

ANSWERED "PRESENT"—1

Sebelius

NOT VOTING—44

Andrews, N.C.	Foley	Nichols
Baker	Frelinghuysen	Obey
Brasco	Gray	O'Neill
Broyhill, N.C.	Green, Oreg.	Owens
Burton	Hanna	Powell, Ohio
Camp	Jones, Tenn.	Roberts
Carey, N.Y.	Kluczynski	Rooney, N.Y.
Carney, Ohio	Kuykendall	Rose
Chamberlain	Leggett	Rostenkowski
Crane	Litton	Schroeder
Davis, S.C.	McSpadden	Sisk
Davis, Wis.	Mailliard	Stokes
Dellenback	Michel	Sullivan
Devine	Mills	Wyatt
Fisher	Moss	

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. CHISHOLM. Mr. Chairman, a number of my colleagues intend to offer amendments to the pension legislation which we are considering today. I wish to speak in support of those amendments. Once one begins to study the pension issue it is very clear that there is a critical need for further reform for as the situation stands now those with the greatest need for pension protection and benefits are the least likely to receive it.

If you are low paid, female, a minority, or a part-time worker the chances of ever getting a pension are very poor. If on the other hand, you are a well-paid, white, male professional, you have a pretty good chance of receiving a decent pension.

Let me share with you some of the statistics compiled by the Department of Labor, HEW and the Treasury and printed in the publication entitled "Coverage and Vesting of Full-time Employees Under Private Retirement Plans: Findings From the April 1972 Survey" done on the 23 million workers covered by our private pension plans: Here are some verbatim quotes of the survey:

The proportion of men covered by a private pension or deferred profit-sharing plan was 45% greater than that for women and the rate for whites was almost 25% greater than that for persons of all other races.

Coverage rates rose sharply with earnings. Although only a fourth of the men earning less than $5,000 a year were covered, about ⅗ths of those earning more had coverage.

Vesting rates varied little by industry. Occupational differences were greater, however: professional and technical workers, managers, officers and craftsmen had the highest vesting rates.

Only 30% of the workers under 25 and 40% of the workers over 60 were covered vs. about ½ of those aged 25–59 who were covered.

Men were more likely to be covered than women (52% and 36% respectively), and whites were more apt to be covered than were persons of all other races (48% and 39% respectively.)

Most of the difference between the coverage rates stems from factors not associated with either age or tenure. Men have much higher coverage rates—usually by at least 10%—than women of the same age and the same length of service.

Those are pretty grim statistics and they bear out the old adage, "Them what has gets." What it means is you may work for years and may contribute to a pension plan for years and still never qualify for a pension.

The statistics for widows are even more cruel, only 2 percent are currently receiving survivors benefits. Because the vast majority of the elderly are women—11.6 million elderly women versus 8.4 elderly men—and because most elderly women—two-thirds are widows, it seems to me we have a special obligation to see that they are treated fairly and decently. Fortunately both the Ways and Means Committee bill and the Education and Labor bill provide for mandated survivors benefits. A participant may still opt out of the survivors benefit plan if they choose, but the legislation is much stronger now that it provides for opting out rather than opting into the survivors benefit program.

Because of the complexity of pension plans, in the past many participants were not even aware that their survivors were not covered and that they had to specifically request such coverage for their families. According to a questionnaire done on the Senate side, 68 percent of the plans responding indicated that they currently have an optional form of survivors benefit which needed positive selection.

One improvement that would be helpful in the survivors benefit section would be a requirement that both the participant and the survivor would have to approve opting out of the survivors benefit provision. Widows and widowers would thus be assured of knowing their financial status if their spouse should die before they do.

There is another provision of the Education and Labor version of the bill which I believe should be struck. I refer to the provision which requires that the participant and his or her spouse must have been married throughout the 5-year period ending on the annuity starting date or the date of death of the participant. When inquiry was made as to why this requirement was included in the bill it was indicated that it was to protect the pension fund from being drained by survivors who marry participants much older themselves. It was alleged that this was a problem with the survivors of black lung patients.

This may happen on occasion, but I do not believe that the incidence of May–December weddings is really any of our business. It is a bit of an insult to an older citizen to suggest that we have any business placing restrictions upon whom and when they should marry.

While it might be interesting to take this issue to court and see what kind of opinion Justice Douglas might write I would suggest that the section be deleted before it has to be taken to court. For those who want statistics I secured the following from the Library of Congress. According to the 1970 census for those persons who marry between the ages of 50 and 70 the average difference in age is 6 years.

In instances where it is the first marriage of both spouses, in 2 percent of the marriages the bride is 20 years or younger than the groom.

In instances where it is the first marriage of the bride and the remarriage of the groom, 5.2 percent of the brides are 20 years or younger.

In instances where it is the second marriage for both in only 3.2 percent of the cases is there an age difference of 20 years or more.

And in instances where it is the first marriage of the groom and remarriage for the bride in 0.4 percent of the cases the groom is 20 years younger.

In summary, the incidence of May-December marriages is not large at all. A requirement that the participant and spouse be married for the 5 years before retirement or death is totally unwarranted. It is an insulting restriction upon our senior citizens and could work a real hardship on older "newlyweds."

Part-time workers are also seriously neglected under the legislation before us. This is particularly critical because so many people, especially women and minorities, are employed on a part-time basis.

The majority of these people work part time—not because they want to—but because they must. They have no choice. Part time or seasonal work is the only employment available.

TABLE 34.—PERSONS WHO WORKED DURING 1971, BY FULL- AND PART-TIME JOB STATUS

Work experience	Men		Women	
	Negro and other races	White	Negro and other races	White
Total, all workers (thousands)	5,620	50,393	4,766	34,248
Percent	100.0	100.0	100.0	100.0
Year round, full time	59.2	66.8	42.4	41.7
Part year, full time	26.4	20.6	28.8	25.8
27 to 49 weeks	15.4	12.0	13.3	12.0
1 to 26 weeks	11.0	8.6	15.5	14.0
Part time	14.4	12.6	28.8	32.4

Source: U.S. Department of Labor, Bureau of Labor Statistics.

As you can see from the above chart in 1971 only about three-fifths of all minority men worked full-time year round as compared with two-thirds of the white men.

Even fewer of the working women worked full time, year round: The percentage of both white and nonwhite females working year-round full time was 42.4 percent versus 66.8 percent for white males.

The definitions of part-time and part-year work utilized in the chart are not the same as those set by the Internal Revenue Code: The chart defines part-year work as 6 months or less and part-time work as 34 hours a week or less, as compared to 5 months and 20 hours in the Internal Revenue Code. Since the Department of Labor does not break down part-time work into a 20-hour-a-week category, only an approximation was able to be found for the number of workers with that work pattern.

The closest figures to be found were the following:

PERCENTAGE AND NUMBER OF WORKERS WHO AVERAGED 1 TO 14 HRS. PER WEEK ON THEIR JOB IN 1972

	Percent	Number
White:		
Males	3.6	1,583,000
Females	9.1	2,315,000
Nonwhite:		
Males	4.4	200,000
Females	8.1	284,000

PERCENTAGE AND NUMBER OF WORKERS WHO AVERAGED 1 TO 29 HRS. A WEEK ON THEIR JOB IN 1972

	Percent	Number
White:		
Males	10.8	4,700,000
Females	26.2	6,689,000
Nonwhite:		
Males	13.4	616,000
Females	23.9	830,000

Using these figures to approximate the number of workers who averaged 1 to 20 hours per week, we can approximate the number of workers who can be excluded from pension plans according to the Internal Revenue Code's definition of part-time and part-year employees: About 19 percent of the non-white male workers and 15.2 percent of the white male workers, compared to approximately 30 percent of both white and nonwhite female workers.

Retail workers are typical of the workers who are hard hit by the lack of adequate part-time protection.

For example, 1.5 million women are employed as sales clerks in the retail trade—versus 827,000 men—but even of the women who are working full-time only one-fourth were covered by a private pension plan.

Another section of the legislation before us which I believe is highly discriminatory is the provision which requires that no vesting can take place before the age of 25. It works a special hardship upon young people and working women in general.

Let me discuss the latter first. The highest number of working women are in the labor force between the ages of 20 and 24. According to the 1970 census there are some 4,682,580 workers in this category. Most women, 80 percent, have their first child before the age of 25. They then leave the labor market and return to work after their children are fully grown or, as is the case with increasing numbers, when their children reach school age.

There is a provision in the proposed legislation which at first glance would seem to be of great benefit to working women. It is proposed that if an employee has worked for 4 years they can leave work for a period of up to 6 years and then if they return to the same job they will still be able to count those first 4 years as credit towards full vesting.

Unfortunately, because most women have their first child before the age of 25 and no credit for work before the age of 25 is allowed, the majority of our working women will never be able to receive any advantage of the 6-year break in service proposed in today's bill.

The no vesting before 25 years is also highly discriminatory toward blue collar youth. A college student, particularly one who takes any graduate work will not be affected by the 25-year rule because they enter the labor market at a later age but blue collar youth start work at 18. They work 7 years before they can begin to accumulate vesting time. The 25-year provision is justified by the allegation that the youth labor market is very mobile and that young workers change jobs so frequently that it would be expensive and difficult to maintain the necessary employment records. While it is true that youth change jobs more frequently than the population as a whole it is not as frequently as one might suppose. The Library of Congress reports the following statistics from Special Labor Force Report No. 35 of the U.S. Bureau of Labor Statistics. The statistics are from 1961 but that apparently was the latest date that these figures were prepared in this manner: 23.5 percent of all men aged 18 and 19 changed jobs; 24.8 percent of all men aged 20 to 24 years changed jobs; 22.2 percent of all women aged 18 and 19 changed jobs; and 16.3 percent of all women aged 20 to 24 years changed jobs.

These figures compare with the following labor mobility figures for the total work force: 11.0 percent of all men over the age of 14 changed jobs; and 8.6 percent of all working women over the age of 14 changed jobs.

As you can see, approximately one-fourth of the male workers under 25 and one-fifth of the female workers under 25 do change jobs but the vast majority of these young workers do not. Further, when one compares the mobility of young workers with the 11-percent mobility of the total male work force it seems to me we are being unreasonably discriminatory toward our young workers. I might note for the Members of the House that the National Student Lobby said that this provision "presumes that young people care little about pensions. You must realize, however, that thousands of their dollars are jeopardized, which is rightfully theirs upon retirement." As the young people in the streets put it, "This is a rip-off."

As you can see many aspects of the existing pension legislation and the proposed pension reform legislation work a great hardship on the poor, women, and minorities. The discrimination against women is particularly distressing because of the increase in female headed households. There has been a 15-percent increase in female headed households since 1959. This is particularly true with regard to minorities: 35 percent of all black families are headed by women and 64 percent of all poor black families are headed by women—1970 census.

But the average American family is affected as well. What has not been recognized by either this administration or this Congress is that women work not to make pin money or to buy luxuries but out of severe need. Take a look at the following chart from the Women's Bureau of the U.S. Department of Labor.

THE MARITAL STATUS OF WOMEN WORKERS IN MARCH 1972

Marital status	All women		Women of minority races	
	Number	Percent distribution	Number	Percent distribution
Total	32,939,000	100.0	4,176,000	100.0
Single	7,477,000	22.7	920,000	22.0
Married (husband present)	19,249,000	58.5	1,991,000	47.7
Husband's 1971 income:				
Below $3,000	1,925,000	5.8	281,000	6.7
$3,000 to $4,999	2,194,000	6.7	394,000	9.4
$5,000 to $6,999	2,926,000	8.9	406,000	9.7
$7,000 and over	12,204,000	37.1	910,000	21.8
Other marital status	6,213,000	18.9	1,265,000	30.3
Married (husband absent)	1,500,000	4.6	538,000	12.9
Widowed	2,570,000	7.8	412,000	9.9
Divorced	2,143,000	6.5	315,000	7.5

The 7.5 million single women who account for 22.7 percent of all working women are obviously working out of necessity so are the 6.2 million women who are widowed, separated, or divorced. They account for another 18.9 percent of the female work force. Finally, and most tellingly, there are the 4.1 million married women who are working because their husbands earn less than $7,000—equal to another 21.4 percent. They work because one paycheck is not enough to support the family. Their earnings help buy food, clothing, and shelter—the necessities of life.

When we add these three groups together, it is clear that 63.5 percent of all working women are working because of dire need. Their need becomes even more compelling when they become too old to work. For the incomes of our elderly women are among the lowest of all groups in the entire population. The median income of a 72-year-old woman in this country is $1,489. That is a bitter testimonial to how we treat our elderly women.

One of the problems elderly women face, both working women and recipients of survivors benefits is that separate actuarial tables are used when computing pension benefits women receive lower benefits than men.

This is defended on the grounds that the female population lives longer than their male counterparts. While this is true for the two groups as a whole there is evidence that working women are dying at younger ages just as male workers do. However, from phone calls placed to Metropolitan Life, Prudential, the Society of Actuaries, and from inquiries made by the Congressional Reference Service we find that although there are separate actuarial tables for men and women and tables for working men there are very few tables on the mortality rates of working women. Even in instances where separate tables for working men and working women are kept and are used as the basis for separate

computations the EEOC has ruled that this practice is inherently discriminatory.

For example, the EEOC ruled against TIAA-CLEF—Teachers Insurance Annuity Association-College Retirement Equities Fund. TIAA did indeed keep separate tables for working men and working women and found that the projected average lifetime for men was 82 years and for their women was 86 years. They then made separate projections of benefits on the basis of these figures. EEOC ruled against them however because they found that 75 percent of the women workers were dying before the age of 86, the average date of mortality. What was happening was that a few women were very long lived and they were dragging the average lifetime expectancy rate of the group to a higher level than the majority of the group actually experienced.

It is clear that in terms of the use of inappropriate actuarial tables, discriminatory age and vesting requirements and the like that women are being treated shabbily. In view of this, I believe the inclusion of a sex discrimination amendment in the bill would have a very salutary effect.

Because of the complexity of this legislation I believe we shall have to continue to make "improvements" in the pension legislation in the years to come but I hope that some improvements can be made before we send this legislation to the President to be signed into law.

Mr. DUNCAN. Mr. Chairman, when dealing with a subject as complex as pension reform which affects so many areas of the law, it is inevitable that the legislation will be complex and cause some new problems as it attempts to solve the old ones.

However, I feel that several provisions of H.R. 12855, the Ways and Means Committee's portion of this legislation, are especially significant and represent considerable improvement over existing law and the pension bill passed by the Senate last September.

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 or $2,500 a year, and makes no provision at all for workers not covered by any type of qualified pension plan.

The proposal to raise the deductible contribution for self-employed workers to $7,500 a year or 15 percent of income is certainly a step in the right direction. The provisions to encourage establishment of Individual Retirement Accounts should help a very large segment of the working force who do not now qualify for tax deductible contributions to help themselves plan for a more secure retirement.

The $75,000 annual limitation for defined benefit plans will adequately protect against Government revenue loss caused by deductible corporate contributions for top executives. At the same time, it should not discourage continuation of the sound existing plans which such corporations as Sears, and the J. C. Penney Co. have established for employees at all levels.

In summary, the legislation now before the House represents many hours of testimony and deliberation by the Committees on Ways and Means and Education and Labor. I am hopeful that the best features of both committee's proposals can be retained and that pension protection for millions of Americans will be extended.

Mrs. GRASSO. Mr. Chairman, today the House considers H.R. 2, the Employee Benefit Security Act—possibly the most important single piece of legislation to assist the American worker in nearly 40 years.

Passage of the Employee Benefit Security Act will improve pension coverage for employees in the private section and will help secure long awaited justice for the American wage earner.

The product of years of effort, the bill represents a major triumph for my friend and colleague, the gentleman from Pennsylvania (Mr. DENT). As a member of the Education and Labor Committee, I am well aware of his dedication and commitment to pension reform legislation.

As we all know, two bills will be offered as substitutes to H.R. 2. As a member of the Education and Labor Committee, I will concentrate my remarks on the merits of H.R. 12906, which encompasses the basic language and scope of the original H.R. 2. The provisions of H.R. 12906 will help protect the pension of the average worker who expects and deserves the promised pension that thousands have been denied.

Mr. Chairman, the inadequacies of many existing pension plans and the abuses associated with their administration have been amply documented and publicized over the years. I am certain that nearly every Member can point to letters documenting the need for improvements in the present private pension plan structure.

More than 30 million workers are covered by private pension plans with assets totaling over $150 billion. These workers have been led to believe that upon retirement they will receive certain pension benefits. In fact, the collection of a pension may depend on luck as much as on length of service. In too many cases, mergers, forced early retirement, plant shutdowns, plan mismanagement, and other difficulties lead to either no pension at all or to a partial payoff on the money invested by the worker in the pension fund.

Offered as a substitute to title I, H.R. 12906 will help eliminate many of the problems associated with private pension plans and establish a minimum level of pension plan responsibility. The bill achieves these results through minimum vesting, funding, and fiduciary standards and the establishment of a reinsurance program.

In our mobile society, workers no longer remain in the same town or work for the same employer for their entire adult lives. However, under many existing pension plans, workers lose their accumulated pension benefits if they leave before reaching retirement age. By requiring a minimum standard of vesting, the bill insures the rights of employees to share in the company's pension fund even if the employees leave the company before retirement age or have their employment terminated.

The bill allows pension plans to choose one of three vesting schedules and retains the flexibility contained in many existing plans for allowing the payment of pension benefits prior to age 65. This section would rectify the all too common complaint expressed by workers who have contributed 15 or 20 years to a pension fund and then discover they are not entitled to any pension benefits.

Second, the bill requires the administrators of pension plans to provide participants with detailed information on the particulars of the plan and the financial condition of the plan. In this way, workers will know exactly what they can expect from the pension plan and will have firm indication of the financial stability of the plan itself.

Third, the bill requires an employer to make payments toward the principal of the unfunded accrued liabilities of a pension plan to insure the coverage of current obligations on the plan. No matter how lucrative a pension plan appears on paper, its promises are worthless without sufficient capital.

Finally, the bill establishes a Pension Benefit Guaranty Corporation administered by the Secretary of Labor to insure unfunded vested liabilities. Inclusion of this provision in pension reform legislation is crucial. For a variety of reasons, pension plans have been terminated without completing their responsibilities to their beneficiaries. Plan termination insurance protects pension credits which would otherwise be lost upon termination of the pension plan.

Mr. Chairman, despite some reservations to specific sections of the compromise proposal being offered, I believe that this legislation offers the best opportunity for protecting private pension plans. These plans have been a godsend to thousands of workers who otherwise might be struggling near or below the poverty line during their retirement years.

I will support the bill and urge my colleagues to join me.

Mr. FORD. Mr. Chairman, I rise in support of the Employee Benefits Security Act. This legislation is designed to protect the pension benefits of the millions of working American men and women. It is the product of lengthy and painstaking deliberations of both the Education and Labor Committee on which I serve and the Ways and Means Committee.

The intent of this legislation is to insure that the pension system in the private sector will be a good system, a system that works. The legislation attempts to correct the weaknesses in the present system, and assure that, when workers are promised pension benefits, they do not suffer a loss of those benefits merely because the plan provides for no vesting protection, has been inadequately funded or, for one reason or another, has been terminated.

The legislation before us today would provide these assurances and would facilitate the orderly growth of private pension plans as well. The Employee Benefits Security Act provides for Federal standards of fiduciary responsibility, for minimum standards of vesting and funding and for plan termination insurance. By enacting these standards into law, Congress will be greatly improving the probability that the millions of workers presently covered by private pension plans will, in fact, receive a pension when they retire.

This legislation establishes a tighter reporting and disclosure requirement for pension plans, as well as providing for standards of conduct for fiduciaries exercising power or control over the management of pension funds. It also requires that the administrator of a plan must provide each participant or beneficiary with a written description of the plan in language that an average and reasonable worker can be expected to understand intelligently, as well as with a summary of the annual financial report which is submitted to the Secretary of Labor. The plan description must include a schedule of benefits, eligibility and vesting provisions, claim procedures and remedies, basis of financing, and other plan provisions affecting employees' rights.

The vesting requirement provision of the bill provides for three alternative formulas. One of the following rules would meet the minimum requirements provided for under this legislation: The 10-year service rule which would guarantee 100-percent vesting after 10 years of covered service, but under which no vesting would occur prior to a full 10 years of service; the graded 15-year service rule which provides for 25-percent vesting after 5 years of covered service, increasing by 5 percent for each of the next 5 years, and 10 percent for the subsequent 5 years until 100-percent vesting is achieved at the end of the 15th year; or the "rule of 45," under which 50-percent vesting would occur when age plus the number of years of covered service equals 45. Vesting under the rule would increase by 10 percent each subsequent year until the 100-percent figure is reached.

The bill also provides for assurances that the pension plan will be adequately funded. This protection is guaranteed by the provision which requires an employer to make payments toward the principal of unfunded accrued liabilities. A liability is what is incurred when the employer grants pension credits to employees for past service, and an unfunded liability is what exists when assets are not sufficient to cover the liabilities over the long run.

Mr. Chairman, one of the most important provisions of the legislation before us today is that part of the bill which provides for plan termination insurance. This provision is designed to protect workers who have been paying into pension plans for years, only to learn that, prior to their retirement, the plans, for one reason or another, have terminated. This provision would establish a Pension Benefit Guaranty Corporation which would be administered by the Secretary of Labor and a board of directors which would be comprised of the Secretary and two officers or employees of the Labor Department. Plans would be required to insure unfunded vested liabilities incurred prior to as well as after the enactment of this legislation into law.

The legislation would also include an enforcement provision providing for criminal penalties of 5 years imprisonment and $10,000 fine for willful violation of the act by individuals, and up to a $200,000 fine for a willful violation of the act by a corporation.

The legislation would also require that the Social Security Administration maintain records of retirement plans in which former employees who have not yet retired have acquired vested benefits. The Social Security Administration under this provision would also be required to provide this information to plan participants and beneficiaries on request and also upon their application for social security benefits.

Mr. Chairman, I cannot overstate the importance and the urgency of the need for prompt enactment of this legislation into law. Ever since I first cosponsored pension protection legislation over 6 years ago, my office has been deluged with mail from my constituents demanding that the Congress provide the American working men and women with protection for their private pension plans. Over the past years, the committee has traveled to my own State of Michigan and conducted hearings in which we have been confronted by the distressing tales of workers who have suffered great damage because of the inadequacy of our present pension protection laws. The committee has heard from witnesses who have described situations resulting in lost and reduced pension benefits as a result of the closing of major employers in the Detroit area such as the Garwood Division of Sargent Industries, of Packard Motors, and Essex Wire.

The committee was told of the situation which resulted in 1960 when a major Detroit newspaper shut down and paid to its over 400 employees lump-sum pension benefits of approximately $160. We heard from steelworkers who lost jobs as well as pension benefits as a result of the shutdown of the Mahon Industrial Division and the Taylor Cement Co., and we heard the testimony of one individual who received, after 29 long years of service, a lump-sum payment of $1,800 when the Garwood plant closed down in my own district recently.

Mr. Speaker, these were all stories which were related to the committee when it traveled to Michigan. Similar stories can be and have been heard in virtually every State and every congressional district in this country. The evidence in support of the need for the legislation we are considering today is insurmountable. Virtually every major labor organization, including the United Auto Workers, the United Steel Workers, and the AFL–CIO, has expressed its support for this legislation.

It has been considered now for several years by the Congress and the bill before us today has been the result of many long hours of work and negotiation by the distinguished Members of both parties of both the House and the Senate.

Mr. Speaker, the protections which this bill will afford to our American working force is long overdue. At this point I urge my colleagues from both sides of the aisle to give this legislation their unequivocal support so that it can be sent to the White House and be signed into law at the earliest possible date.

Mr. MURTHA. Mr. Chairman, I rise in praise of the Congress for the courage and forthrightness shown by its Members in passing the pension reform bill. This bill is to be held up as a landmark for the workingman, particularly the steelworker, who has been fighting for a vested and portable pension for many years.

This is a capstone of a legislative inquiry that started 7 years ago, spurred on by Congressman JOHN DENT and his subcommittee because of concern for the interests of the workingman.

There can be no doubt that this is a major contribution to a more secure future for men and women who have worked hard all their lives. I do not view the present legislation as a cure-all for the problems of the working man and woman, but it certainly demonstrates that the Congress is moving in the right direction and has the leadership it needs to move into the future.

Mr. DON H. CLAUSEN. Mr. Chairman, there are very few issues before the Congress that will directly affect as many people as the question of pension reform.

Pensions are becoming a way of life, and rightfully so, in employees' fringe benefit packages at the same time as our average lifespan is increasing and our retirement age is decreasing.

This trend must be encouraged in every way possible by the Congress, by management, and by labor. Financial preparation for retirement should be among the highest priorities of any individual.

It is the individual who bears the responsibility to prepare for those years after he leaves the work force but it seems to me that it is the responsibility of the Congress to make certain that no person who takes the necessary steps is deprived of his benefits because of something beyond his control.

We have seen from past experience that the two basic reasons a worker loses his pension are change of job and lack of financial integrity of the fund. I believe the pension reform bill reported by the Education and Labor Committee will help remedy these two problems in a reasonable and responsible way and it has my full support.

The vesting standards included in the bill make certain that once an individual becomes entitled to benefits he retains his entitlement and is not required to hold the same job or work for the same organization throughout his working career.

Both the general mobility of our society today and the fundamental desire of most Americans to better themselves by seeking and accepting better employ-

ment tend to insure that most workers will not spend their lives working at the same job. They should not be penalized for this.

I recently learned of a case where a lady had worked in California for an aircraft company for nearly 20 years. Upon leaving the company she did not qualify for any retirement even though she had paid into the pension fund during her service with that employer. That company's pension plan offered no vesting rights whatsoever.

While this person realizes she has no opportunity to receive retirement benefits for her service, she brought her problem to my attention in the hope that others similarly situated would not be similarly affected.

Likewise, can there be any justification for an individual maintaining a retirement fund throughout his working years and planning his retirement based upon his pension fund only to find that when he is ready to retire the fund is bankrupt and he is unable to collect his annuity?

This kind of heartbreak can be avoided by simple standards of fiduciary responsibility to protect pension funds. Neither a great deal of governmental intervention in the private sector nor a requirement to meet more than ordinary actuarial standards is necessary to meet these goals.

In addition, the bill before us contains pension legislation from the Committee on Ways and Means which relates to the Federal tax structure and the incentives it gives for the creation of pension plans.

The most important of these, of course, is the so-called "Keogh plans" which encourage the self-employed to set up pension plans for themselves.

The bill increases the maximum deductible contribution that an individual is allowed to make on his own behalf to a pension plan. That allowable amount will now be 15 percent of earned income up to a maximum of $7,500. This is a substantial improvement over existing law.

While the H.R. 10 plans have been criticized in some quarters and amendments have been proposed to remove this section from the bill, I strongly believe that such an effort is short-sighted and counter-productive.

It is totally contrary to our best interests to discourage pension plans of whatever type. Every individual must be encouraged to set aside money for his post-working years. And, every consideration must be given to those who do.

Far too many people are attempting to live on fixed, inadequate annuities today. The hardships this causes are increased dramatically in times of inflation and shortages.

Therefore, Mr. Chairman, I support the bill before us today and urge my colleagues to give it overwhelming approval.

Mr. REID. Mr. Chairman, I rise in support of the Employee Benefits Security Act of 1974.

This bill, as worked out between both the House Education and Labor Committee and the House Ways and Means Committee, is modest—it does not purport to solve every inequity that presently exists in our private pension systems—but it does make an important step forward in the reform of those systems, and for that reason, I intend to vote for it.

About 30 million workers are presently covered by private pension plans; up to 42 million will be covered by 1980, under plans with assets totalling over $215 billion. While pension plans have served some workers well, it is a fact that many—if not most—workers pay into plans year after year expecting to receive insurance for their retirement, and end up getting back absolutely nothing—either because their company or plant goes out of business, or because it merges with another and the pension system is revoked, or because there are insufficient funds in the pension system, or because the managers of the pension plans have made bad investments, or because fund trustees and administrators breach faith with employees. In sum, there are too many "iffy questions" for a worker to feel any real security, as is evident by the fact that 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.

So reform is vital, and long overdue.

The committee bill will, first of all, require disclosure and reporting requirements, thus helping to protect employees from self-dealing managers. He will also establish fiduciary standards to provide additional safeguards against mismanagement.

Second, the bill provides for three alternative minimum vesting standards—whereby a worker may receive benefits even though he or she has not reached the retirement age, should he or she for some reason terminate his employment. The three alternatives include: First, the 10-year service rule, whereby a worker would receive 100 percent vesting after 10 years of covered service, but nothing before that period; second, the graded 15-year service rule, whereby a worker would receive 25 percent vested after 5 years of covered service, with the percentage increasing by 50 percent each year until the 10th year, and then increasing 10 percent each additional year through the 15th, when 100 percent vesting would be achieved; and third, the rule of 45, whereby a worker would receive 50 percent when his or her age plus covered service equals 45; the percentage would increase by 10 percent each year until 100 percent were reached.

The bill would require actuarially sound funding of pension plans in order to assure that there is sufficient money to pay the vested benefits to the workers when they are due.

The bill guarantees "termination insurance," which provides a backup for the funding requirements and safeguards workers who might otherwise be deprived of benefits or retirement credit, either through unexpected financial difficulties, mismanagement, embezzlement, or other reasons.

The tax provisions of this bill are also important. One, for instance, limits contributions under qualified plans to reach the lesser of $75,000 or 100 percent of pay in the highest paying 3 years of employment. In the case of defined contribution plans—profit-sharing and money purchase pension plans—the annual set-aside would be limited to the lesser of 25 percent of the employee's compensation or $25,000. Another tax provision increases the limits on deductions for self-employed individuals—in "Keogh" plans—from the present 10 percent of their income, not to exceed $2,500, to 15 percent of their income, not to exceed $7,500.

Mr. Chairman, I am glad to support this legislation. It is long overdue but represents a strong first step toward reform, and I hope that my colleagues will lend it their support so that we may grant American workers the rights they have so long deserved.

Mr. PRICE of Texas. Mr. Chairman, responsible and comprehensive pension reform is necessary to insure that every American working person covered by a pension plan can depend upon that plan to pay the benefits to which that person is entitled after retirement.

The goals of the legislation before us are to extend pension plan coverage to more working people, to assure employees equitable pension treatment and benefits, and to protect employees from loss of retirement benefits due to risk of bankruptcy, merger, or reasonable job shifts. While we are considering these changes, we must keep in mind that if Federal pension regulations become too burdensome for employers, those employers may be encouraged to choose not to set up a pension plan for their employees. After all, these plans are voluntary, and I would strongly oppose any Federal requirement to provide mandatory pension plans in private business.

We must, therefore, be certain that the legislation we enact will accomplish the goals we desire without rending harm to working Americans by actually discouraging company pension plans.

Along with all the Members of Congress, I have received a number of complaints from my constituents regarding apparent unfairness in pension plans. Many of these reports are truly heartbreaking as the writer tells of how, after long years of hard labor and contributing into the pension fund, he was left without benefits, or drastically reduced benefits, upon retirement because of some apparent inequity in his company's pension plan.

One woman recently wrote me that she is unable to receive the retirement benefit on which she had depended because, although she had worked for and contributed into a plan at the same company 17 years, she had not worked 15 years consecutively as required by the company pension plan. The reason she had not was that she quit work for 2 years, after 10 years of work, because of a severe illness in her family. Justice would certainly seem to dictate that she should be eligible for some compensation after her many years of service to her employer.

I have learned of many other examples of working people losing retirement benefits, sometimes to inequities in the pension plans, sometimes due to the closure

of a plant or business. The fate of these people, and the risks of similar tragedy taking place in the future, is reason enough for responsible pension reform legislation.

Under H.R. 2, the pension reform bill now before us, reasonable new requirements would be established to insure funding, vesting, and disclosure and fiduciary standards. Under the vesting requirements, employees who leave or lose their jobs before retirement age will still be assured partial pension benefits when they retire in later years; an employer will be able to choose between three options in determining how his plan will vest his employees. Under the funding requirements of the bill, pension plans will be required to be actuarially sound enough not only to meet current benefit obligations, but also to meet accrued liabilities in case of program termination. The bill strengthens disclosure and fiduciary standards to insure that employees have readily understandable and complete information regarding their pension plans and benefits.

For self-employed persons, this bill includes a revision of the tax laws to raise the amount that can be claimed as a deduction for a retirement program from the present maximum of 10 percent, or $2,500, of earned income annually, to 15 percent, or $7,500, whichever is less. This provision will allow many of the Nation's self-employed, including farmers and ranchers, to better prepare for their future retirement years.

Surprisingly, almost one-half of the Nation's working population is not covered by any company pension plan. This legislation would allow those who are employed by a company, but who do not participate in a pension plan, to participate in an "independent retirement account" and to deduct from their taxes up to $1,500 a year of earned income which is placed in such an account. This provision will encourage more Americans to plan for their retirement years.

This legislation also corrects a provision in the Senate-passed bill (H.R. 4200) which placed unreasonable restrictions on the contributions that an employer may make to profit-sharing plans. The bill before us does allow those who do participate in profit-sharing plans to receive substantial benefits through those plans upon retirement.

The bill does place limits on the amount of tax-deductible contributions which can be made to corporate retirement plans by high-salaried executives.

In spite of the many improvements which will result from this legislation, there are certain provisions in this bill which could result in the termination of some existing pension plans and which might discourage the formation of new ones. These include the requirement that both the Department of Labor and the Department of the Treasury administer the new eligibility-participation, vesting, and funding standards. This will result in employers being forced to file additional reports and forms at a time when we should be moving in the opposite direction toward a reduction in the burden of paperwork upon private businesses. This additional paperwork will result in increased costs for the administration of pension plans. Some estimates indicate that for many small companies the administration costs will double, and those costs are already running up as high as 40 percent of the overall costs of the plans in some cases. Dual reporting could literally force some of these small company plans out of existence, and it is with these small companies where many employees need the pension plans the most. It is unfair to legislate plans out of existence and leave employees with no retirement plan at all.

I would therefore support passage of an amendment which would place the administration responsibility for pension plan standards solely with the Treasury Department which already carries on Federal responsibilities in this area.

Also, the bill provides for a complicated "plan termination insurance" system which imposes new employer liabilities for unfunded claims on the pension fund of up to "50 percent of the net worth" of the employer. This provision would have a devastating impact on the credit rating of many firms. This is a drastic move which requires more study and I would support reconsideration of this provision of the bill.

Basically, however, this legislation will insure many American workers that their retirement benefits will actually be there when retirement comes. In this regard, this is monumental legislation which will take the worry out of being close to retirement age for many workers.

Mr. ANDERSON of Illinois. Mr. Chairman, I wish to state for the RECORD my reasons for opposition to the amendment offered today by the gentleman from Wisconsin (Mr. REUSS) to strike from part II of the substitute bill the increased deduction for H.R. 10 or Keogh plans. I find it curious that the proponents of this amendment are characterizing this provision as a vast new boondoggle or tax loophole for the wealthy. I noted the same language in a letter I received from the AFL–CIO in opposition to this provision which it termed "a tax shelter for high-income, self-employed professionals, especially doctors."

I certainly do not dispute the fact that professionals who are self-employed will be afforded additional incentives under this bill to contribute to a retirement plan. It is my understanding that the main thrust of the pension reform bill now before us is in the direction of improving and expanding our private pension system and insuring that all Americans will have an adequate retirement income. Why the self-employed should be singled out as not being entitled to the same security in their retirement years as other Americans is beyond me. It is not as if they are being given extra special treatment or benefits under this bill. Even with the new limits on deductions for corporate employees in this bill, the self-employed are still not being given equitable tax treatment with respect to their pension plans.

And while the proponents of this amendment are parading the Keogh provision in this bill as simply a loophole for the wealthy, the fact is that it is not just the highly paid professionals who benefit from Keogh plans, but their employees as well. My colleague from Wisconsin, the author of this amendment, pointed out during general debate on Tuesday that a 1968 Treasury study reveals that approximately half of the Keogh plan participants earn over $25,000 a year. While I suppose this is designed to demonstrate to us that Keogh participants are generally very wealthy and thus do not need additional tax incentives for retirement purposes, to me it demonstrates the substantial number of H.R. 10 participants who are not affluent and are not being treated equitably vis-a-vis their corporate counterparts in terms of their pension plans.

The gentleman from Wisconsin would have us believe that the overwhelming majority of self-employed are quite capable of taking care of themselves without tax incentives for retirement planning—that they are financially fixed for life and such a different breed of cat from corporate employees that we should not even be considering them when discussing retirement income security for the American people. I find all this a little difficult to swallow, especially when it comes from many of the same people who revel in taking potshots at big American corporations, and identify themselves with the little man. If there were some consistency here, you would think that these people would be championing the small businessman and the self-employed individual for his rugged individualism, his independence, and his contribution to our competitive free enterprise system. But no, we are now hearing from these same people that not only is bigness bad, but so too is smallness bad. The effect of this amendment, if it is adopted, would be to drive many of the self-employed, and the employees of the self-employed, either to incorporate or to join up with one of the big corporations, and, in the case of the employees, into the labor unions of those firms—which may help to explain the stake labor has in this amendment.

In conclusion, Mr. Chairman, we are not talking here about creating or expanding upon a so-called tax loophole to be abused by the wealthy for their benefit; we are talking about insuring adequate retirement income for the self-employed and their employees, upon which taxes will eventually have to be paid. We are not talking about a new device that will enable the very wealthy to avoid paying tens of thousands of dollars in taxes, we are talking about a very modest increase of from $2,500 to $7,500 maximum which the self-employed may contribute to a retirement plan. Given the rate of the inflation over the last decade since H.R. 10 was first enacted, I think this is a most reasonable, responsible, and necessary increase. And, if we are to be true to the overall goals of this pension reform legislation we have an obligation to provide this additional retirement plan incentive to the self-employed. I urge defeat of this amendment and any subsequent amendments which may be offered to reduce this deduction.

Mr. BADILLO. Mr. Chairman, I was pleased to support the Employees Benefits Security Act this afternoon, particularly as action in this critical area has been long overdue. In the past thousands of working men and women have

been victimized by private pension plans which have failed to provide adequate financing to meet their responsibilities. As a consequence they have been left to face their later years with only minimal social security payments. During the lengthy and detailed hearings and studies conducted by congressional committees into the private pension issue, a seemingly endless procession of tragic stories, recounting years of dedicated service ending in little or no financial security for retirement, unfolded. I am sure many of us are familiar with the well-known demise of the Studebaker Corp.'s pension plan and the tragedy which befell many of that company's employees when it was forced to close over 10 years ago. The Studebaker story is just one isolated example of the failure of a pension plan to provide employees with those benefits which they had expected in good faith to receive after so many years of service. This and numerous other examples serve to highlight the Labor Department's report that from one-third to one-half of all workers who are planning on some degree of financial independence during retirement will be let down by their pension plans.

We have come a long way from 1875 when the American Express Co. established the first private pension plan in this country. Today over 30 million workers—approximately 42 percent of the private nonfarm workers—are covered by private pension plans which reportedly have an estimated $150 billion to $160 billion in assets. It has been reported that by 1980 this figure will soar to 42 million covered workers with total assets amounting to some $215 billion. We must bear in mind, particularly in light of these amazing figures, that not only are millions of workers dependent upon these plans for retirement funds but the investment policies pursued by these various pension programs can and will have a significant impact on the Nation's economy. Clearly, meaningful and just regulation is required.

Despite the existence of three Federal laws which regulate various aspects of pensions—the Welfare and Pension Plans Disclosure Act of 1958, the Labor-Management Relations Act, and the Internal Revenue Code—a number of serious inadequacies and shortcomings remain and corrective action must be taken. A Senate Labor Subcommittee has reported that as many as 95 percent of those workers who have left their employment during the past two decades will not receive a single cent from pension plans to which they made regular contributions in expectation of having some degree of security and financial protection. Pension plans have failed to receive adequate financial backing, funds have been mismanaged, payments and coverage have been woefully inadequate and the basic rights of American workers have been blatantly ignored or violated. We must not allow this situation to continue.

The measures considered today are welcome but should not be viewed as a panacea for solving all of the ills of the pension system. In fact, this legislation contains a number of serious defects which limit the extension of needed protections and, in at least one instance, amount to nothing more than an unnecessary bonanza for the richest percentage of American families.

The majority of reforms contained in this legislation should facilitate the orderly growth of private pension plans and, by establishing Federal standards of fiduciary responsibility and norms on vesting and funding, we will enhance the likelihood that those workers now covered by private pension plans will actually receive benefits upon retirement. This legislation contains a number of salutary features which will provide urgently required protection for a large percentage of the national work force. Unfortunately, however, there are certain imperfections and omissions which I believe deserve careful consideration and attention.

Although the House failed to adopt my amendment establishing a voluntary portability program for vested pensions, I believe this is an issue on which we must focus attention, particularly in the implementation of the legislation passed this afternoon. As I mentioned during debate on my amendment, vesting and portability are not synonymous and the additional security afforded by portability is required. While my amendment called for a voluntary system, I had attempted at the very least to establish a principle upon which we could build future legislation. I am hopeful that the appropriate legislative committees will nevertheless give close attention to the question of portability with a view toward developing a just and workable system which could be enacted in the future.

One of the principal areas of reform addressed by this legislation is vesting and title I of H.R. 12906 requires pension plans to meet one of three different vesting formulas. While this provision is welcome, it does not go far enough. Vesting rights in the early years of a person's employment are minimal or, under certain plans, nonexistent. We simply cannot permit such a situation to continue, especially in light of the rising unemployment rate and the serious dislocations caused by the energy crisis and unsuccessful economic programs. Workers, in my opinion, have a right to immediate vesting without waiting for a stipulated period of years or working under a formula which would delay their vesting rights for varying periods of time. Pension rights must be guaranteed to workers from the moment they start their jobs. This is especially critical for those unfortunate men and women who may lose their jobs before their pension rights vest because of business failures, plant relocations or economic declines. Also, immediate vesting rights will protect those low-wage earners who move from job to job throughout their working careers in search of either higher wages and/or more suitable or challenging employment. Particularly hard hit are the minorities—blacks, Spanish-speaking, women and youth—who are usually the last hired and the first fired and normally have not been on the job long enough to accrue any vesting rights.

Finally, there is one other feature of this legislation which requires comment. In an ill-conceived move the Ways and Means Committee and the Senate Finance Committee apparently caved in to administration pressure and significantly expanded an undesirable tax loophole by tripling the maximum amount of tax-free contributions self-employed persons are allowed to write-off for contributions to retirement plans under the "Keogh plan." This is nothing more than a tax avoidance scheme which primarily benefits high income, self-employed persons. Such a provision is particularly unconscionable when you consider the fact that Treasury Department and Joint Internal Revenue Taxation Committee data reveal that 45 percent of the Keogh tax benefits presently go to persons with reported gross incomes of $50,000 per annum and over, a segment of the population representing less than 1 percent of this country's taxpayers. Why should a privileged, wealthy few receive such special treatment? There is simply no justification for this provision and I felt it should have been removed without hesitation. I commend our distinguished colleague, the gentleman from Wisconsin (Mr. REUSS), for the initiative he took in opposing this special-interest provision. I supported his amendment fully and regret that it was not adopted.

Mr. Chairman, although I have noted a number of defects, this legislation is generally sound. It is a measure which will protect the basic interests of millions of fellow citizens and will provide assurances that their hard earned pensions will be available to them at the time of their retirement. I supported a number of amendments to improve the measure and to close unnecessary gaps. I am hopeful that the conferees will take prompt action in resolving differences between the House and Senate versions of the pension legislation in order that long-overdue and urgently required protections for American workers can be implemented at the earliest possible date.

Mr. DRINAN. Mr. Chairman, I rise in support of the pension legislation before us. This bill is a necessary first step long overdue in the area of private pension reform. Some 36 million workers are currently participating in some form of pension or retirement plan. This number has roughly doubled in each decade since 1940. Estimates of the amount of money held in pension funds range upward of $150 billion.

Unfortunately this bill does not cure every problem. Future legislation will be necessary. The legislation has been described as modest. I think that that is accurate, but that this step is basic in our effort to protect the long service employee participating in and contributing to a pension plan who might otherwise lose it. This legislation seeks to reduce the adverse effect of plant closing and bankruptcy on such people.

This bill has been widely endorsed by both business and labor interests. It is the product of a consolidation of the efforts of the House Committee on Education and Labor and the House Committee on Ways and Means. I commend the members of those committees, and the Members of this House on their efforts in bringing this legislation before us today.

For too long the promise of private

pensions has turned out to be a mirage for millions of workers. Under current law, pensions are virtually unregulated. In all too many cases, the promise of a private pension shrinks to the very small likelihood that an employee will stay with the company long enough and that the company will remain financially healthy long enough, for him to receive pension benefits.

Perhaps the worst part of the failures of current pension plans is that in too many cases employees forgo increases in wages for expected benefits at retirement.

The bill before us today accomplishes six basic purposes. The bill establishes basic requirements for the funding of private pension plans. Under current law, plans are only required to fund current liabilities. This bill would require that accrued liabilities and past service costs be amortized over a 30-year period. This funding requirement should sharply reduce any likelihood that plans will be unable to pay off their vested benefits because they have been underfunded.

In addition, the bill sets standards for the conduct of fiduciaries who manage these pension plans. These standards should prevent abuses in the management of pension plan funds, such as self-interest transactions, and other unwise and dishonest financial dealings. The financial security of pension plans should be enhanced.

The bill also requires that participants in the plan be adequately informed of their rights to benefits and of the financial status of the plan. In addition, the bill requires disclosures of all pertinent financial information on the plan so that its fiscal strength cannot be kept secret.

Perhaps the most important provisions of this bill for the individual worker are those which establish minimum "vesting" standards. These provisions will guarantee workers a nonforfeitable right to a pension after a specified term of service. Under any of these vesting schedules, a plan participant over the age of 25 will be assured of vesting 100 percent of his retirement benefits after a term of service of between 10 and 15 years.

A Department of Labor study has shown that plant closings, financial mismanagement of plans and other business failures caused 19,000—in 1972—to lose their vested pension benefits. The bill before the House today would prevent anyone who has a vested pension benefit from losing his benefit because of plan failure for any reason. A plan termination insurance program is established by the bill, and financed by employee contributions to an insurance corporation administered by the Department of Labor.

One serious shortcoming of this bill is its failure to provide "portable pensions" in any meaningful way. While there are some commendable advantages allowed engineers, scientists, and other highly mobile employees for their pension plans, the bill contains no comprehensive program to allow workers to move from one job to another and carry their pension benefits with them without sacrificing some financial advantage.

For those not participating in corporate pension plans, the bill offers two changes in existing self-employed retirement options. Title II of this bill would equalize the tax advantages of corporate plans with those of the plans of self-employed individuals by increasing the maximum allowable deduction under so-called Keogh or H.R. 10 plans to 15 percent of earned income not to exceed $7,500. In addition, for those individuals not participating in any kind of pension plan the bill establishes new tax advantages for "individual retirement accounts." Under the new provisions, individuals not covered by a qualified or Government pension plan are permitted to take a deduction of up to 20 percent of their earned income up to a maximum of $1,500.

The bill also provides needed restraints on the excesses of pensions which are primarily for the benefit of highly paid individuals. Under current law, it is possible for a highly paid individual to receive a massive pension which is subsidized at the cost of many thousands of dollars to the general taxpaying public. This bill would set a limit on pension benefits for such highly paid individuals of the lesser of $75,000 or 100 percent of an individual's compensation during his three highest annual earning years. Still, this bill generally provides excessive tax advantages benefitting the wealthy, and subsidized by all taxpayers. These tax advantages must be further examined and the subject of further legislation in this area.

Mr. Chairman, I am hopeful that the conference committee can pass this bill rapidly, as it will bring needed relief to millions of workers.

Mr. FASCELL. Mr. Chairman, I rise in strong support of title I and title II of the Employee Benefits Security Act, offered by the Education and Labor and the Ways and Means Committees respectively. There is no question that this is landmark legislation which will greatly benefit working men and women for years to come.

First, I commend the special efforts of our colleagues on the Education and Labor and Ways and Means Committees who have spent months working on this complex issue so that all of the related aspects of pension reform could be considered at the same time. Because of the dual jurisdiction this was indeed a difficult task, and I commend all involved for their dedication and tenacity. The result is, I believe, legislation which will provide protection for employees' retirement benefits and at the same time retain the incentives for employers to establish the voluntary retirement plans.

Congressman DENT deserves special recognition for his work as chairman of the General Subcommittee on Labor and its Pension Task Force. The extensive investigation and hearings which he conducted have provided us the basis upon which rational and workable decisions on pension reform could be made, and I was pleased to cosponsor with him the bill originally reported by the Education and Labor Committee.

As the Representative of south Florida's 15th Congressional District which has a high concentration of retired senior citizens, the serious economic problems facing many retirees are brought to my attention daily. These senior citizens spent many years in the work force caring for their families and planning for their retirement. In many cases, unfortunately, those retirement years which had been anxiously anticipated, in reality turn into nightmares. Social security benefits, originally intended to supplement retired income, often becomes the only source of income for retired senior citizens. And many are forced to deplete their savings, if indeed they are fortunate enough to have any savings, to make ends meet.

While the Congress has been diligent in its efforts to increase social security benefits as the cost of living has risen, we all realize that social security alone cannot cover basic necessities with the cost of living where it is today. So life for senior citizens becomes a constant battle to stretch meager funds to meet food, health, and housing needs.

In many cases, retirees are forced to live on their social security benefits because they have been arbitrarily denied retirement benefits from private pension plans they contributed to during their working years.

We are all too familiar with numerous examples of persons who have worked and paid into private pension plans for a long period of years only to find that their employer went bankrupt just before their retirement, or sold the business to someone who discontinued the pension plan or changed eligibility requirements, or that the fund was insufficiently funded to meet its plan obligations. I recall one case in particular where an individual had performed the same job at the same plant for nearly 30 years. The company changed ownership three times during his employment, however, and each time the new owner established a different retirement plan. Just before qualifying for benefits under the third plan, the man was dismissed from his job. He never received any benefit from nearly 30 years of contributions to a retirement plan.

The legislation before the House now would protect working men and women from being arbitrarily deprived in this manner of benefits they have earned.

Key provisions of the Employee Benefits Security Act call for new requirements regarding fiduciary responsibility and disclosure. Other significant provisions set vesting and funding requirements, and establish plan termination insurance.

The minimum vesting standards are probably the single most important aspect of the bill. These will make it possible for workers to achieve a nonforfeitable claim to benefits which have been earned by them and which have accrued to them. Even though a worker's job is terminated, once he has a vested claim, he will be eligible for the same retirement bnefits.

The three alternatives for full vesting offer private industry adequate flexibility, and balance the protection offered

employees against the additional cost involved in financing the plan, and are supported by minimum funding requirements.

These provisions should act to minimize the incidents involving failure to realize benefits from pension plans. There may occur, however, unexpected business failures, bankruptcy, or fund mismanagement which inadvertently lead to plan termination in spite of the safeguards provided in this bill. For these unusual cases, the bill establishes 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.

The provisions reported by the Ways and Means Committee regarding tax treatment of qualified pension plans have also been developed to provide the maximum protection for employees while maintaining the incentive for employers to establish these voluntary plans. The committee has also acted to equalize tax treatment under retirement plans, and has recommended a new type of individual retirement plan for employees who are not in a qualified plan, Government pension plan, or annuity plan established by a tax exempt institution. The committee has noted 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.

Mr. Chairman, it is estimated that approximately 36 million workers are currently participating in some pension or retirement plan. The combined resources of existing pension plans are estimated to be in excess of $150 billion and are increasing at a rate in excess of $10 billion annually. Many workers now paying into these plans will receive the benefits they have earned. But many others may not unless we act to set the minimum standards proposed in the substitutes being offered to H.R. 2. It is unfair and inequitable for workers to defer income in anticipation of retirement benefits which they will never get. Enactment of this legislation will go far toward eliminating those inequities.

Mr. BINGHAM. Mr. Chairman, pension reform legislation is long overdue and I congratulate my colleagues on the Education and Labor and Ways and Means Committees for their perseverance. I believe the legislation passed by the House on February 28 will prove to be a major step toward providing total protection for the hard-earned retirement dollars of the American wage earner.

This legislation would go a long way toward ending the heretofore dreaded situation where a worker lost all of his pension benefits because he was laid off shortly before his benefits were scheduled to be totally vested. Under this legislation, new standards for "vesting" or assuring that workers receive the pension credits they have earned, are established. Employers would be able to choose one of three allowable methods for determining vested benefits for their employees: total vesting after 10 years of service; 25 percent vesting after only 5 years of service, increasing gradually by the end of 15 years of service to 100 percent vesting; or, 50 percent vesting when a worker's age and service add up to 45, increasing by 10 percent each year until full vesting is achieved 5 years later.

Other important aspects of this legislation include the requirement that an employer make payments toward the pension plan's liabilities so as to avoid what has been a major cause of plan failure in the past, the establishment of a pension plan termination insurance fund to protect the participants of pension plans which do fail, establishment of certain fiduciary standards which plan administrators must abide by, and finally, establishment of disclosure requirements so that plan participants would be able to find out what is happening to their pension plan contributions.

While this legislation represents a major achievement, there are two areas where further improvement is required. The first concerns "portability," whereby a worker who changes jobs prior to retirement is able to transfer his vested pension credits from his old plan to his new plan. I supported the effort to amend H.R. 2 on the floor of the House to provide for this kind of pension mobility, similar to a provision included in the pension reform legislation I introduced during the 92d Congress. The portability provisions of H.R. 2, unfortunately, make no real changes in existing law, they merely reiterate the Social Security Administration's responsibility to maintain records on the retirement plans in which former employees who have not retired have vested benefits. True portability, as I have proposed, would enable the worker to transfer his vested pension credits from job to job and, therefore, preserve the cumulative benefits that would accrue to a worker if he did not change his job. Given the increasing job mobility of the American worker, I see no reason to discriminate against the worker who chooses to improve his work situation. I hope the Congress will address this problem in the very near future.

The second area where I feel further improvement is needed concerns the extension of Keogh-type tax deferred retirement contributions made by employees of firms which do not have pension plans. In my opinion, salaried employees should receive the same treatment accorded the self-employed. Why should lawyers, doctors, and other professionals who already receive preferential tax treatment be allowed to defer tax liability on retirement investments of 15 percent of their income up to $7,500 each year, when employees who work for employers that do not have pension plans are allowed to only deduct 20 percent of their earnings not to exceed $1,500 each year? If pension reform is to be complete, we should not tolerate only a partial elimination of past inequities.

In my June 1972 newsletter, I wrote that I was doing everything possible to end the "frauds on working people" perpetrated by pension funds. I am proud to have played a part in the development of national pension legislation which shall once and for all end the cruel game of chance so long associated with private pension plans.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule the Committee rises.

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, pursuant to House Resolution 896, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted in the Committee of the Whole? If not the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

RECORDED VOTE

Mr. ULLMAN. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 376, noes 4, not voting 51, as follows:

[Roll No. 56]

AYES—376

Abdnor	Blackburn	Cederberg
Abzug	Blatnik	Chappell
Adams	Boggs	Chisholm
Addabbo	Boland	Clancy
Alexander	Bowen	Clark
Anderson, Calif.	Brademas	Clausen, Don H.
Anderson, Ill.	Bray	Clawson, Del
Andrews, N. Dak.	Breaux	Clay
Annunzio	Breckinridge	Cleveland
Archer	Brinkley	Cochran
Arends	Brooks	Cohen
Armstrong	Broomfield	Collier
Ashbrook	Brotzman	Collins, Ill.
Ashley	Brown, Calif.	Conable
Aspin	Brown, Mich.	Conlan
Badillo	Brown, Ohio	Conte
Bafalis	Broyhill, Va.	Conyers
Barrett	Buchanan	Corman
Bauman	Burgener	Cotter
Beard	Burke, Calif.	Coughlin
Bennett	Burke, Fla.	Cronin
Bergland	Burke, Mass.	Culver
Bevill	Burleson, Tex.	Daniel, Dan
Biaggi	Burlison, Mo.	Daniel, Robert W., Jr.
Biester	Butler	Daniels, Dominick V.
Bingham	Byron	
	Carter	
	Casey, Tex.	

Danielson	Jordan	Rogers
Davis, Ga.	Karth	Roncalio, Wyo.
de la Garza	Kastenmeier	Roncalio, N.Y.
Delaney	Kazen	Rooney, Pa.
Dellums	Kemp	Rosenthal
Denholm	King	Roush
Dennis	Koch	Rousselot
Dent	Kyros	Roy
Derwinski	Landrum	Roybal
Dickinson	Latta	Runnels
Diggs	Lehman	Ruppe
Dingell	Lent	Ruth
Donohue	Long, La.	St Germain
Dorn	Long, Md.	Sandman
Downing	Lott	Sarasin
Drinan	Lujan	Sarbanes
Dulski	McClory	Satterfield
Duncan	McCloskey	Scherle
du Pont	McCollister	Schneebeli
Eckhardt	McCormack	Sebelius
Edwards, Ala.	McDade	Seiberling
Edwards, Calif.	McEwen	Shipley
Eilberg	McFall	Shoup
Erlenborn	McKay	Shriver
Esch	McKinney	Shuster
Eshleman	Macdonald	Skubitz
Evans, Colo.	Madden	Slack
Evins, Tenn.	Madigan	Smith, Iowa
Fascell	Mahon	Smith, N.Y.
Findley	Mallary	Snyder
Fish	Mann	Spence
Flood	Maraziti	Staggers
Flowers	Martin, Nebr.	Stanton,
Flynt	Martin, N.C.	J. William
Ford	Mathias, Calif.	Stanton,
Forsythe	Mathis, Ga.	James V.
Fountain	Matsunaga	Stark
Fraser	Mayne	Steed
Frenzel	Mazzoli	Steele
Frey	Meeds	Steelman
Froehlich	Melcher	Steiger, Ariz.
Fulton	Metcalfe	Steiger, Wis.
Fuqua	Mezvinsky	Stephens
Gaydos	Milford	Stratton
Gettys	Miller	Stubblefield
Giaimo	Minish	Stuckey
Gibbons	Mink	Studds
Gilman	Minshall, Ohio	Symington
Ginn	Mitchell, Md.	Talcott
Goldwater	Mitchell, N.Y.	Taylor, Mo.
Gonzalez	Mizell	Taylor, N.C.
Goodling	Moakley	Teague
Grasso	Mollohan	Thompson, N.J.
Green, Pa.	Montgomery	Thomson, Wis.
Griffiths	Moorhead,	Thone
Gross	Calif.	Thornton
Grover	Moorhead, Pa.	Tiernan
Gubser	Morgan	Towell, Nev.
Gude	Mosher	Treen
Gunter	Murphy, Ill.	Udall
Guyer	Murphy, N.Y.	Ullman
Haley	Murtha	Van Deerlin
Hamilton	Myers	Vander Jagt
Hammer-	Natcher	Vander Veen
schmidt	Nedzi	Vanik
Hanley	Nelsen	Veysey
Hanrahan	Nix	Vigorito
Hansen, Idaho	O'Brien	Waggonner
Hansen, Wash.	O'Hara	Walsh
Harrington	Parris	Wampler
Harsha	Passman	Ware
Hastings	Patman	Whalen
Hawkins	Patten	White
Hays	Pepper	Whitehurst
Hébert	Perkins	Whitten
Hechler, W. Va.	Pettis	Widnall
Heckler, Mass.	Peyser	Wiggins
Heinz	Pickle	Williams
Helstoski	Pike	Wilson, Bob
Henderson	Poage	Wilson,
Hicks	Podell	Charles H.,
Hillis	Preyer	Calif.
Hinshaw	Price, Ill.	Wilson,
Hogan	Price, Tex.	Charles, Tex.
Holifield	Pritchard	Wolff
Holt	Quie	Wright
Holtzman	Quillen	Wydler
Horton	Railsback	Wylie
Hosmer	Randall	Wyman
Howard	Rangel	Yates
Huber	Rarick	Yatron
Hungate	Rees	Young, Alaska
Hunt	Regula	Young, Fla.
Hutchinson	Reid	Young, Ga.
Ichord	Reuss	Young, Ill.
Jarman	Rhodes	Young, S.C.
Johnson, Calif.	Riegle	Young, Tex.
Johnson, Colo.	Rinaldo	Zablocki
Johnson, Pa.	Robinson, Va.	Zion
Jones, Ala.	Robison, N.Y.	Zwach
Jones, N.C.	Rodino	
Jones, Okla.	Roe	

NOES—4

Bolling	Landgrebe	Symms
Collins, Tex.		

NOT VOTING—51

Andrews, N.C.	Frelinghuysen	Obey
Baker	Gray	O'Neill
Bell	Green, Oreg.	Owens
Brasco	Hanna	Powell, Ohio
Broyhill, N.C.	Hudnut	Roberts
Burton	Jones, Tenn.	Rooney, N.Y.
Camp	Ketchum	Rose
Carey, N.Y.	Kluczynski	Rostenkowski
Carney, Ohio	Kuykendall	Ryan
Chamberlain	Leggett	Schroeder
Crane	Litton	Sikes
Davis, S.C.	McSpadden	Sisk
Davis, Wis.	Mailliard	Stokes
Dellenback	Michel	Sullivan
Devine	Mills	Waldie
Fisher	Moss	Winn
Foley	Nichols	Wyatt

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Foley.

Mr. Rooney of New York with Mr. Davis of South Carolina.

Mr. Kluczynski with Mr. Fisher.

Mr. Brasco with Mr. Powell of Ohio.

Mr. Carey of New York with Mr. McSpadden.

Mr. O'Neill with Mr. Baker.

Mr. Rose with Mr. Mills.

Mr. Litton with Mr. Michel.

Mrs. Schroeder with Mr. Owens.

Mr. Carney of Ohio with Mr. Davis of Wisconsin.

Mr. Andrews of North Carolina with Mr. Crane.

Mr. Jones of Tennessee with Mr. Mailliard.

Mr. Leggett with Mr. Devine.

Mr. Moss with Mr. Kuykendall.

Mr. Nichols with Mr. Hudnut.

Mrs. Sullivan with Mr. Frelinghuysen.

Mr. Sisk with Mr. Camp.

Mr. Roberts with Mr. Wyatt.

Mr. Burton with Mr. Chamberlain.

Mr. Sikes with Mr. Bell.

Mr. Obey with Mr. Dellenback.

Mr. Waldie with Mr. Ryan.

Mr. Hanna with Mr. Broyhill of North Carolina.

Mr. Gray with Mr. Stokes.

Mrs. Green of Oregon with Mr. Winn.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to provide for pension reform."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DENT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

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

There was no objection.

AUTHORIZING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN H.R. 2, EMPLOYEE BENEFITS SECURITY ACT

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2, Employee Benefits Security Act, the Clerk be authorized to make technical corrections in punctuation, paragraph headings, and cross-references.

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

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I have asked for this time in order to ask the distinguished acting majority leader if he is in a position to give us the program for next week to the Members of the House.

Mr. McFALL. Mr. Speaker, if the distinguished minority leader will yield, I will be happy to respond to his inquiry.

Mr. RHODES. I yield to the distinguished majority whip.

Mr. McFALL. Mr. Speaker, there is no further legislative business scheduled for today, and upon the announcement of the program for next week, I will ask unanimous consent to go over until Monday.

The program for the House of Representatives for next week is as follows:

On Monday we will call the Consent Calendar, and consider one bill under suspension of the rules, as follows:

H.R. 11143, Committee for Purchase of Products and Services of the Blind and other Severely Handicapped.

On Tuesday, we will call the Private Calendar and consider under suspension of the rules two bills as follows:

S. 1866, minimium civil service retirement annuities; and

H.R. 9440, use of licensed psychologists and optometrists under Federal employee health benefits program.

On Tuesday, we will also further consider H.R. 11793, and vote on the amendments and the bill. This is the Federal Energy Administration bill. The gentleman will recall that this matter was previously debated in the House, and we are now ready to complete our work on this legislation.

For Wednesday and the balance of the week, the program is as follows:

We will consider H.R. 8053, Voter Registration Act, under an open rule, with 2 hours of debate;

H.R. 11035, Metric Conversion Act, subject to a rule being granted;

H.R. 12341, transfer of State Department property in Venice, subject to a rule being granted;

H.R. 12465, Foreign Service Buildings Act supplemental authorization, subject to a rule being granted; and

H.R. 12466, State Department supplemental authorization, subject to a rule being granted.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. GROSS. Will the gentleman yield so that I may ask the distinguished acting majority leader a question?

Mr. RHODES. I yield to the gentleman.

Mr. GROSS. Could I ask the distinguished gentleman if he can give us any information as to when we might get to a vote next week on the resolution disapproving the pay increase for Members of Congress, the Federal judiciary, and the elite corps in the executive branch of the Government in view of the action

of the Committee on Post Office and Civil Service of the House in voting or, rather, approving the disapproving resolution by a vote of 19 to 2 this morning?

Mr. McFALL. Will the minority leader yield for that purpose?

Mr. RHODES. I yield to the gentleman.

Mr. McFALL. I cannot give the gentleman from Iowa definite information. I am informed that the report from the committee on the bill to which he refers has not yet been filed. It would be possible—and this is a matter the Speaker would have to determine—that it could be ready for the suspension calendar, which, of course, is under the control of the Speaker, on Tuesday. It is also quite possible that the committee of which the gentleman from Iowa is a distinguished member would ask the Committee on Rules for a rule for consideration by the House later in the week. This matter, as the gentleman knows, is within the hands of his committee and, of course, the suspension calendar is within the discretion of the Speaker.

Mr. GROSS. I know that the distinguished Speaker and the distinguished acting majority leader can move mountains at times when they are so disposed, and I am sure we can expect them, if everything goes well next week, to obtain a vote before the expiration date of the 30 days which the House has within which to consider the disapproving resolution.

Mr. McFALL. I can say to the gentleman from Iowa I think he can expect reasonable expeditious and logical action on the part of the leadership.

Mr. GROSS. I thank the gentleman.

ADJOURNMENT OVER

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourns to meet on Monday next.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

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

There was no objection.

EXTENDING FILING DATE OF 1974 JOINT ECONOMIC COMMITTEE REPORT

Mr. HOLIFIELD. Mr. Speaker, I call up House Joint Resolution 905 and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

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

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES. 905

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That S.J. Res. 182, amending the provisions of section 3(a) of the Employment Act of 1946, be further amended by changing the filing date of the Joint Economic Committee report from March 13, 1974, to March 29, 1974.

The joint resolution was ordered to be engrossed and read a third time, was read the third time and passed.

A motion to reconsider was laid on the table.

THE IMPEACHMENT PROCESS REQUIRES A PROSECUTOR INSULATED FROM THE POWER OF THE PRESIDENT

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

Mr. WALDIE. Mr. Speaker, I will say to the Members of the House that there has been increasing debate as to whether or not a member of the Committee on the Judiciary or a Member of the House, for that matter, should take a position relative to what he or she believes to be the condition of the evidence bearing on the impeachment of the President.

It has been suggested that any member of the Committee on the Judiciary who suggests the President should be impeached upon the basis of today's evidence should disqualify himself or herself from sitting on that committee. As a matter of fact, the distinguished minority leader made such a suggestion recently.

I only suggest that any Member who has not had his or her mind at least influenced by the condition of the evidence today, let alone made up, is a Member who has not been present in the United States for the last year and a half.

The Constitution does not, in fact, require that Members of the House of Representatives deny themselves the opportunity of participating in this decision by having made their views known. The Constitution requires that the impeachment process be started by a Member introducing a resolution of impeachment. The Constitution requires that the case for impeachment be prosecuted in the Senate of the United States by Representatives of the House.

The fact of the matter is that if there is no prosecutor from the House of Representatives for the impeachment of the President, there will be no prosecutor, period.

Whenever there has been a prosecutor in existence, such as Cox, Richardson, or Ruckelshaus the President has removed or brought about the resignation of that prosecutor from office. The President cannot remove a Member of Congress from office, and that is why the Constitution presumes that a Member of Congress will perform the functions of a prosecutor.

I intend, Mr. Speaker, to do my best in that role.

Without a prosecutor, it is unlikely the President can ever be compelled to appear before the Judiciary Committee and tell his story to that committee and to the American people while under oath. Without a prosecutor, it is likely the President and his recently hired multitude of defense attorneys will successfully avoid accountability for the host of abuses and wrongs he has perpetrated on the people.

Mr. Speaker, I include as part of my remarks an editorial adversely commenting on my views as well as my letter in response:

[From the Los Angeles Herald-Examiner, Feb. 21, 1974]

PROSECUTOR WALDIE

The acrimonious hounding of the President by Rep. Jerome R. Waldie, (D-Calif.), is nothing short of outrageous, irresponsible conduct.

Waldie has let loose with another anti-Nixon diatribe, this time in a national newsmagazine. No matter his news medium, his venomous messages are all pretty much the same: "Richard Nixon must be impeached!"

Waldie's blood-in-the-eye tirades for a congressional lynching party exceed all reasonable limits of responsible dissent.

It should not be overlooked that California's ultraliberal congressional spokesman is not just another elected official imparting partisan drivel. Waldie's membership on the House Judiciary Committee, the very panel conducting President Nixon's impeachment inquiry, should preclude all biased badmouthing of the President, at least until the committee has announced its recommendations.

Waldie has assumed the role of a prosecutor who, untroubled by the facts in the case, violates all canons of justice and common decency in his blind rage to persecute an unindicted political foe.

The Constitution has protected this and every Chief Executive against Waldie's weird brand of "justice," and requires evidence of "treason, bribery, or other high crimes and misdemeanors" for an impeachment proceeding.

In 1868, President Andrew Johnson was acquitted in his impeachment trial when one far-seeing senator risked his political career in courageously voting against the wishes of his party leaders and the passion of the moment.

In voting his conscience, this senator (Edmund Ross) went on record against the congressional removal of a President on flimsy grounds. He reasoned that impeachment, except in extreme cases, would subvert a co-equal branch of government to inferior status under the heel and dominance of Congress.

Regrettably, Representative Waldie and his ilk have no such compunctions or such well-developed consciences. Under the circumstance of his committee status, Waldie's resolution calling for Nixon's impeachment, and his repeated implications of the President's guilt, are no less judicious than the actions of America's frontier vigilantes who promised "a fair trial and a fair hanging."

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 22, 1974.

EDITOR,
The Herald-Examiner,
Los Angeles, Calif.

DEAR EDITOR: I was interested in your editorial of February 21 concerning my role as the chief advocate of the impeachment of Richard Nixon. Your reference to me in a derogatory sense as "Prosecutor Waldie" is in fact, a fair assessment of the role, I believe, suited to a member of the House Judiciary Committee who believes, as I do, that

the Nation will be well served when the Constitutional process of impeachment of Richard Nixon is successfully concluded.

You apparently believe that a "prosecutor" is neither necessary nor proper in these proceedings. In that view, you are sustained by President Nixon who finds "prosecutors" positively abhorrent and who goes to great lengths to remove them from office. Thus, President Nixon "fired" Special Prosecutor Archibald Cox when the latter insisted on determining the extent of the involvement of the President in the offenses of Watergate; thus, the President in effect brought about the dismissal of the next "prosecutor", the Attorney General of the United States, Elliot Richardson, who insisted on pursuing truth even unto the President; and thus, the President has commanded the present Special Prosecutor, Leon Jaworski, "you have all the evidence you need and I will give you no more," just as Jaworski began to get close to the President in the course of the investigation.

In short, since the President has the power and has not hesitated to exercise it, to "eliminate" all "prosecutors" who diligently pursue the evidence, it is necessary that a "prosecutor" be found beyond the President's power to silence or control.

Only a Member of Congress, only a Member of the House Judiciary Committee is so insulated. The President cannot "fire" me. He cannot silence me.

I will continue, unabated, and will even intensify my efforts to bring the facts of President Nixon's incredible abuse of the powers of the presidency before the people and before the Congress.

Your editorial stated I am "untroubled by the facts in the case." You could hardly be more wrong. I am deeply troubled by the "facts" in this case because those "facts" conclusively demonstrate the clear contempt of the President for the high Constitutional standards we demand of our Presidents.

I will continue my efforts to bring about Richard Nixon's impeachment as the Constitution directs and pursuant to its provisions.

We will succeed.

JEROME R. WALDIE,
Member of Congress,
Fourteenth District of California.

PUBLIC FUNDS AND DEPOSIT INSURANCE LEGISLATION

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

Mr. STEPHENS. Mr. Speaker, on February 5, the House debated H.R. 11221, a bill originally designed to provide for 100 percent insurance of all public deposits in financial institutions and increasing deposit insurance of all accounts to $50,000.

There has been a lot of confusion and perhaps unpremeditated misinformation floating around concerning this legislation as it finally passed the House. This is due to the rather involved parliamentary situation that occurred during consideration of this legislation. I take this opportunity to set the record straight as to precisely what this legislation provided as it finally passed the House after amendments I offered were accepted.

The debate in the House centered around the insurance of public funds. The original bill, as pointed out, provided for 100 percent insurance of all public funds deposited or invested in any type of financial institution and in any type of account regardless of the amount deposited or invested. My amendments which were accepted by the Honorable FERNAND J. ST GERMAIN, the chairman of the subcommittee which originated this legislation and were adopted by the House were as follows:

First. One hundred percent insurance of public funds was limited to "time deposits only."

Second. One hundred percent insurance of public funds in demand deposits "was denied" and the law on collateral requirements remains just the same as it is now.

(a) To illustrate this, the original language said:

The Corporation (FDIC) may limit the aggregate amount of funds that may be invested in any insured institution by any insured member referred to in paragraph (1) of this subsection on the basis of the size of any such institution in terms of its assets.

My amendments added the words which are italicized as follows:

"The Corporation may limit the aggregate amount of funds that may be invested *or deposited in time deposits* in any insured *bank by any depositor* referred to in subparagraph (A) of this paragraph on the basis of the size of *any such bank* in terms of its assets, *Provided, however, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (a) of this paragraph when and where required.*"

Since most public funds—which primarily consist of State and local funds—can only be deposited for short periods of time, they will have to be, as in the past, deposited in commercial bank demand deposits. Since under the bill amended, there is no full insurance for demand deposits, commercial banks will still have to purchase State and local government securities or other eligible securities where required to collateralize these demand deposits.

There is nothing in this bill as amended which would in any way restrict the amount of public funds which a financial institution may acquire. Nor is there anything in the bill which would in any way restrict the amount of State or local securities which a commercial bank may acquire. All the bill says in this regard is that demand deposits over $50,000 will have to be collateralized as required by State law or local regulation. This means, in effect, there will be no reduction in the amount of State or local government securities which commercial banks will be required to purchase and hold.

In advocating my amendments, I told House Members that among my reasons I felt: "100 percent insurance will have an effect on the sale of municipal bonds. In almost all jurisdictions financial institutions are required to protect public deposits by pledging of equal reserves. This latter is frequently in the nature of municipal bonds. In fact, in many States pledging by the financial institution of municipal bonds as the reserve is required by law.

"By 100 percent insurance the Federal Government is substituted for the reserves pledged by the private institution. This will certainly reduce the incentive for purchase of municipal bonds to be used as pledges. My amendment would offset, in part, this result because demand deposits of public funds in financial institutions would still be subject to the requirements that reserves be pledged as offsetting security.

"In further recognition of the principle of keeping an incentive for financial institutions to invest in municipal securities, I will offer another amendment. H.R. 11221, in section B, says the FDIC may limit the aggregate amount of public funds that may be deposited in any insured institution. That provision is too wide in scope. It does not say that the FDIC may limit 'insurance on' public deposits. It says it may limit the 'deposits' themselves. This is a high concentration of power in the FDIC. My amendment would considerably reduce that power by saying that the FDIC limits the 'insurance' on public fund deposits, but not the amount of 'deposits,' provided any deposits of public funds in excess of the insurance limits be offset by pledge of acceptable securities owned by the private institution. This leaves open the incentive for financial institutions to buy municipal bonds for pledge 'against excess deposits' above the Federal insurance coverage."

In conclusion, I offered my amendments in what I think was a compromise between the position of commercial banks on one side and savings and loan associations and credit unions on the other in order to provide more money for housing; to preserve some incentives for continuing a wider market for sale of municipal bonds; and to prohibit grant of arbitrary power of the FDIC to allocate public fund deposits.

As the bill now stands it contains my amendments and increases deposit insurance on all accounts up to $50,000.

CHARLIE GUBSER, A GENTLEMAN FIRST

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

Mr. TALCOTT. Mr. Speaker, one of our colleagues who will be most missed in the next Congress is the gentleman from California (Mr. GUBSER).

The January 30, 1974, editorial of the San Jose Mercury pays deserved tribute to CHARLIE GUBSER and expresses exceptionally well what all of us know and appreciate about CHARLIE.

I include the editorial about my friend and our colleague at this point in the RECORD:

A GENTLEMAN FIRST

The decision of Rep. Charles S. Gubser (R-Gilroy) to retire at the end of this congressional session has shocked and saddened all who know him and his record of public service.

He will be a difficult man to replace on Capitol Hill precisely because of the qualities which made him such a successful Representative for more than 20 years.

Charlie Gubser was liked and respected by Democrats and Republicans alike. It was not necessary to agree with his views on a particular issue to recognize the honorable intent behind the views; more important, perhaps, Charlie never had to agree with a per-

son politically to accord him the same presumption of honesty and fair dealing.

It was this innate civility that made Charlie Gubser such an effective legislator. If politics is the art of compromise, respectful discourse is the practice which perfects the art.

None of which is to imply that Charlie Gubser was other than a loyal Republican and a stand-up campaigner. He could—and did—trade political blows with the best the opposition could throw against him, but he never let partisanship blind him to the fact that, once elected, he was sworn to represent all the people of his district.

And represent them he did. Charlie Gubser rose over time to be one of the ranking Republican members of the powerful House Armed Servics Committee, but he always had time to attend to the requests of his constituents back home. He may be remembered by history as one of those members of Congress who forced exposure of the My Lai massacre, but he will be remembered also as a friend in need by the young wife seeking to join her serviceman-husband overseas. Charlie always put human values above red tape, and he succeeded more often than not in persuading the military to this point of view.

Charlie will be remembered, too, as the prime mover behind the San Felipe project, an ambitious undertaking to ensure the water supplies of the Central Coast region well into the next century. This was but another example of his basic dedication to serving the needs of the people who sent him to Congress to do just that.

All of which outlines succinctly the sort of man 13th Congressional District voters should choose this November. He must combine intelligence and compassion, diligence and humility—at least enough humility to recognize that opponent isn't the same as enemy and that working with the opposition to achieve a common goal on occasion is not disloyalty to one's own party.

Perhaps in picking a congressman, it might be useful to reflect on the British attitude toward another class of public servants: judges. As the British have it, "a judge should be, first of all, a gentleman. If he shall know a little law it can do no harm."

Charlie Gubser was, first of all, a gentleman. He went on from there to become an outstanding congressman.

UNION CARBIDE AND WASHINGTON WORKSHOPS: AN INVESTMENT IN AMERICAN YOUTH

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

Mr. SMITH of Iowa. Mr. Speaker, often it has been asked: "What of tomorrow's leaders? How might they derive maximum benefit from current happenings? Will they be able to avoid the pitfalls that have plagued us recently?"

The Washington Workshops Foundation has taken steps to answer these questions and answer them favorably by each year offering a series of congressional seminars in which our young leaders may view the workings of our Government firsthand. Here they analyze the strengths and shortcomings for themselves. These young people have a stake in tomorrow and only through such participation in and understanding of our Government will they be adequately prepared to face the challenges and crises that will soon be theirs.

This week I am particularly delighted to note one of my constituents, Mr. Joe Faust, of Centerville, is participating in the Washington Workshops Seminar as a Union Carbide Scholar. The Union Carbide Corp. is sponsoring Joe's stay in our Nation's Capital as he strives for a better understanding of Government and its purpose. Union Carbide grants such awards to exceptional students throughout their communities and Joe is one quite worthy of such an honor.

With the opportunity to see and judge for himself, I am confident that Joe will find the seminar most beneficial. Moreover, the seminars will benefit the Nation by giving our upcoming leaders a realistic view of the Government. For this, one must surely extoll the efforts of the Washington Workshops Foundation and the Union Carbide Corp.

PROTECTION FOR PURCHASERS OF ANTIQUE FIREARMS

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

Mr. GOLDWATER. Mr. Speaker, just recently I joined with my colleagues, the gentleman from Florida (Mr. SIKES) and the gentleman from South Carolina (Mr. SPENCE) in the introduction of a bill to amend Public Law 93-167, the Hobby Protection Act of 1973, which would require that all reproductions of antique guns be dated with the year of actual manufacture and would authorize "private enforcement" suits in local Federal courts by citizens defrauded by fakery.

Mr. Speaker, the January 1974 issue of the American Rifleman magazine included an exclusive exposé by Editor Ashley Halsey, Jr. and Associate Technical Editor Robert N. Sears of the widespread practice under which buyers of antique firearms are victimized. It was this exposé which served to call our attention to the possibility of amending the Hobby Protection Act to cover faked firearms.

For buyers and collectors of antique firearms, a most important provision of the Hobby Protection Act, if it is amended as we propose, would be section 3. This authorizes "any interested person" to sue in Federal court to enjoin faking and to collect damages if defrauded by it. The person exercising this so-called private enforcement may file suit in any district where he resides or has an agent.

Without the private enforcement provision, an aggrieved buyer who feels he has been defrauded cannot get into Federal court unless he can show: First, that he lives in another State and second, that he is suing for $10,000 or more. Many badly stung buyers of fancy-dressed overpriced fakes have been unable to do so, as at least 90 percent of faking is believed to involve interstate sales.

If the Hobby Protection Act is amended to include antique firearms, however, the victims of fakeries could proceed more freely to sue for damages. "In any such action," the act now says of coins and political memorabilia, "the court may award the costs of the suit including reasonable attorneys' fees." The same would apply to collector firearms if the act is properly amended.

Where a reproduction firearms amendment to the act might serve to trap forgers is in its requirement that the arms carry a true date of manufacture. In most cases reported recently, the forgeries consist of legitimate reproductions whose markings were obliterated by the fakers. In some instances, false markings were struck or substituted.

The big thing is not so much markings, however, as it is the added freedom which would be given gun collectors who are victimized to sue in courts in their own districts, without the obstacle of having to go into court in another State.

It is for these reasons that I trust my colleagues will give this measure their favorable consideration.

Mr. Speaker, at this point in my remarks I would like to include the text of H.R. 12500, a bill to amend the Hobby Protection Act to include reproductions of antique firearms:

H.R. 12500

A bill to amend the Hobby Protection Act to include reproductions of antique firearms

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Hobby Protection Act is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) ANTIQUE FIREARMS.—The manufacture in the United States, or the importation into the United States, for introduction into or distribution in commerce of any imitation antique firearm which is not plainly and permanently marked with the calendar year in which such firearm was manufactured, is unlawful and is an unfair or deceptive act or practice in commerce under the Federal Trade Commission Act.";

(2) by striking out "or (b)" in subsection (d) (as redesignated by paragraph (1) of this section) and inserting ", (b), or (c)" in lieu thereof, and

(3) by striking out "(a) and (b), and regulations under subsection (c)" in subsection (e) (as redesignated by paragraph (1) of this section) and inserting in lieu thereof the following: "(a), (b), and (c), and regulations under subsection (d)".

SEC. 2. Section 3 of the Hobby Protection Act is amended by striking out "(a) or (b) or a rule under section 2(c)" and inserting in lieu thereof the following: "(a), (b), or (c) or a rule under section 2(d)".

SEC. 3. Section 5 of the Hobby Protection Act is amended by striking out "(a) or (b) or regulations under section 2(c)" and inserting in lieu thereof the following: "(a), (b), or (c) or regulations under section 2(d)".

SEC. 4. Section 7 of the Hobby Protection Act is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (7), (8), and (9), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) The term 'antique firearm' means any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured during or before 1898.

"(6) The term 'imitation antique firearm' means a firearm which purports to be, but

in fact is not, an antique firearm or which is a reproduction, copy, or counterfeit of an antique firearm."

SEC. 5. Section 8 of the Hobby Protection Act is amended by striking out "and imitation numismatic items" and by inserting in lieu thereof the following: ", imitation numismatic items, and imitation antique firearms".

THE ATTITUDE OF CONGRESS TOWARD IMPEACHMENT

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

Mr. HANNA. Mr. Speaker, I protest that Congress is being both intimidated and insulted by certain interests on the process of impeachment. Intimidated I say by the attempt to create an atmosphere surrounding the process to suggest that Congress has to treat the President as the courts treat a citizen charged with criminal conduct. Such a proposition is both impertinent and illogical.

The process of impeachment is singular, unique, and quite distinguishable in many regards from a criminal procedure. We are in the first instance facing charges which will separate a man and his office, not charges which may, as in a criminal case, separate the offender from society. Consider please that a finding of serious breach in adherence to an expected moral standard would easily be a factor in questioning a President's fitness for office but would scarcely be enough to send a man to jail for 1 year, as a felony would. Further, a finding of sufficient and impressing facts to conclude a clear showing of unsound judgment in an area of obvious importance to the Nation might remove a man from office but would not send him to confinement.

It seems obvious with materials and facts now available that charges may well be laid that if proven would provide the basis for criminal action but if such action is to be taken it should be in a court of competent jurisdiction, not in the Congress. And, more importantly the rules of evidence of that court need not, indeed should not, be impressed on the impeachment proceeding.

The question we face in the House is shall the President be held to trial in the Senate on the evidence supporting charges we hold to be sufficient to remove him from the Presidency. To hold out to the American people that we are going to put the President in the dock like a common criminal is to distort the process and mislead the public. Another strain of nonsense that should be put to rest is the suggestion that impeachment would imperil the Republic. It needs remembering that the passage of power has occurred in a 4-year span by the election process and in shorter spans by natural death and by assassination. Our institutions are already tested for this ordeal and the Nation does not stand or fall by virtue of the incumbency of Richard Nixon continuing unchallenged.

Associated with the above canard is the suggestion that impeachment once tried becomes twice cheap. Considering the fact that it will have been tried but twice in 200 years, to suggest that it thereby will become virulent is like saying that a family that has had two doses of a disease in two generations is highly susceptible to the germ.

I, for one, am convinced that the Congress is going to approach the matter of impeachment with sound and careful judgment and with its constitutional obligations clearly in mind. We do not need the heavy hand of a criminal justice analogy in order to establish a sound precedent for future cases which will serve the country well regardless of who holds the office of the Presidency.

NO SHORTAGE OF WHEAT FOR BREAD—ONLY BOXCARS TO MOVE IT

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

Mr. MELCHER. Mr. Speaker, the American consumer is being scared by the American Bakery Association's hysterical propaganda of high-priced bread due to short wheat supplies. Their predictions have been coupled with anguished calls for export controls on wheat to prevent further foreign sales.

Anyone who takes a realistic look at our wheat stock and transportation situations can separate out the verbal chaff to assure U.S. consumers there is plenty of wheat available in the country.

Our farmers are expected to produce over 2 billion bushels of wheat in 1974, and since we consume about 600 million bushels in this country, most of it is grown for export sales. These foreign sales of wheat are significantly in the public interest. First of all, it helps our balance of payments and wheat sales during 1973 have been one of the factors bringing our balance of payments back into a favorable position. Keeping a positive balance of trade is vital in order to solidify the dollar and avoid the excessive inflationary pressure devaluations have caused the United States. And its importance in 1974 is increasing as we continue to import vast quantities of foreign oil at greatly increased prices which must be offset by sales of American grain if we are to maintain a favorable balance.

Second, the humanitarian need to supply America's abundant production of agricultural products in world trade should not be tampered with on the basis of scare tactics of an individual industry that evidently has not properly assessed all of the available supplies of wheat. The only overriding reason to follow the baking industry's advice would be if American consumers were actually faced with a shortage of wheat. Such is not the case as the following facts conclusively demonstrate a plentiful supply.

The latest Agriculture Department grain stocks report shows January U.S. wheat at 934 million bushels on farms or in elevators.

Much of this wheat has been contracted to grain companies or cooperatives to satisfy sales to millers and various food suppliers and also for unfilled foreign orders. It is more than half of what we produced in 1973.

But the pertinent point is, is it available for the consumers of this country? The answer is "Yes." With the new harvest due to start in June in the southernmost part of the wheat belt we have less than half the year to go and normal consumption amounts to about 50 million bushels per month.

Just where is the wheat that the bakers seem to think is in short supply? It is awaiting boxcars or trucks to carry it from county elevators to markets. Transportation is the bottleneck. Take my State of Montana for example, where at the first of the year we had almost a half year's crop either still on the farm or in elevators. As of February 15 this was down several million bushels but the equivalent of one-third of last year's crop is still there, and if we do not move the grain faster than we did during the last half of 1973 we will still have over 16 million bushels or one-sixth of last year's crop left in the farmer's hands by midsummer.

But, as Montana grain growers point out, the ability to move grain deteriorates so there is no way the 1973 level will be maintained. I have had a continual stream of letters, telegrams, and phone calls from places like Sidney, Plentywood, Soobey, Wolf Point, Havre, and other grain areas where elevators are desperate for boxcars to move their wheat to markets. And the problem is widespread. Thirty to forty million bushels of grain are awaiting shipment in Kansas and Nebraska too.

Rather than scaring the consuming public by calling for a wheat export embargo, the baking companies should take a look at all of the wheat that is available in wheat-producing areas that simply cannot be moved to market. Then they should join with the grain growers of the country in working to eliminate these serious transportation bottlenecks.

There is plenty of wheat if we can get it off the farm and out of the elevators and to those who bake the bread.

A MILLION-DOLLAR COLORING BOOK FROM OUR COST-CONSCIOUS POSTAL SERVICE

The SPEAKER pro tempore (Mr. MCFALL). Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, I would like to say a few words today about the enormous problems of mail delivery, management, and postal rate increases proposed by the U.S. Postal Service.

On July 1, 1971, the U.S. Postal Service took over the job of carrying the mail in this country. This new agency, set up along the lines of a modern business corporation, promised to improve on the heavily criticized predecessor, the Post Office Department. The cost of a first-class letter was raised and virtually all other classes of mail went up as well.

Given all this, one would expect service to be improved. But, nothing of consequence has changed since the new U.S. Postal Service came into being. In fact, service continues to deteriorate while the rates continue to increase.

The new rate proposal includes a 25-percent increase in the cost of mailing a letter first class; an 18-percent increase in the cost of an airmail letter; a 39-percent increase in the rate for second-class mail; an increase in the neighborhood of 25 percent for third class; 6 percent for fourth-class mail.

The new rate increases which would take effect on March 2, 1974, will increase business costs and they will be reflected in higher prices both up and down the line. Certainly, in times as inflationary as the present, an increase in postage rates would be harmful to the individual consumer and the general economy.

Postal rate increases and poor service have caused many companies to turn to private mail services that promise reliable and relatively inexpensive deliveries. Higher second-class rates have already helped put some publications out of business—such as Life and Look magazines. The cost suffered by the public is both in terms of the loss of the publications and the loss of the jobs which those operations generated.

The Postal Service claims an accuracy rate of 95 percent. But, these days it seems that just about everybody has some personal horror story to tell about the mail service they get. A Reader's Digest survey found that the average letter it mails today takes nearly 3 days longer to be delivered than it did in 1969. Members of Congress receive hundreds of thousands of complaints from individuals each year about the Postal Service.

At this point, I would like to mention just a few of those which have come to my attention. The following is a comment a business executive in West Memphis, Ark., which is in the district I represent, made in response to a Postal Service questionnaire about its performance:

We used to receive overnight service from Little Rock and two or three day service from New York, Atlanta, Baton Rouge, and New Orleans. Now, however, things have changed—I'm tired of three-day mail here in town, four-day airmail from Baton Rouge, five-day mail from Raleigh, N.C., thirteen-day mail from Little Rock, and to cap it off, I mailed a certificate for $100,000 to New York by certified mail at noon 9/22 and it was received on 9/30—you can figure the cost per day. Something is wrong in Memphis and it isn't getting any better since things were "centralized so as to improve service." Ha! Doesn't anyone give a happy damn anymore!!

This man's problem is not an isolated one. For instance, a check mailed by a woman in Charleston, W. Va., to Ravenswood, 52 miles away took 9 days to arrive—by which time she received a delinquent-payment notice. On Valentine's Day a resident of Elizabeth, N.J., received a Christmas card postmarked December 10. A department store in Atlanta sent out a large third-class mailing, properly presorted, 7 days in advance of a sale. The announcement reached most customers after the sale was over.

The U.S. mail service is deplorable and the problem, we must agree, is epidemical.

Another problem with the Postal Service today is the current Postmaster General. He has cut the U.S. Postal Service payroll by 37,500 employees, slashed overtime, closed many small post offices, and installed manpower-saving mechanized facilities. This has all been done in the name of saving money, efficiency, and effectiveness.

Mr. Klassen has not, however, been so parsimonious with his top echelon staff here in Washington or when it comes to a friend. I have not heard of the Postal Service proposing to cut any of the nearly 50 executive positions it has for persons drawing salaries exceeding $42,-500 annually. And, it has recently been alleged that Mr. Klassen authorized, without competitive bidding $821,845 in Postal Service contracts to a New York consulting firm headed by a long-time friend of the Postmaster General's.

Since 1970, these contracts have provided one-fourth of the revenue to the firm. These contracts were for public relations promotions. Although the Postal Service has a 68-employee communications department with an annual budget of $2.3 million—they did not come up to Mr. Klassen's public relations standards. Since, the U.S. Postal Service is the country's sole source of postage stamps, I can not really understand why it is necessary to spend this huge amount of money to advertise itself.

Another matter which I believe bears airing here came to light in a staff report published last November by the Subcommittee on Postal Facilities, Mail and Labor Management. This report dealt with an inspection tour the subcommittee's staff made of Postal Service bulk and preferential mail centers. Among the problems it cited was the discovery that the USPS's planning is so poor that millions of dollars worth of equipment installed in one of the system's facilities is now, or will be, obsolete before it is 2 years old.

Finally, it is my understanding that the Postal Service plans to distribute, or is distributing, coloring books for children under the guise of education. These books, I am told, will be or have been distributed to the 750,000 Postal Service employees and their families. Another 4 million of them will be included in 150,000 "Postal Service Educational Kits" being distributed free to third, fourth, and fifth grade students across the Nation. Now, this sounds like a fine idea does it not? But, to my thinking there are a few flaws. For instance, one Postal Service source says the printing cost alone for this project was close to a million dollars. Another argues that the cost of producing, packaging, and related charges for the whole project was "only $450,000."

I remain at a loss to understand why the Postal Service needs this kind of massive publicity campaign in view of its monopolistic nature. And, I just wonder how much of these new postal rate increases will be going to pay the coloring book bill.

Mr. Speaker, I could go on with a recital of other problems within the Postal Service which have come to my attention. I have commented on them many times before. But, I believe that the examples which I discussed here are ample proof that it is unconscionable to ask the American taxpayers—who subsidize this "business-like corporation" to the tune of millions upon millions of dollars a year—to accept another large increase in postal rates.

Discontent with the U.S. Postal Service is widespread. Complaints are on a continuous increase. Dissatisfaction prevails among private consumers, business and government. The present rates are extremely high for such unsatisfactory service. A further increase is certainly unsupportable in view of the obvious waste, inefficiency, and ineffectiveness in the Postal Service's operation.

If the Commission on Postal Costs and Revenue refuses to use its power to deny increases in the absence of improvements in the operation of the Postal Service I would urge that the Congress review and revise the law which created this ineffective, inefficient, postage gulping glutton. Congress may well again have to become the "court of final appeal" to protect the interests of our people in rate increase matters.

Mr. SEBELIUS. Mr. Speaker, I am most pleased to have this opportunity to join the Honorable BILL ALEXANDER, my colleague from Arkansas, who is chairman of the Subcommittee on Family Farms and Rural Development of the House Agriculture Committee, in discussing the problems we are experiencing concerning postal service in our rural and smalltown areas.

Rather than go into lengthy remarks, for the problems we are experiencing are many and severe, I feel it would be beneficial for me to simply insert into the RECORD at this time a part of a special report conducted by my office pertaining to postal problems we are experiencing in my congressional district in Kansas.

We conducted a special listening and inspection tour relative to postal service in the First Congressional District last May 15 through May 25. I would like to share the conclusions and suggestions of the report with my colleagues:

SPECIAL REPORT BY REPRESENTATIVE SEBELIUS

CONCLUSIONS

Information from this tour has led to the following general conclusions:

(A) Service. Service, as compared to what rural patrons received prior to the current Postal Corporation, has deteriorated. The complaints are so numerous, widespread and similar, that the veracity of the ODIS test (Origin-Destination-Information System) or any other test now utilized to measure mail service in rural areas is questionable. Next day delivery claims of 95% to 100% simply do not convince the patron whose mail has been lost or delayed. That error is a 100% error as far as the patron is concerned. The ODIS test does not measure time for mail to be (1) collected, (2) transported, (3) prepared for postmarking, (4) sorted for delivery by carriers or clerks and (5) delivered because it is assumed most mail is postmarked the same day it is mailed and that a carrier delivers the mail on the day he receives it. In addition, the Postal Service does not consider Sundays and holidays in computing the average number of days to deliver first class mail.

It should be stressed that while approximately 2,000 complaints were received as a result of this tour, that figure is not indicative of the extent of the problem. It would have been a simple task to increase the num-

ber of compaints to four or five times that amount. After obtaining some 2,000 complaints, it was felt additional comment would be redundant and unnecessary.

(B) Service in Outlying Areas. Service in outlying rural areas as compared to service within sectional or regional centers is discriminatory, primarily due to cost cutting and rules and regulations that apply to rural areas. The rural patron in Kansas does not receive mail service on an equal basis with his "town" counterpart.

(C) Cutback in Personal Service. The cutback in personal service (door service, window service, hours of operation, access to local building, new regulations on rural route patrons relative to post office boxes, etc.) has caused significant inconvenience for patrons as well as resentment.

(D) Employee Morale. The problem of morale and the many complaints from personnel within the Postal Service is most serious. While the great majority of postal employees state repeatedly that reform and reorganization were needed and that *part* of what has been done has been needed for some time, most are bitter and resentful over "going too far". It was extremely difficult to obtain candid statements from postal employees in that most frankly do not believe the so-called "gag rule" has been lifted and fear reprisal. Upon assurance that their remarks would be "off the record" and kept confidential, most talked at length itemizing "problem" areas.

(E) Area Preferential Mail System. The Area Preferential Mail System (the processing of mail through the sectional center facilities) is most unpopular despite the fact postal authorities claim the system works within their own prescribed time goals. The system is resented both by local citizens and local postal employees. It is synonymous with "big government" and "Washington bureaucracy". The system may be justified due to the fact the Postal Service must now rely on highway transportation but cannot be justified on the basis of integrating rural postal delivery systems into the nation's computerized and mechanized system. Equipment of this type does not exist in rural sectional centers, not to mention rural post offices. The sectional center process also places time and regulation problems upon local postal employees that are resented and impossible to explain to local patrons.

(F) Junk Mail. There is significant support for so-called "junk" mail to pay increased rates.

(G) Newspaper Delivery. There has been a notable deterioration of service relating to newspapers, periodicals, magazines, church and organization bulletins and other non-first class mail. Most of the complaints involve the delivery of the community newspaper. In most cases, patrons will receive several newspapers on one day and none on other days. Second class mail, according to postal employees, is simply not moved when time and the work load become a problem. In several instances, postal authorities have caused serious economic problems for local newspaper publishers regarding decisions involving postal rate errors. The publisher, though not responsible for the error in computing postal rates, is being charged on a retroactive basis to the extent the fee could endanger his business operation.

(H) Postal Policy. The Postal Service's often quoted and widely believed policy that the service must "pay for itself" is not accepted or understood in rural areas. It is generally accepted by postal employees and patrons that cost cutting has directly led to deterioration of service. It is also generally accepted that the Postal Service cannot pay for itself and still provide adequate service to rural areas. There is strong support for Congress to subsidize the difference in cost. In addition, there is considerable opposition to another postal rate increase.

(I) Public Relations. The current public relations and publicity program of the Postal Service, instead of helping to improve the image of the Postal Service, is looked upon with skepticism to the point of ridicule and resentment. (The day the tour met with citizens complaining of postal service in a community 60 miles from the sectional center, the sectional center postmaster announced in the press that patrons receive next day delivery 95% of the time within that sectional center. Many citizens brought that particular news clipping to the meeting referring to same with anger and ridicule.) The current "Madison Avenue" public relations program conducted by the post office through paid advertisements and press statements issued by local postal employees (some against their wishes) is doing more harm than good in Kansas.

(J) Good Local Service. In roughly 3% of the comments received, patrons said they were receiving good service. In virtually all of these cases, credit was given to the local postal employees. The attitude, with a few notable exceptions, on the part of patrons toward their local postal employees was good. The great majority of complaints stem from poor service that is attributed to a new system imposed in a dictatorial fashion in rural areas without support or approval by either patrons or postal employees.

(K) Elimination of Local Postmarks. The elimination of local postmarks and local post office cancellation of mail has created serious problems for businessmen and is resented by local citizens.

SUGGESTIONS

(A) Service. The Postmaster General and the postal management team in Washington, D.C., should publicly stress service as opposed to cost and what action, if any, is being taken regarding specific improvements and plans for rural areas. As far as rural patrons are concerned, none of the modernization and reorganization plans now underway within the Postal Service applies to rural areas. It is suggested some acknowledgement be given to the fact problems in rural postal service do exist and that specific programs to correct these problems are receiving equal consideration as the much publicized problems in our nation's cities.

(B) Test for Rural Delivery. Some additional form of testing should be tried to measure more accurately the mail delivery in rural areas.

(C) Sectional Centers. The Area Preferential Mail System, if not terminated, should be much more flexible in rural areas. Local postmasters, in almost every case, indicated better service could be restored if they had the authority to set up an "in pouch delivery system" within the existing system. The current practice of not using vehicles on return trips for in-county delivery is most difficult to explain or justify to the patron.

(D) Local Authority. The policy of transferring local authority in almost every area of postal operations to sectional centers should be reviewed. More authority should be given to local postmasters, not only in terms of setting up local delivery systems but in all phases of the local operation. When possible, local post offices should cancel and postmark their own mail. There should be more flexibility and local authority regarding door service, window service, hours of operation and regulations such as new regulations regarding box holders and rural route patrons. Sectional center post offices, while cutting back on services of this type, offer better service to their patrons and by doing so, the rural or small community patron receives discriminatory service.

(E) Newspaper, Magazine Delivery. Greater priority should be placed upon timely delivery of newspapers, magazines and periodicals—mail solicited and paid for by the patron. Again, if given the authority and man hours to do the job, most local postmasters make every effort to work out a satisfactory working arrangement with local publishers.

(F) Retroactive Charges. The Postal Service should make it official policy not to hold publishers, or any other business operation, responsible for retroactive rate charges based upon misinterpretation or lack of proper guidance or information on the part of local postal officials. This current practice is bitterly resented. It is the recommendation of Congressman Sebelius that if publishers are not treated fairly with a problem of this nature that they take the case to court.

(G) Public Relations and Advertising. The latest report from the General Accounting Office stating the U.S. Postal Service spent $1 million falsely advertising improved air mail service is the latest in a series of public relations efforts that are having an adverse public reaction. It is recommended the Postal Service stop spending public funds for public relations other than financing an information service. This suggestion also applies to "in house" postal publications and press statements released through local postal employees.

Whatever cost savings have been gained as a result of cutbacks in personnel, service, termination and consolidation of routes, closing small post offices and increased postal rates have also cost the Postal Service more in public relations than any advertising agency can correct.

(In a recent issue of the "Memo to Mailers" publication, published monthly by the Public Affairs Department of the U.S. Postal Service, the lead story concerns a business firm that now enjoys "better postal service at less cost". This article was brought to the attention of the Congressman by a businessman who has had to spend in excess of $6,000 to install his own delivery system to insure the same level of service to his customers that he used to take for granted for the Postal Service.)

(H) Employee Morale. Continued effort must be made on the part of the Postmaster General and the postal management team to improve the morale of postal employees. A realistic and long term effort should be made to get what will be blunt and outspoken advice from local postmasters who must face the public on a day to day basis and try to answer their justifiable complaints. While there have been much publicized meetings between management and local postmasters, it is interesting to note that many who attended those meetings state "off the record" they felt the meetings were more for public relations than for substance.

(I) "Gag" Rule and Hiring Freeze, Related to the morale problem, the Postmaster General should make public through official channels that the so-called "gag" rule and the hiring freeze do not represent current postal policy. In trying to arrange for an appointment with district postal officials in Wichita, the Congressman's office had difficulty in getting the receptionist to accept the call. It is also interesting to note many of the sectional center postmasters were publicly very much in favor of the current system. Off the record, the story was quite different. Each sectional center "competes" with other sectional centers in a cost cutting and performance "game" which in turn is "played" by district and regional officials.

While fully appreciating the legitimate and obvious need for postal officials to provide service at a cost that is fair to the taxpayer and while postal officials have made commendable progress in achieving this goal, it is suggested service to postal patrons receive equal priority.

The current "cost cutting" and "big brother" environment is evident to the point employees and union spokesmen went to great lengths to arrange for private meetings in which they felt they could air their grievances without repercussion.

CONGRESSIONAL OVERSIGHT RESPONSIBILITY AND POSSIBLE LEGISLATION

As stated previously, while there has not been sufficient time for the Postal Service to implement the needed reforms and technology necessary to provide adequate service, Congress is becoming increasingly aware of its oversight responsibility in making sure national mail service operates so that all citizens receive prompt service at the lowest possible cost. Within this oversight responsibility, hearings on postal service are continuing in both the Senate and the House of Representatives. Upon conclusion of these hearings in the fall, legislative and administrative proposals will be forthcoming.

Legislation has already passed the House of Representatives requiring annual authorizations for appropriations to the Postal Service. The authorization for these appropriations was on a permanent basis. The bill also requires the Postal Service to keep Congress fully informed as to its activities. The purpose of the bill is to allow Congress to thoroughly review the amount of money needed from the Federal Treasury to be used to cover the cost between postal revenues and total postal costs. Hopefully, this bill will enable Congress and the Postal Service to better work together to restore and improve service in rural areas where postal service cannot pay for itself.

While various legislative proposals and administrative recommendations will be forthcoming as a result of current Senate and House hearings, it should be stressed that to date, legislation that would "tell the Postal Service how to run its own shop" has not received serious consideration. However, the following legislation has been introduced:

(A) Legislation that would set minimum standards for mail delivery and require Congress to appropriate the funds necessary to meet those standards (strongly endorsed by Congressman Sebelius);

(B) Legislation that would provide rural mail delivery to all people without regard to the number of families residing in a specified area (strongly endorsed by Congressman Sebelius);

(C) Legislation and various amendments that would limit and "spread out" proposed rate increases for second, third and fourth class mail;

(D) Legislation that would prohibit a postal rate increase as recommended by the Postmaster General to the Postal Rate Commission;

(E) Legislation that would repeal the Postal Reorganization Act and place the U.S. Postal Service back under the jurisdiction of the Congress;

(F) Legislation that would end government postal monopoly.

SUMMARY

Postmaster General E. T. Klassen, when testifying before Congress in March of this year, stated:

"We were so hell bent on costs that we didn't pay enough attention to service."

He also insisted the so-called "gag" rule no longer applies to postal managers and employees and that they are entitled to talk with their elected representatives. He stated he was also critical of those within the postal management team who withheld facts as to the seriousness of service related problems.

In essence, the testimony of the Postmaster General acknowledges and mirrors the complaints received from patrons in Kansas. Postal service in rural areas in Kansas, while not getting any worse, seriously deteriorated from the service standard prior to postal reorganization. The service, in terms of posing a hardship to rural patrons, is bad enough but it appears discriminatory in comparison to that received in urban and suburban areas and in areas in close proximity to sectional centers. In the eyes of the public, postal service does not meet the requirements of postal policy:

"The Postal Service shall provide prompt, reliable and effective and regular postal services to rural areas, communities and small towns where post offices are not sustaining . . . it being the specific intent of Congress that effective postal services be insured to residents of both urban and rural communities."

According to rural patrons, who have made their complaints quite public, and postal employees, who have made their complaints for the most part in private, this policy directive is not being met in the First Congressional District in Kansas. Just as important, there is no evidence that any program is being implemented or even studied that would specifically apply to postal problems in rural areas. There is evidence, however, of some improvement in mail service nationwide and of determined efforts by the U.S. Postal Service to go ahead with the "big brother" reforms in process. How this modernization, computerization, and reorganization will affect rural areas is subject to question.

THE AMERICAN DILEMMA: EVER-CHANGING FORCED-BUSING FOR-EVER?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. SNYDER) is recognized for 60 minutes.

Mr. SNYDER. Mr. Speaker, the problem of induced school integration by way of court-ordered forced-busing has become a national dilemma. It is not just a regional problem. Southern States are no longer alone in facing Federal fiat regarding the education of their black and white children. Michigan felt the heavy hand of the Federal courts in this matter before Kentucky. The taxpaying constituents of every Member of this body are forced to pay the ever-increasing costs of busing growing numbers of children of both races more miles every year, if only by having to underwrite the expanding Federal bureaucracy that is planning, reviewing, overseeing and policing this practice.

On February 19, the Senate Judiciary Committee's Subcommittee on Constitutional Rights opened hearings on four bills which would, by statute, strip Federal courts of the power to mandate forced busing as a method of inducing integration in the Nation's school systems.

Those bills are: S. 619, introduced by Senator ALLEN of Alabama, S. 1737, introduced by Senator ERVIN of North Carolina, S. 287, introduced by Senator SCOTT of Virginia, and S. 179, sponsored by Senator GRIFFIN of Michigan. I have introduced in the House companion bills to these Senate measures: H.R. 12474, H.R. 12475, H.R. 12476, and H.R. 12477, respectively.

Mr. Speaker, I would like to tell my colleagues in the House of Representatives what I had to say to the Senate Subcommittee on Constitutional Rights on February 19 in favor of those bills.

Mr. Speaker, every American citizen is directly affected by the forced-busing issue, if only through his pocketbook. The increasing costs of this "solution" to so-called racial discrimination in American public schools are felt not only by citizens of affected counties, cities, and States who must come up with the cost of additional buses fuel, maintenance, insurance, et cetera, et cetera, but by every one else. All Americans in our 50 States must bear the tax burden to support the growing army of bureaucrats in the U.S. Department of Health, Education, and Welfare, U.S. Department of Justice, U.S. Civil Rights Commission, et cetera, who are involved with all aspects of planning, reviewing, overseeing, and policing busing and other "desegregation" procedures, to say nothing of the entire U.S. Judiciary System which seemingly has implanted itself forever in the midst of this unending dilemma.

Much of that dilemma lies within the judicial branch itself, unfortunately. Let me explain.

The Supreme Court on April 20, 1971, rendered its decision in Swann against Charlotte-Mecklenburg Board of Education. Regarding the subject of racial quotas, the Court said this:

If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse. The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole.

The Court further declared:

In light of the above, it should be clear that the existence of some small number of one-race, or virtually one-race, schools within a district is not in and of itself the mark of a system which still practices segregation by law.

The Supreme Court in concluding the case, said:

At some point, these school authorities and others like them should have achieved full compliance with this Court's decision in *Brown I*. The systems will then be "unitary" in the sense required by our decisions in *Green* and *Alexander*.

It does not follow that the communities served by such systems will remain demographically stable, for in a growing, mobile society, few will do so. Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action is eliminated from the system. This does not mean that federal courts are without power to deal with future problems; but in the absence of a showing that either the school authorities or some other agency of the State has deliberately attempted to fix or alter demographic patterns to affect the racial composition of the schools, further intervention by a district court should not be necessary.

Nevertheless, in the Fourth District of Kentucky which I represent, as well as in the adjoining Third District, forced-busing may soon be the order of the day because a circuit court seemingly does not wish to abide by the language of the Supreme Court just quoted. The Sixth Circuit Court in Cincinnati evidently does not want to allow a single all-black school, though the Supreme Court ostensibly would. Nor does it seem to accept the fact of population mobility, as the Supreme Court does. And it seems to opt for continuing court-ordered plans to handle future changes in racial

ratios as a result of that mobility, which it would interpret as ipso facto discrimination, despite the Supreme Court's declaration that such continued adjustments are not required. Yet precedent shows us that such contradictions may remain in effect.

All this, I submit is ample proof of a continuing, unending dilemma.

I repeat, unending dilemma. I believe it deserves even greater attention than it has received for the following reasons:

It is of the utmost importance to realize first, that lower courts are requiring much more idealistic and impractical standards than the Supreme Court itself, and second, despite this, the highest court is letting them stand.

In at least one case the Supreme Court has let stand the fixing of racial ratios in every school in the system despite its above quoted Swann position that it "would be obliged to reverse" such a requirement by a district judge.

The Prince Georges County, Md., school system is presently burdened by the fiat of a Federal judge in Baltimore, Judge Frank Kaufman of the U.S. District Court of Maryland. His ruling of December 29, 1972, upheld by the Fourth Circuit Court but unreviewed by the Supreme Court, requires that no school in that system shall be more than 50 percent black, nor less than 10 percent black, regardless of the population makeup surrounding those schools, regardless of what busing is required to engineer those percentages in all schools in that 45-mile wide county. This requirement is totally out of line with the Supreme Court's statement in Swann that it would have to reverse a district court requirement of "any particular degree of racial balance or mixing." Despite this, the Supreme Court refused to review the Kaufman decision on October 16, 1973.

Who can know what any Federal court, including the Supreme Court, really means at any given time, or may hold on the same matter in the future, with such examples of contradiction and confusion among the "wise men" of our judiciary system?

It is against this confused, contradictory background that I wish to look into the busing situation in my own State of Kentucky.

That the problem of forced-busing could interminably extend into the future, I believe is clearly brought out by the decision of the Sixth Circuit Court of Appeals which on December 28, 1973 overturned the March 8, 1973 decisions of the U.S. District Court for Western Kentucky. In those March decisions, District Judge James F. Gordon after extensively reviewing the desegregation measures taken by both the Louisville School Board and the Jefferson County School Board, found both systems to be unitary and whatever concentration of either white or black children in any school remained, to be clearly the result of defacto, and not dejure causes. These reasons he found chiefly to be what he called "white flight," taking place all the while desegregation efforts, including busing, were being implemented. He found those efforts to be completely satisfactory, in compliance with the Supreme Court mandates.

I quote the following thret sentences in the Circuit Court's opinion to make two points that demonstrate that the dilemma which faces us is one without end unless Congress sensibly puts an end to it:

> All vestiges of state-imposed segregation have not been eliminated so long as Newburg remains an all black school. Where a school district has not yet fully converted to a unitary system, the validity of its actions must be judged according to whether they hinder or further the process of school desegregation. The School Board is required to take affirmative action not only to eliminate the effects of the past but also to bar future discrimination. *Green, supra,* 391 U.S. 438 n.4.

The first point is an immediately apparent contradiction—with the Cincinnati Court setting its own standard in defiance of the position of the Highest Tribunal in the land. The Supreme Court, as we have seen in Swann, said:

> It should be clear that the existence of some small number of one-race, or virtually one-race, schools within a district is not in and of itself the mark of a system which still practices segregation by law.

Yet the Sixth Circuit Court in its wisdom declared:

> All vestiges of state-imposed segregation have not been eliminated so long as Newburg remains an all black school.

The Supreme Court would allow some one-race schools. The lower circuit court, despite this, would allow none. Incredible.

What are the American people in 50 States, not just in Kentucky, to believe judicial standards on school desegregation really are?

The second point I wish to highlight is much more subtle, but not unimportant, as long as the Supreme Court refused to even review Judge Kaufman's Prince Georges County busing order which established a universal school racial ratio despite the Highest Court's earlier dictum in Swann that it would be obliged to reverse such ratios if imposed, and its specific declaration opposing any mandatory racial composition "for every school in every community."

The circuit court referred to Green to support the last of the three sentences I quoted:

> The School Board is required to take affirmative action not only to eliminate the effects of the past but also to bar future discrimination.

In that Supreme Court decision, *Green v. County School Board of New Kent County,* 391 U.S. 430 (1968), one finds at the bottom of page 438, note 4, which reads:

> We bear in mind that the court has not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discrimination in the future. Louisiana v. United States, 380 U.S. 145, 154.

In Louisiana, perhaps not as the Supreme Court intended it, but, I fear, as the circuit court interpreted it, lies the seed of the problem that I call "busing forever," despite Swann's ruling out in 1971 continuing followup decrees adjusting racial composition of student bodies.

I think we can begin to see the germination of this seed in the sixth circuit court's decision. Technically speaking, perhaps the circuit court did not broaden the Supreme Court's original 1964 language in Louisiana—which it utilized by way of Green—but interestingly, it made no reference to the initial desegregation decree that the Highest Court specifically mentioned. Thus it can be read:

> The School Board is required to take affirmative action . . . to bar future discrimination.

In Louisiana, the Supreme Court spoke of the duty to bar future discrimination in an initial order ending past segregation in the schools. And as I have pointed out, in Swann there is the specific declaration that year-by-year follow-up adjustments of racial balance in schools are not required since, as a result of a satisfactory initial decree, "at some point" a system would be "unitary," with "racial discrimination through official action—eliminated from the sytem," and future population changes of themselves would not alter that unitariness.

The Sixth Circuit Court, however, seems to imply that follow-up decrees are required. It might even be said that its own decision reversing Judge Gordon is a "follow-up" decree for this reason:

District Judge Gordon found "white flight" to be a de facto cause of any continued racial "imbalance" in certain schools in Metropolitan Louisville despite thorough desegregation efforts by the authorities. He specifically found no dejure causes due to any continued official vestiges of racial segregation.

The circuit court seems to have refused to accept the actuality of this population mobility—cited by the Supreme Court in Swann as the reason making follow-up racial adjustments unnecessary—as a defacto cause of the racial imbalance it found, ruling that imbalance entirely due to dejure causes which Judge Gordon found absent completely.

One can certainly question the implication in the circuit court's language that a school board must prevent future discrimination by successive adjustments when that court does not seem to accept the fact of society's mobility inescapably leading to varying racial ratios all the time, a fact the Supreme Court did accept in Swann. But as Prince Georges County found out to its dismay, the Supreme Court does not always stand by its own rulings. So one is justified in asking, just what is the position of the courts as to continuing adjustments of racial ratios in our schools?

The two examples I have presented here—the Supreme Court's refusal to review a lower court's mandating of a compulsory racial ratio in an entire school system despite the highest tribunal's previous dictum that it would be obliged to reverse such an order, and the Sixth Circuit Court's clear defiance of one Supreme Court desegregation standard and its broadening of another—support my contention that forced busing is here to stay unless Congress puts an end to it.

Forced busing is here to stay, as a never-ending, court-ordered, court-reviewed, and court-reordered phenomenon in American life, unless Congress acts to terminate it by way of a constitutional amendment, or by way of the statutory legislation embodied in the bills before this Senate Subcommittee and in the bills I have introduced in the House of Representatives.

But it is not just forced-busing that is here to stay, but everchanging forced-busing. The problem is not just busing forever, but ever-changing forced-busing forever.

The reason for this is apparent from the position of the circuit court in Cincinnati. As population changes develop among races as they have in Louisville and Jefferson County and elsewhere, and the racial balance automatically changes in neighborhood schools with new enrollments and departures, the courts can claim as time passes that racial "imbalance" exists anew, and on the grounds of this "evidence" of renewed "discrimination," order and reorder, over and over again, the school boards of the Nation to draw up and implement new guidelines, new attendance zones, new busing schedules, et cetera, for the same or different school districts and/or counties or cities, for the same or for different students, at the same or different schools.

And all this on an unending basis—unless the Federal courts also go into the business of controlling where the American people can move to or not move to.

No further amplification on my part is necessary for everyone to see what may lie in store for this country—disruption unlimited. But the greatest disruption will be imposed on the lives of our tenderest citizens, the young students in elementary and secondary schools. Parents will not know from one term to the next what schools their children will be in, or what hours they will have to keep to make their bus schedules.

In the cases involving Louisville and Jefferson County, Ky., the sixth circuit court refused to accept as effective the desegregation measures found to be very satisfactory by the district court. The only way to satisfy the higher court is to have increased forced-busing that involves leapfrogging, or cross-busing. I completely agree with the sensible opinion on that very point that district Judge Gordon stated in his decision, now reversed:

> We have closely scrutinized the situation at the Newburg school and the adjoining elementary schools and the Cane Run school about which plaintiffs complain. We have seen the efforts by the school board in these areas and the use of permissible tools employed by the board and we reject as totally unrealistic the contentions of the plaintiffs that it is necessary, in order to comply with constitutional mandate, to transport white children into the Newburg area from adjoining districts, and at the same time transport some of the Newburg children who live near the school to white schools, thus cross-busing or leap-frogging these children merely in order to achieve some sort of racial balance, absent dejure acts or failure to act by the authorities. *Newburg Area Council* v. *Board of Education of Jefferson County, Kentucky* (p. 32).

This finding by the district judge gets to the very heart of the issue. Is forced-busing to be a permanent sociological tool—without regard for human feelings—utilized to reach and maintain throughout never ending population shifts, some idealistic but impractical form of racial balance based purely on preconceived, arbitrary percentages?

This evidently is what the sixth circuit court wants—and yet it is a well-known fact that roughly 25 percent of the American people move every year.

I submit, if the view of the sixth circuit court prevails—and I have already shown the Supreme Court does not always overturn lower court decisions that defy its own—this country will be put through fantastically costly, unending contortions and disruptions, involving not so much our schoolchildren's education, as where they will get it, unless the Congress acts favorably on the bills before this subcommittee.

If left standing, the circuit court's decision in effect holds that school boards for all time must revise busing plans—no matter how often changes must be made in any or all aspects of their plans and operations—to keep up with changing population trends, on the specious grounds that racial balances in schools differing from some preconceived, court-set percentages will, ipso facto, prove dejure segregation and discrimination.

As cities expand, and people of both races move farther from midcity areas, forced-busing could require longer and longer trips. Earlier departures, and later arrivals home involve greater dangers for our school children, as many have pointed out. Walking to, waiting for, and riding on, school buses by many more children, will involve more time away from home. Leapfrogging forced-busing likely will become even more of a disrupting factor than it has been to date.

FORCED BUSING LARGELY BASED ON ERRONEOUS SOCIAL THEORY

Federal court decisions in the area of race relations since the early 1950's have been based on the speculative theories and assumptions of certain sociologists. Among these was Gunnar Myrdal of of Sweden, whose book, "An American Dilemma," was cited in the Supreme Court's historic decision in Brown against Board of Education of Topeka in 1954.

Now we have a new American Dilemma.

It is ridiculous and tyrannical for our Federal courts, which are totally unrepresentative and unanswerable to the American people, to impose and perpetuate an untenable sociological pattern of costly forced busing on our people largely on the basis of social theories and assumptions now proven to have been erroneous.

The courts have the responsibility of adjudication on the basis of law, not sociology. The Supreme Court's function largely has been the determination of constitutionality of our laws. It has no power under the Constitution to determine the validity of social theory. Law under the Constitution is the guide for our courts, not the disproven—nor unproven—concepts of foreign or domestic social theoreticians, no matter how well-intentioned they may be.

Millions of dollars have been expended on voluntary and mandatory busing in the north, south, east, and west as a direct result of court decisions heavily influenced by social theories now shown to have been incorrect.

One outstanding survey demonstrating the falsity of the theories selected by the courts was that reported by David J. Armor, associate professor of sociology at Harvard, in the quarterly journal, the "Public Interest" for summer, 1972.

Professor Armor has this to say of the implications of his findings on busing:

> It is obvious that the findings of integration research programs have serious implications for policy. . . . The most serious question is raised for mandatory busing (or induced integration) programs. If the justification for mandatory busing is based upon an integration policy model like the one we have tested here, then that justification has to be called into question. The data do not support the model on most counts. (p. 114)

As Armor predicted—it is likely that in some quarters the data we have presented will be attacked on moral or methodological grounds and then summarily ignored—his findings have been criticized and ignored—But he devastated his critics in his surrebuttal, "The Double Double Standard: a Reply" in the winter, 1973 issue of the "Public Interest."

A careful reading shows him to be eminently fair, in my opinion. For example, he states:

> Although the data may fail to support mandatory busing as it is currently justified, these findings should not be used to halt voluntary busing programs.

He urges more support for continued voluntary busing, but flatly declares—

> Massive mandatory busing for purposes of improving student achievement and interracial harmony is not effective and should not be adopted at this time.

My position essentially is that States and local communities have the right to determine their own methods of improving race relations in schools and the standard of education for both blacks and whites as long as officially imposed segregation is ended. Federal fiat that claims to be juridical but is merely sociological, has no place in this area. Armor and others have now demonstrated the unsoundness of Federal court sociology, and it must be discarded. Inasmuch as the courts show no inclination to shed their social hypotheses, the Congress under article III of the Constitution must step in and strip away the juridical abuse of the courts—their basing judgments on illusions. The elected Representatives of the people in both Houses of Congress know the people would support such action. Only 1 in 20 Americans supports busing as a satisfactory integration tool, according to a nationwide Gallup poll taken in early August 1973. The National Parents and Teachers Association in its National Congress, on May 22, 1973, resolved—

> That the National PTA oppose the reassignment of students solely to achieve racial balance in the schools.

The American people know what the courts will not face up to, that busing is a failure. Armor asked the question:

Why has the integration policy model failed to be supported by the evidence on four out of five counts? How can a set of almost axiomatic relationships, supported by years of social science research, be so far off the mark?

He gives three answers, but my point here is that the people—unlike the courts—know that forced busing as a solution is far off the mark.

Armor blames: (1) inadequate research designs, (2) induced versus "natural" factors, and (3) changing conditions in the black cultural climate, for the errors of the sociological concepts which were chosen by the courts to underlie their decisions involving busing.

SPECIFIC FINDINGS OF THE ARMOR STUDY

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Professor Armor stated at the outset of his essays in the public interest:

The policy model behind the Supreme Court's 1954 reasoning—and behind the beliefs of the liberal public today—was based in part on social science research. But that research did not derive from the conditions of induced racial integration as it is being carried out today. These earlier research designs were "ex post facto"—i.e., comparisons were made between persons already integrated and individuals in segregated environments. Since the integration experience occurred *before* the studies, any inferences about the effects of *induced* integration, based on such evidence, have been speculative at best. With the development of a variety of school integration programs across the country there arose the opportunity to conduct realistic tests of the integration policy model that did not suffer this limitation. While it may have other shortcomings, this research suffers neither the artificial constraints of the laboratory nor the causal ambiguity of the cross-sectional survey. The intent of this essay is to explore some of this new research and to interpret the findings. (p. 91)

Armor's study was chiefly based upon the busing experience of schoolchildren in grades 1 through 12 over a period of from 1 to 5 years in five geographical areas: Boston, Mass.; Ann Arbor, Mich.; Hartford, Conn.; Riverside, Calif.; and White Plains, N.Y.

Professor Armor, at the outset of his article, indicted "educational policymakers" for deliberately ignoring a key finding of sociologist James Coleman, author of the "Coleman Report" in 1966 which was the product of a survey by the U.S. Office of Education commissioned by Congress as part of the Civil Rights Act of 1964.

Armor presented his case in these words:

The Coleman study, however, also reported some findings that surprisingly were not in accord with the early model. For one thing, black children were already nearly as far behind white children in academic performance in the *first* grade as they were in later grades. This raised some question about whether school policies alone could eliminate black/white inequalities. Adding to the significance of this finding were the facts that black and white schools could not be shown to differ markedly in facilities or services, and that whatever differences there were could not be used to explain the disparities in black and white student achievement. This led Coleman to conclude that "schools bring little influence to bear on a child's achievement that is independent of his background and general social context; and this very lack of an independent effect means that the inequalities imposed on children by their home, neighborhood, and peer environment are carried along to become the inequalities (of their adult life)."

While the findings about segregation and black/white differences have been widely publicized and largely accepted, this concluding aspect of Coleman's findings has been ignored by educational policy makers. Part of the reason may derive from the methodological controversies which surrounded these findings (e.g., Bowles and Levin, 1968), but the more likely and important reason is that the implications were devastating to the rationale of the educational establishment in its heavy investment in school rehabilitative programs for the culturally deprived; the connection between public policy and social science does have its limitations. (p. 94)

Professor Armor carefully delineated his survey (p. 96) as relating only to force, not natural, school integration, and not the "effects of integration on adults, nor on the effects of other types of integration, such as neighborhood housing, employment, and other forms." He stressed this limitation:

We are specifically interested in those aspects of the model that postulate positive effects of school integration for black students; namely, that school integration enhances black achievement, aspirations, self-esteem, race relations, and opportunities for higher education . . . In other words, we will be assessing the effects of induced school integration via busing, and not necessarily the effects of integration brought about by the voluntary actions of individual families that move to integrated neighborhoods.

Armor cataloged his findings specifically. He stated:

To test the integration policy model we can group our findings under five major headings—the effects of busing and integration on: (1) academic achievements; (2) aspirations; (3) self-concept; (4) race relations; and (5) educational opportunities. . . . In each case, we shall compare bused students with the control groups [students of similar backgrounds not bused] to assess those changes that might be uniquely associated with the effects of induced integration.

Accordingly, Armor set forth his findings under those headings. I can only quote them in the briefest manner as follows:

ACHIEVEMENT

None of the studies were able to demonstrate conclusively that integration has had an effect on academic achievement as measured by standardized tests. (p. 99) The integration policy model predicted that achievement should improve as black students are moved from segregated schools to integrated schools . . . But four of the five studies we reviewed (as well as the Berkeley and Evanston data discussed in footnote 4) showed no significant gains in achievement scores; the other study had mixed results. Our own analyses of the Coleman data were consistent with these findings (see Armor, 1972). (p. 109)

ASPIRATION AND SELF-CONCEPT

In the [Boston] METCO study we found that there were no increases in educational or occupational aspiration levels for bused students; on the contrary, there was a significant decline for the bused students, from 74 per cent wanting a college degree in 1968 to 60 percent by May 1970. . . . At the very least, we can conclude that the bused students do not improve their aspirations for college. (p. 101) The integration policy model predicted that integration should raise black aspirations. Again, our studies reveal no evidence for such an effect. (p. 110)

In the METCO study we also found some important differences with respect to academic self-concept. The students were asked to rate how bright they were in comparison to their classmates. While there were some changes in both the bused and control groups, the important differences are the gaps between the bused students and controls at each time period. The smallest difference is 15 percentage points in 1970, with the control students having the higher academic self-concept. Again, this finding makes sense if we recall that the academic performance of the bused students falls considerably when they move from the black community to the white suburbs. In rating their intellectual ability, the bused students may simply be reflecting the harder competition in suburban schools. (p. 102)

RACE RELATIONS

One of the central sociological hypotheses in the integration policy model is that integration should reduce racial steretoypes, increase tolerance, and generally improve race relations. Needless to say, we were quite surprised when our data failed to verify this axiom. Our surprise was increased substantially when we discovered that, in fact, the converse appears to be true. The data suggest that, under the circumstances obtaining in these studies, integration heightens racial identity and consciousness, enhances ideologies that promote racial segregation, and reduces opportunities for actual contact between the races. (p. 102)

The integration policy model predicted that race relations should improve as the result of interracial contact provided by integration programs. In this regard the effect of integration programs seems the opposite of that predicted. It appears that integration increases racial identity and solidarity over the short run and, at least in the case of black students, leads to increasing desires for separatism. These effects are observed for a variety of indicators: attitudes about integration and black power; attitudes towards whites; and contact with whites. The trends are clearest for older students (particularly the METCO high school students), but similar indications are present in the elementary school studies as well. This pattern holds true for whites also, insofar as their support for the integration program decreases and their own-race preferences increase as contact increases. (p. 110)

Thus, in the first four of Armor's categories we see that he found few positive, but many adverse effects, as a result of what he called "induced school integration via busing."

In the fifth category—"Long-term Education Effects"—he stated his finding that a higher percentage of bused black students did start college than unbused control students, but this was based on two studies surveying a total of less than 150 students, and of which he said:

Neither of these studies is large enough, of course, to draw any definite conclusions.

And, he had already pointed out—as quoted above under "Aspiration and Self-concept"—that there was already a much higher aspiration to go to college among bused students at the outset of their busing than among the control group—although those aspirations declined markedly as that busing continued. Armor said:

In this respect, some educators have hypothesized that integration has a positive effect

in lowering aspirations to more realistic levels; of course, others would argue that any lowering of aspirations is undesirable.

Sure enough, Armor's critics claimed that lowering of aspirations was a positive effect. We find a separate category devoted to it in their critique of his study:

Shifts in aspirations and "academic self-image" during desegregation are positive in meaning.

I quote briefly from this section:

Katz (1967), for example, has demonstrated experimentally how unduly high aspirations can doom black students to serious learning difficulties. In his view, desegregation benefits learning among black children by lowering their aspirations to more effective and realistic levels. . . . In short, "when desegregation lowers rigidly high aspirations of black students to moderate, effective levels, it should be considered a positive, not a negative effect." ("Busing: a Review of 'The Evidence'" by Thomas F. Pettigrew, Elizabeth L. Useem, Clarence Normand & Marshall S. Smith, in The Public Interest, Winter, 1973, p. 107–108).

For the life of me, I cannot understand why forced busing must be resorted to to achieve this so-called "positive" effect. Could not teachers counsel black students to this end in their own neighborhood schools if it were warranted? Why subject Negro children to the embarrassment and chagrin of having to learn such a "lesson" by being forced to "achieve" alongside white students who already are considerably ahead of them, to say nothing of the time they must spend on schoolbuses, I see no value whatsoever in a program of any kind that reduces a student's desire to better himself, and for any educator to call this a "positive" benefit is sheer nonsense. Even where a student clearly does not have the ability to handle college work, he should be encouraged to better himself in other ways.

Professor Armor, as I have mentioned earlier, answered his critics in what he called, "The Double Double Standard: A Reply." In this reply he further emphasized the fact that with induced school integrated via busing, black students fell further behind their fellow white students in reading achievement. He set forth in detail statistics from Evanston, Ill., Berkeley, Calif., Sacramento, Calif., New York City, and from Hartford and New Haven in Connecticut, that showed the reading gap between black and white students grew, rather than diminished. Regarding this particular set of findings and criticism of his original survey, Armor said:

The argument of Pettigrew and his colleagues that perhaps white students also gain in achievement from the integration experience per se demands close scrutiny. While it makes sense to argue that black students might gain by being in a classroom environment with higher-achieving white students (the so-called "peer" effect prominent in the Coleman study), it makes no sense at all to argue that white students will gain by being in a classroom environment with lower-achieving black students. What mechanism could possibly be operating that produces opposite peer effects for the two groups? It seems to me that my critics' reasoning is getting fuzzy here.

One of the main points of my study was to show that black achievement is not being helped in any significant way by busing, and that therefore we have to raise the possibility of harmful psychological effects due to the achievement gap. The small gain of two months for the paired black students in New York is little consolation for their being placed in an environment where they must compete for grades with students three years ahead of them in academic growth. The authors [his critics] completely ignore this issue throughout their critique. (The Public Interest, Winter 1973, p. 123)

If we are really concerned for the welfare and advancement of our black children, I suggest we pay heed to what Professor Armor said of the possibility of harmful psychological effects upon them due to this achievement gap.

I have gone into the Armor study at some length to demonstrate factual support, based on actual experience, for the bills before this subcommittee.

DISPUTED SOCIAL STUDIES POOR BASES FOR LAW

For the same purpose, ironically, perhaps as important as Professor Armor's findings were, is the very fact that since publication, they have been disputed—just as his factual conclusions were at odds with the theories and findings of others before him, like Gunnar Myrdal.

Could anything more clearly demonstrate the utter absurdity of the Federal courts of the land—or any courts for that matter—basing their decisions on sociological theories, than this continued conflict between sociologists? One set of assumptions, theories and projected conclusions continue at odds with other sets. "Research findings" turn out later, under actual conditions, to have been erroneous because of the inadequate standards and misconceptions by and on which they were formulated and forecast.

The Public Interest itself cast a bit of scholarly light on this conflict among sociologists which further emphasizes the foolishness of a court relying on any given set of one-sided sociological data.

A member of the Publication Committee of Public Interest, Prof. James Q. Wilson, in the same winter, 1973 issue of that journal, wrote a short 3-page commentary entitled "On Pettigrew and Armor: An Afterword," which every Member of Congress could read with profit. Professor Wilson is chairman of the Department of Government at Harvard University.

I quote some of his most pertinent remarks, beginning with his opening sentence on page 132:

Those who have read David Armor's "The Evidence on Busing" and now find in this issue a lengthy rebuttal by Thomas Pettigrew and colleagues and a surrebuttal by Armor might be forgiven for throwing up their hands in despair at the apparent inability of social science to give clear and simple answers to important questions. . .

Because of these considerations, and after having looked at the results of countless social science evaluations of public policy programs, I have formulated two general laws which cover all cases with which I am familiar:

First Law: All policy interventions in social problems produce the intended effect—*if* the research is carried out by those implementing the policy or their friends.

Second Law: No policy intervention in social problems produces the intended effect—*if* the research is carried out by independent third parties, especially those skeptical of the policy.

These laws may strike the reader as a bit cynical, but they are not meant to be. Rarely does anyone deliberately fudge the results of a study to conform to pre-existing opinions. What is frequently done is to apply very different standards of evidence and method. Studies that conform to the First Law will accept an agency's own data about what it is doing and with what effect; adopt a time frame (long or short) that maximizes the probability of observing the desired effect; and minimize the search for other variables that might account for the effect observed. Studies that conform to the Second Law will gather data independently of the agency; adopt a short time frame that either minimizes the chance for the desired effect to appear or, if it does appear, permits one to argue that the results are 'temporary' and probably due to the operation of the 'Hawthorne Effect' (i.e., the reaction of the subjects to the fact that they are part of an experiment); and maximize the search for other variables that might explain the effects observed.

People will naturally disagree over whether a given policy evaluation by the social scientist supports either the First Law or the Second Law. Many considerations prevent that argument from being carried on very intelligently—the loyalties and commitments of the scholars involved, the efforts of partisans and polemicists to defend one interpretation absolutely and to reject the other entirely, the defensiveness of whatever government agency is being praised or blamed by the study in question, and the tendency of human affairs to be so complex and ambiguous as to make the possibility of designing and executing a Decisive Experiment all but impossible.

These few remarks of Prof. James Q. Wilson are so cogent, so revealing, and so pertinent to the matter before us, that they need no further comment on my part. Let me say only that nowhere have I seen a finer argument for a return to simple commonsense in deciding the great issues that face the country, including the dilemma brought about by court-ordered forced busing.

In my opinion, Professor Wilson in a few sentences has demolished the value of the Supreme Court's citing of any sociological work for the purpose of supporting its desegregation or any other decisions. He has rendered worthless all argument for continued forced busing on the grounds of sociological concepts, without diminishing the ultimate positive accomplishments of social research.

CONCLUSION

In concentrating on the points presented in my testimony before this subcommittee, I have not underscored the better-known arguments against forced-busing on grounds of the widespread disruption it causes. In no way have I meant to leave the impression that such disruption is anything but very great in the lives of those directly affected by this juridicial imposition which violates the very right of individual choice in our supposedly free country.

Beyond the added tax burden on parents and others that I have mentioned is the deprivation of children of much of their free time. There is the added danger they are exposed to because of the very nature of busing. A penalty of time and worry is imposed on parents.

Home life is disrupted by virtue of the added hours a family is kept apart while children are waiting for and riding buses to distant schools, when they could walk or ride to neighborhood schools.

One of the greatest penalties imposed upon children who must be bused under court orders, is their being deprived of the possibility of engaging in extracurricular activities. The buses must leave on time, and cannot wait for individual students involved in after-school sports, band practice, music lessons, dramatics and the like. Parents' schedules, or incomes, or their responsibilities to their other children make it impossible in many cases for them to drive to distant schools to pick up their children who otherwise could profit from such activities. In such cases, forced-busing amounts to a virtual prohibition against extra-curricular activities. Not only individual students and families are thus penalized, but so are the very schools themselves.

Similarly, the very distances involved impose a heavy burden of time and money on parents who must attend conferences with their children's teachers, and PTA meetings. In many cases parents simply cannot attend these functions so important to the education of their children.

Quality education and educational progress itself is tremendously disrupted by the appalling sacrifice to the idol of integration by way of compulsory busing that is the draining of tight funds away from school facilities, equipment, teachers' salaries, et cetera by insatible transportation demands.

I have not dwelt on the derogation of our children to the status of mere guinea pigs in a vast social experiment, and their treatment, whether black or white, as mere numbers.

These are some of the reasons a growing number of American citizens are up in arms over the issue of forced-busing. We represent the people. It is our job to take effective action to end the dilemma the Federal courts have brought about by their social engineering.

Forced-busing is a failure in practice, proving that the theories underlying court mandates for it were totally unrealistic. Ordinary commonsense and experience have proven it to 19 of every 20 Americans.

The courts err when they base jurisprudence on erroneous sociology. They cannot as easily err in determining the intent of the Congress as to the laws it enacts together with the President's signature. The will of the Congress—which represents the American people—must stand supreme, as long as it is constitutional, and not any pet social theory of the moment, which time and experience may bring crashing down on the rock of reality.

Millions of Americans who have never given a thought to forced busing of schoolchildren, are today complaining of having to live on daylight saving time because of the energy crisis, with the resulting inconvenience of getting up in the dark to go to work. They also are complaining of getting up in the dark just to get in line early at service stations to get gasoline. Let them think, while they dress and while they wait in the dark, of the thousands upon thousands of young black and white children who are, and who will be, forced to get up in the dark the greater part of their entire school lives to catch buses just to satisfy the sociological whims of our courts, when they could leave home much later to go to the neighborhood schools nearby.

We must face the permanence of the busing problem that lies before us unless we in the Congress act to do away with the dilemma entirely. An unending court requirement of our school boards to revise school attendance plans and disrupt lives anew by ever-changing forced busing, can only bring harm to our children and our educational system. The plaintiffs in the Louisville and Jefferson County cases made no charges as to the quality of education black children receive, complaining only of racial mix in the schools. Yet the sacrifice of student time and tax funds that must be made to meet court-ordered racial ratios by forced busing involving leapfrogging of whites past blacks, and blacks past whites in school buses using vast amounts of fuel, can only diminish the quality, effectiveness, and practicality of education children of both races could receive. It is totally counterproductive. Let us put an end to it by enacting the measures before this subcommittee as soon as possible. The only way to get the Federal Courts off this "kick" and out of their obviously erroneous stance of deciding these forced-busing cases on sociological concepts, is to take their jurisdiction to decide such cases from them.

CONGRESSIONAL PAY RAISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 5 minutes.

Mr. RANDALL. Mr. Speaker, there is only a short time left until Congress must face the moment of truth on the matter of congressional pay. Within about a week if there is no disapproval of the proposal by the President, those increases which have been proposed will become a reality through inaction.

My record in opposition to these pay increases has been consistent over all the years since the Federal Salary Act of 1967 was adopted. Prior to that time, in order to receive a pay increase it was necessary to pass a bill providing for that increase and specifying the amounts. Then in 1967 a bill was signed into law over the opposition of many of us then in Congress which called for a special commission to review the salary of Members of Congress, Federal judges, and certain executive branch officials once every 4 years.

I have today introduced legislation to repeal the Federal Salary Act of 1967. In this time of runaway inflation and a serious energy crisis when everyone in America is called upon to make sacrifices, it seems to me that it is the responsibility and even the obligation of Members of Congress to report exactly what they have done or have failed to do to prevent these congressional pay raises from becoming effective.

I am glad to report my efforts to date. First, I joined with the gentleman from Iowa (Mr. SCHERLE) on February 4 in a resolution to disapprove all the recommendations of the President with respect to the rates of pay transmitted by the President to the Congress in the budget for the fiscal year ending June 30, 1975, in House Resolution 811. Then 3 days later I introduced my own resolution, House Resolution 851, in substantially although not identically the same language.

In addition to the foregoing I signed a discharge petition authored by the gentleman from Indiana (Mr. DENNIS) which was a motion to discharge H.R. 2154 from the Committee on Post Office and Civil Service. H.R. 2154, had as its principal author the gentleman from Arizona (Mr. RHODES) which provides that if a resolution disapproving the recommendations of the President for pay increases under the Federal Salary Act of 1967 has not been reported at the end of 10 calendar days after its introduction, then it will be in order to move to discharge the committee from further consideration of the resolution and to bring the bill to the floor for a vote as a highly privilege resolution.

Mr. Speaker, I was signatory No. 28 of that discharge petition and I find that as of today, Thursday, 28 February 1974, there are 105 signatories on that discharge petition.

The matter of the congressional pay raise was considered last fall and we were fortunate to be able to get a straight up and down rollcall vote on the issue. On that vote the COGRESSIONAL RECORD will show that I opposed the Congressional pay raise.

Last fall it was the Senate that approved the pay increase. This year there are encouraging signs that the Senate will give careful scrutiny to the unreasonable pay increases recently proposed in the President's budget.

But Mr. Speaker we must look to our own House of Congress, the one we all love and cherish as the people's body. What has been the record of our own Post Office and Civil Service Committee? Well, who can forget that just a short while back, a week or so ago, the chairman of the House Post Office and Civil Service Committee called a meeting and there ensued what is called a floating quorum which meant that at no one point in time was there a true quorum. Some would come and some would go, some would remain and some would depart but at no one time was there a solid quorum for a vote on disapproval of the pay increase.

It is not for me to characterize this kind of conduct but our constituents have described this kind of action as much less than responsible. I have received correspondence that describes this kind of tactics as ducking the issue by a kind of evasive inaction.

In all fairness, however, today, February 28, the House Post Office and Civil Service Committee did find it possible to assemble a quorum and by a vote of 19 to 2 approved a resolution of disapproval. Whatever criticism they deserve for their previous action they have now erased by their straightforward and forthright action today.

Let us hope that the leadership of the

House will bring this to a vote either under a rule before the time expires to disapprove the increase or under the suspense calendar without a rule.

At long last it seems then that we may get a vote on the proposed passage of the congressional pay increase. Now I have no quarrel with anyone who wants to vote for the proposed increase. If anyone wants to go on record in favor for such an increase, that is his prerogative.

The point that I am trying to emphasize by these remarks today is that if an increase should be justified either now or at any other time, it is completely indefensible to let these raises take place automatically and without any vote on the merits.

As I conclude these remarks I repeat again that I have a long and consistent record against pay increases under the Federal Salary Act of 1967. It is difficult to think of a worse time to seek a pay raise. Members of Congress occupy a position of leadership that sets an example.

How can we expect our constituents to sacrifice either because of the ravages of inflation or the disruptions of their lifestyles imposed on them by the energy crisis unless we are willing to set an example.

No longer can we say to our people "do as we say" but "sorry we cannot set a good example." That is the reason Congress must disapprove the President's proposal for a congressional pay raise.

COUGHLIN RAPS ALLOCATION SYSTEM, FEO SECRECY ON DATA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. COUGHLIN) is recognized for 10 minutes.

Mr. COUGHLIN. Mr. Speaker, with the lines in gas stations in certain areas of the country continuing to lengthen, I feel that the time has come to speak out publicly against the bureaucratic bungle of monstrous proportions which is being perpetrated by the Federal Energy Office.

As late as last Friday morning, when Pennsylvania and several other States were in critical straits, the FEO talked about saving gasoline supplies for the spring and summer, yet that afternoon freed 239.75 million gallons for use, including 24.39 million gallons for Pennsylvania. While I am delighted the gasoline was released, it is logical to believe that the exercise of reason by FEO earlier in the month of February could have avoided the crisis situation that developed last weekend.

I have today sent a telegram to William E. Simon, Federal Energy Administrator, to demand the release of the gasoline allocation formula and figures for all the States. I also have demanded to know under what authority this information is being withheld from the Congress and the public. At a time when all Members of Congress are understandably getting heat from outraged constituents due to the severity of the problem, I urge my colleagues to put similar pressure on the administration to make known this vital data.

In an attempt to obtain this very information from FEO last week, I was met with a series of contradictory statements and actions at a time when the people and the economy were suffering. Furthermore, I found the FEO bureaucracy to be arrogant and highhanded, hesitant to acknowledge and correct its own mistakes. The long lines of cars waiting for gasoline, especially in the metropolitan areas, should have been sufficient notice to FEO that the allocation system was a monumental screwup.

It is obvious that the energy situation itself is fraught with pitfalls and problems. To make it worse, FEO is aggravating things through a lack of comprehension of what effects its actions are having on millions of people and businesses.

For instance, FEO places the responsibility on States, local communities, and dealers for establishing rationing programs and business hours while it singlehandedly controls the flow of gasoline by a method it refuses to explain to the public or the Congress. Another error in the system is that the Governors cannot reallocate supplies within their own States to meet area shortages.

While Congress has been slow to legislate on certain matters involving the energy shortage, it has passed the necessary laws to deal with the allocation process, but it must depend on the bureaucracy to administer them properly. In fact, the willingness of the Congress to legislate and cooperate with FEO has met with no such reciprocal spirit from that Office. FEO is guilty either of failing to recognize the critical nature of the gasoline situation, or if it has recognized the problem, it has failed to exert the initiative to try to resolve it.

This is pointed up by stories in yesterday's newspapers which quote John Sawhill, Simon's deputy, as proposing two administrative actions to help ease the situation. These actions would eliminate imports above current levels from stipulations of the allocation system and would drop a requirement that major oil companies must sell crude oil supplies to their competitors while still selling to small independent refiners.

Both moves are welcome and overdue. Why did not FEO initiate such action earlier and if it doubted its authority under the law, why did not FEO officials come marching up Capitol Hill for immediate legislative action? This is just another inexplicable example of FEO's failure to comprehend the urgency of the situation and to act quickly to correct it.

The people and the Nation deserve better than this. The Congress has acted and will act, but the Congress cannot administer the law. This is the province of the executive branch, in this case, FEO. If FEO cannot cut the mustard, let us find another way to serve the needs of the Nation.

A YOUTH OF LABOR FOR AN AGE OF EASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 5 minutes.

Mr. COHEN. Mr. Speaker, I want to express my great pleasure over the passage by the House today of H.R. 2, the Retirement Income Security Act.

The people of Maine feel they have a special tradition of independent living and thinking, which undoubtedly stems in part from our history. Frequently isolated from other sections of the country, the fisherman in the icy waters of the Atlantic, the lumberman in the dense forests, and the farmer in the stony New England fields succeeded through dogged determination to provide for themselves and their children and often their aging parents.

Like other parts of the Nation, however, industry and urban living have affected great changes in the fabric of life in Maine, changes which have increased the isolation of the older generation from the rest of the family and the need of the worker to provide for his own security in his later years. In recent years this isolation has been accentuated because of Maine's halting economic growth. Many of our young people have moved from the State to seek better opportunities in the cities to the South. As a result a steadily increasing percentage of our population is older citizens who are nearing or have already reached retirement age. These people have a strong determination to remain independent and not to seek charity, however well deserved, from public or private sources. To secure that independence they have joined millions of others through the Nation and enrolled in pension or other retirement programs. It is estimated today that 23 million workers are covered by such programs, which have combined total assets of over $137 billion. These plans, in the words of Oliver Goldsmith, have provided our workers with great hopes of a "youth of labor with an age of ease."

Tragically, however, such hopes have often been dashed by the grim realities of the risks involved in such plans. We all remember the closing of the Studebaker plant in South Bend, Ind., and the revelation to the 8,500 employees that not only had they lost their immediate source of income, but all or most of the pension benefits they had thought they were earning. A similar tragedy occurred in my own district several years ago. I know that many other Congressmen can cite similar examples. While recent studies have shown that the number of such terminations are small in relative terms, still no worker who has spent many long and faithful years with a business deserves to have his hopes of future security so cruelly frustrated.

That is why I am so pleased with the new vesting, funding, and fiduciary standards required for pension programs by H.R. 2. The bill provides in general that qualified pension plans must allow employees to participate after they have reached the age of 25 or have had 1 year of service, whichever is later. It also provides for flexible vesting standards, which are basically designed to insure that after 5 or 10 years a worker will have gained a nonforfeitable right to at least a significant percentage of his accrued pension benefits. At the end of 10 to 20 years, he generally will have gained the right to all

accrued pension benefits. To assure the ability of the pension program to deliver on the promises it has made, the new law will set firm standards on employer's funding of the program in order to provide in particular for the workers well advanced in age and service when the plan is initiated. It will also require high standards of "fiduciary responsibility" for those entrusted for managing and investing the funds contributed to the pension program.

While hopefully these standards will eliminate the tragic loss of benefits which occur when a plan terminates, the Pension Reform Act also continues a vital further safeguard for pension plan participants. This is its provision for plan termination insurance. The bill establishes a pension benefit guarantee corporation through which all qualified pension plans will be insured against loss of benefits because of the sale, merger, bankruptcy, et cetera, of the business and the resulting termination of the plan. This provision, along with the new stricter standards for pension programs, will go a long way in protecting the future of Maine's pension plan participants.

It is important to realize, however, that these provisions will benefit 23 million workers throughout the Nation, nevertheless 50 percent of the work force are still not enrolled in any retirement program. This percentage is undoubtedly even higher in Maine because of the type of economic activity most common in the State. Basically, while we do have a number of large corporations, most of our workers are employed by small businesses or are self-employed individuals such as farmers and fishermen. I am, therefore, particularly pleased by the tax changes recommended by the Ways and Means Committee in title II of the pension bill. These changes extend to the self-employed and the employee without a retirement program the opportunity to set aside savings for retirement which will receive the same kind of favorable tax treatment as is now provided corporations.

Specifically, the bill permits self-employed individuals such as salesmen, grocery store owners, and farmers to set aside up to $7,500 of their income annually in some retirement plan and deduct those savings from their taxable income. Previously such individuals were limited to $2,500 in annual contributions to these H.R. 10 or Keogh plans. Equally important is a new tax provision which allows employed persons not covered under a retirement plan to set aside $1,500 a year in tax deductible savings. This should prove a vital incentive and means of assistance to the many individuals employed in small businesses in Maine who do not have access to more formal retirement programs.

It is clear from the extended debate we have had on this bill during the last 2 days that questions still remain about its effect on present and future pension plan participation, questions which can only be answered by experience under the new law. I am well aware, however, of the many hours of hearings and meetings which have been held on this complex issue during the past several years, and the widespread support which has been given the legislation now before us indicates to me that the bill will prove very responsive to the needs and problems we are presently encountering in the pension area. I am very pleased to be able to report the passage of this important legislation in the House today to my constituents, and I sincerely hope that its final enactment will soon be accomplished.

NEED FOR STRONG COMPREHENSIVE, AND EQUITABLE PENSION REFORM

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

Mr. McKINNEY. Mr. Speaker, I cannot overstate the necessity that this Congress enact strong, comprehensive and equitable pension reform legislation without delay.

Pension funds are accumulating rapidly and now total 150 billion, making them the largest single aggregate of unregulated capital in the country. Private noninsured pension funds are the largest institutional investor in the stock market. Yet pension funds remain one of the least governed, and least understood, financial institutions in the country.

To my mind there is no reason why pension funds should not be as well regulated as banks and insurance companies; the security of the money is just as important. No one should be subjected to a pension plan as a game of chance by their employers. Rather, pensions should be the just reward of hard-earned benefits.

We are all familiar with the horror stories of loss of benefits promised to an employee. And these are not just isolated horror tales. While most funds are run honestly and in good faith, a number of scandals in recent years involving firms and labor unions have demonstrated the number of broken promises in this field. Experts say up to half the 30 to 35 million people now in jobs with pension plans may never receive a cent, because of shifts to another job, resignation or discharge, company shutdowns, failure of the employer to fund plans, or employer bankruptcy—a prospect that threatens millions of Americans with economic insecurity in old age. Abuses have been too tragic and too many to risk recurrence.

The pension issue has reached the critical stage in our Nation because of such factors as the growing number of retired people, continuing inflation, the larger number of workers retiring now and claiming benefits under pensions established at the time of World War II, and the trends toward early and mandatory retirement. Moreover, recent improvements in our social security system have placed a new emphasis on the need for improving private pension plans as a means of maintaining the viability and balance of our Nation's dual retirement system; social security and private plans.

Hence, the task before us is twofold. One is to give our workers reasonable assurance that they will receive a pension when they retire. The legislation before us, by providing minimum standards for vesting participants with the unforfeitable right to a retirement benefit, by providing minimum standards for funding, by providing for termination insurance, by strengthening fiduciary standards and responsibilities, will insure that pension benefits will be available to all employees who have a pension plan.

Our second task is to leave the private pension system free of Federal regulation so cumbersome and costly as to cause the termination of plans or curtailment of levels of benefits. Moreover, incentives must be offered for the establishment of new pension programs. Some 30 million workers in our Nation are not covered by any type of pension plan. Hence, the standards in the bill before us today are meaningless to them. We must be careful that we do not provide disincentives to starting pension programs and improving old ones.

I view this legislation as a first step in the direction of meaningful pension reform. Minimum standards are set in this measure and we must provide for oversight and evaluation to determine further improvements in the private pension system. Improving the system is a continuing process if we are to secure the fulfillment of purpose and protection of retirement benefits due our workers.

REPEAL OF THE BYRD AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, I would like to submit for the thoughtful attention of my colleagues the test of my statement at the press conference held yesterday morning on the concerns of the united black community that the Byrd amendment be repealed:

STATEMENT OF CONGRESSMAN CHARLES C. DIGGS, JR., CHAIRMAN, HOUSE FOREIGN AFFAIRS SUBCOMMITTEE ON AFRICA, FEBRUARY 27, 1974

During the last session of Congress, after a significant defeat of a filibuster, the Senate passed S. 1868 to repeal the Byrd amendment which has allowed the importation of chrome from Southern Rhodesia in violation of our international legal obligations.

Many organizations and individuals worked diligently to win this Senate battle, thereby demonstrating that citizen pressure can be effective in the enactment of legislation and change of national policy towards Africa. The Senate measure must now be voted on in the House. We are gathered here to express the determination of the united black community that the Byrd amendment be repealed.

This press conference, launching a coordinated campaign by national black organizations for repeal of the Byrd amendment, is not the first time in this century that African-Americans have mobilized in support of African liberation and self-determination. This effort has its historical antecedents in the Pan African Conference held in London in 1900 by Africans, West Indians and Afro-Americans at the initiation of Jamaican lawyer Henry Silvester Williams.

In opening the international campaign against racism and colonialism, this conference was precursor to the five Pan African Congresses from 1919 to 1945 which were motivated by W. E. B. duBois who was si-

multaneously involved in the early efforts of the NAACP to combat racism at home. The Fifth Pan African Congress which met in Manchester, England in 1945 launched the final phase of the African Nationalist movement which culminated in the emergence of independent African states during the early 1960's.

The Pan African Congress movement between World War I and World War II was completed by Marcus Garvey's universal Negro Improvement Association and augmented by Afro-American protest against Mussolini's fascist invasion of Ethiopia in 1935.

In the 1960's the efforts of the American Negro Leadership Conference on Africa, and the African Liberation Day observances of May 1972 and 1973 highlight the continuing efforts by African-Americans to support the African liberation movement in its final phases.

In the 1970's the struggle for African liberation in southern Africa represents the last major campaign in this heroic historical process. The Black campaign against the Byrd amendment reflects the continuing Afro-American commitment to total African liberation. Repeal of the Byrd amendment by the House of Representatives in concurrence with the Senate is crucial at this time of increasing activity by the Zimbabwe National Liberation Movement. Continued U.S. violation of Rhodesian sanctions can only sharpen the awareness of American complicity in supporting the Smith regime at a time of growing and sustained challenge to white rule by the African majority. Thus, the U.S. will be increasingly viewed as contributing to the already violent conflict in Zimbabwe by lending moral and economic support to Rhodesian whites. For these reasons, it is crucial that the House of Representatives repeal the Byrd amendment.

Since it passed two years ago, the nefarious Byrd amendment has provided more than $43 million in crucial foreign exchange to the illegal Smith regime of Southern Rhodesia.

The lie is given to the argument that sanctions interfere in the domestic jurisdiction of Southern Rhodesia by the fact that no nation in the world— not even South Africa or Portugal—has recognized Southern Rhodesia's claim to be a state in its 1965 "Unilateral Declaration of Independence." The international community responded to that Unilateral Declaration of Independence and to the request of the United Kingdom—the legitimate authority over the non-self-governing territory—by voting mandatory sanctions against the regime. The U.S. supported sanctions and the determination of the international community not to recognize the seizure of power by the tiny white minority in Zimbabwe—a minority which represents less than 5 percent of the people. Ninety-five persons out of every 100 in Southern Rhodesia are Black. Of the 5.2 million persons in Southern Rhodesia, less than 250,000 are whites. And half of those have only emigrated there since World War II. In any given 12-month period, the number of African babies born in Rhodesia outnumbers the total white population there.

The tiny white minority maintains its repression only by instigating rigid economic, political and legal control akin to apartheid. Little wonder that the regime is faster and faster losing control of the security situation. Not even the presence of 10,000 African troops in Zimbabwe is able to stem the liberation struggle. I have, only the other day, seen a report that, because of infiltration and agitation the regime is assigning security forces to the African enclaves as a form of intimidation.

Recently, the Ian Smith regime has announced that it is forced to increase the size of its army in order to press its efforts against African liberation fighters in Zimbabwe. The draft call-up will be doubled due to an increased need for trained men in the army as a result of the "heavy burden" African liberation fighters have placed on its army, the government said in a statement.

The Smith regime is also establishing a "no go area" of some 5.4 million square miles along Rhodesia's borders with Zambia and Mozambique because of increased attacks by African liberation forces. Africans living in the area are being forced out. Estimates range as high as 15–20,000 as to the number of Africans who have already been forced to leave.

Last year, legislation was established that held entire villages accountable for the activities of liberation fighters in Zimbabwe enabling a white district administrator, appointed under this legislation, to impose collective fines on villages even suspected of supporting liberation fighters and at the discretion of the district administrator, forcing the villagers to relocate. Zimbabwe freedom fighters have reported engaging in 55 major battles in the northern, eastern, and northwestern regions of Zimbabwe.

Hard-pressed by the growing military insurgency on the one hand, the Smith regime is confronted with the deteriorating economic situation on the other. Sanctions have economically crippled the regime which is increasingly unable to obtain precious foreign exchange, critically needed rolling stock and crucial spare parts for its machinery.

We are here today to witness our determination that the United States violation of sanctions under the Byrd amendment must be stopped. This amendment has wrought incalculable damage to the United States foreign policy interest. Africa, whose raw materials, together with Nigerian oil, are becoming more and more critical to the United States, considers the repeal of the Byrd amendment a priority issue. This insensitivity to African concerns must be ended. Under the Byrd amendment Africa has no choice but to see the United States as allying itself with the forces struggling to perpetuate colonialism in Africa. The former Assistant Secretary of State for Africa, David Newsom, confirmed that, in his four years in that position, the Byrd amendment "Has been the most serious blow to the credibility of our African policy."

Legally, the Byrd amendment has made the United States an international legal renegade. As a status quo nation, the United States cannot afford to teach the rest of the world a lesson that treaties are to be dishonored at will.

Nor is it only in the legal and political area that the amendment is harming the United States. Economically, the Byrd amendment, with the increasing emphasis on importation of ferrochrome from Southern Rhodesia, is dealing a near-fatal blow to the United States ferrochrome industry. U.S. plants and U.S. jobs have been adversely affected.

Nigeria supplies 24 percent of our oil imports. It is our third largest supplier of crude oil. Zambia is the world's largest copper exporter. Zaire supplies 90 percent of our cobalt.

Given the larger U.S. investment and trade with these and other nations in Black Africa—including the $1 billion U.S. investment in Nigeria and U.S. imports of Nigerian oil—full enforcement of sanctions is in the interest of U.S. business.

As a nation dependent upon raw materials for the functioning of our industrial economy, the United States cannot afford to be insensitive to legitimate concerns of our raw material suppliers; for the energy crisis is thought by many experts to be only a precursor of the minerals crisis.

We must be mindful of the source of this amendment. The 1971 Byrd amendment was the effort of the Senior Senator from Virginia, the gentleman who offered "massive resistance" in Virginia, the gentleman who has been identified with every conservative issue since the time before he came to the Senate, when he was Governor of Virginia.

We must also be mindful here of the questionable Rhodesian Information Office. Our hearings last May uncovered may interesting aspects of their activities which bring into question U.S. compliance with its Charter obligations. We are continuing our hearings on the Rhodesian Information Office in March.

I have carefully examined every one of the myriad of arguments used by the special interests in their lobby for the Byrd amendment. In every instance I have found either exaggeration, misconception or outright falsity: We are told that the Soviet chrome costs more than Rhodesian chrome. Well, it should—because Soviet chrome is of a higher metallurgical grade chromite ore. But the fact is that lower grade Rhodesian chrome is now selling at a higher price than higher grade Soviet ore! Russian chrome is $21 a ton cheaper than Rhodesian chrome.

We are told that repeal of the Byrd amendment would cause the price of chrome, and in turn the price of stainless steel, to increase. But the price of stainless steel is determined by a variety of factors, only one of which is the price of chrome. Certainly, the estimates given of possible price increases are grossly exaggerated and based on clearly specious calculations.

We are told that repeal will cut off needed supplies of ferrochrome. But the U.S. industry can produce 70 percent of needed chrome and there are other sources of available ferrochrome: Brazil, Finland, and Yugoslavia. Furthermore, domestic ferrochrome production is important to our national security; for ferrochrome is of strategic importance. Given the volatile nature of the situation in southern Africa, the trend toward relocating ferrochrome industry in South Africa and Rhodesia and the consequent dependence by the United States on a southern African monopoly in ferrochrome production have grave implications. Yet, the Byrd amendment has given impetus to this unhealthy trend.

We are told that repeal will cause the export of the stainless steel industry. But the very fact that the steelworkers have testified on behalf of the repeal of the Byrd amendment helps give the lie to this and to show that the Byrd amendment is an effort to secure economic benefits for special interests.

We are even given the absurd argument that the Russians who have more than 75 million tons of chrome ore reserves are buying Rhodesian chrome and "transshipping." There is absolutely no evidence to support this allegation.

Finally, we are given the well-worn allegation that "national security" is involved. The Acting Secretary of Defense advised that: "the Defense requirement for metallurgical grade chromite is relatively small". Secretary of State Kissinger himself has stated that the Byrd amendment "is not essential to our national security, brings no real economic advantage, and is detrimental to the conduct of foreign relations."

No one has disputed Secretary Kissinger. In fact, I ask today is anyone prepared to dispute this?

There is enough chrome for defense needs in the stockpile alone for more than 40 years. Additionally, we have three million *excess* tons of chrome and ferrochrome in the stockpile. The national security argument is the same as all of the others put forward by the stainless steel industry. Union Carbide joined with Ford Motor Company. They lack real substance.

So today we are gathered here to attest our determination that this point of critical developments in Zimbabwe—when the freedom fighters are pushing forward—we are pushing

forward here to end U.S. support for Ian Smith and his cohorts.

We are gathered her to say that, although we are aware of the well-financed high-powered opposition—as shown by the in-pouring of mail from this lobby—that we intend to make our concern over the repeal of the Byrd amendment known in every Congressional district throughout the land.

This is our message!

During our travels, U.S. violation of Rhodesian sanctions under the Byrd amendment constantly emerges at press conferences, formal and informal meetings to underscore that this seriously damages U.S. interests. The African community is vitally concerned.

The African ambassadors and diplomats here today, by their presence, mirror their keen interest in this effort.

I have here a number of letters and telegrams of support, from many persons including Roy Wilkins, Julian Bond and John Lewis.

The names of the numerous organizations represented here today and of some of the many individuals joining with us now are on the attached list.

I am also very pleased to acknowledge the presence of some of my brothers in the Congressional Black Caucus, including . . .

The Chairman of the Caucus, and representative of the city with the busiest port in the United States, Congressman Charles Rangel, and Congressman Parren Mitchell, and Congressman Louis Stokes, the former chairman, will now make a few remarks . . .

LABOR FAIR WEATHER FRIEND—III

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, yesterday I described in general terms how the bitter dispute between the Farah Co. and the Amalgamated Clothing Workers Union resulted in a national boycott which together with Farah's own management errors placed the company in severe straits. Last December the company closed its San Antonio plant, throwing 900 workers out of their jobs. I happened to be in San Antonio the day after the plant closed and was buttonholed by a group of former Farah workers who were unhappy with the situation in general, and at least some of whom were protesting the role of the Catholic Church in the boycott against Farah.

I felt obliged to listen to these people since they were my constituents, and I am duty-bound to hear the grievances of all my constituents. I was sorry that these people had been victimized by the struggle; I told them so, and expressed my hope that the plant could be reopened and that Farah would reconsider. I did not denounce the union or the boycott; and in fact it has always been known that I support unions and have defended the right of people to organize, even at considerable political risk and cost. I have always been called a friend of labor.

Within days of this incident in San Antonio, a small group of dedicated enemies of mine saw in it an opportunity to make me appear what I am not, to twist the facts and to use the organs of the AFL–CIO to embarrass me.

I did not know of their efforts until a puzzled AFL–CIO representative asked me why I had done such a terrible thing. "What terrible thing?" I asked. Well, have you not gotten a telegram from the Labor Council for Latin American Advancement? I had not.

Fortunately this person was good enough to produce a copy of a telegram that had supposedly been sent to me, denouncing me for "union-busting" thoughts. I have never received that message. I do not believe that it was ever sent.

Even though the telegram was never sent, the AFL–CIO put out a statement saying that it had.

I think that my colleagues will be interested in these items, and I will read them for your information:

LABOR COUNCIL FOR LATIN AMERICAN ADVANCEMENT,
Washington, D.C.

TEXT OF TELEGRAM SENT TO GONZALEZ BY LCLAA

"The Labor Council for Latin American Advancement representing thousands of workers of Latin American descent is appalled at your support of the union-busting Farah Manufacturing Company of El Paso, Texas a company representing the worst kind of reactionary employers. Their notorious policy of exploiting and abusing Mexican-American workers has forced its employes to go on strike in defense of their human dignity and in the pursuit of legitimate improvement in their social, economic and working conditions. Your identification with scabs and support for such union-busting tactics are cause for great concern. We urge you to reconsider this policy and to work towards persuading the Farah Manufacturing Company to abandon its policy to ignore existing laws, to cease and desist from its union-busting tactics and, above all, to treat its employes as human beings and not with the contempt and prejudice presently demonstrated.

RAY MENDOZA,
Chairman.
J. F. OTERO,
First Vice-Chairman.

PRESS RELEASE OF LABOR COUNCIL FOR LATIN AMERICAN ADVANCEMENT, DECEMBER 19, 1973

The Labor Council for Latin American Advancement (LCLAA), the trade union voice of U.S. workers of Latin descent, has vigorously condemned the union-busting attitude of Congressman Henry B. Gonzalez of Texas, while reaffirming support of the strikers who launched a national boycott against the Farah Manufacturing Co., a big producer of men's pants.

For over 20 months, 3,000 workers at the Farah plant in El Paso, Texas, have been on strike to protest inhumane treatment and to demand that Farah allow them to unionize. They have been aided in this struggle by the Amalgamated Clothing Workers Union, and backed by the AFL–CIO. Because of the success of the boycott, two Farah plants in San Antonio were just closed. Plants in Las Cruces, N.M., and Victoria, Texas, had to be shut down earlier this year. Farah strikers are mostly Mexican-Americans, and about 85% are women—all struggling for human dignity and social justice. They also have the full backing of the Catholic Church and the help of Archbishop Francis J. Furey.

On December 8, in a shocking demonstration of anti-unionism, Congressman Gonzalez offered to aid the Farah Co. to obtain a federal loan to re-open the San Antonio factories. Gonzalez also urged President William Farah to reconsider the closings. The LCLAA says, "Gonzalez is on the side of big business and against the Farah strikers, who are only asking for a fair shake."

As a result of the San Antonio Plant closings, the Farah strike-breakers who had been hired to replace the strikers took their anger out on a meeting of Catholic leaders. They put 60 pickets on the street outside a Catholic meeting that had nothing to do with the Farah strike. Congressman Gonzalez visited the pickets and expressed support of the Company.

The LCLAA strongly denounces Gonzalez for his actions, and reaffirms the sentiments which led to unanimous approval of two Resolutions supporting the Farah strikers at the LCLAA Conference held in Washington, D.C., in November. That Conference was addressed by AFL–CIO President George Meany, Senator Joseph Montoya of New Mexico and other distinguished people in and out of the labor movement.

Friends of mine in organized labor have told me that they had heard about this effort to discredit me, and tried to stop it. They were assured that the press release had been stopped, but apparently the only thing that was stopped was the telegram to me, for the press release came out right on schedule.

Not long after that, the AFL–CIO News printed a story about what a bad guy I am:

UNIONISTS RAP GONZALEZ FOR AID TO FARAH

Rep. Henry B. Gonzalez (D-Tex.) was sharply criticized by Latin American unionists for adopting a "union-busting attitude" toward the strike by 3,000 employes of the Farah Manufacturing Co. seeking representation by the Clothing Workers.

In a statement by the Labor Council for Latin American Advancement—the trade union voice of U.S. workers of Latin descent—the council accused Gonzalez of "a shocking demonstration of anti-unionism" in his offer to help Farah obtain a federal loan to reopen two San Antonio factories which had been closed because of the economic effects of the Farah strike and boycott.

The LCLAA also charged that Gonzalez had lent support to the company and 60 of its strikebreakers brought to Washington to picket a meeting of Catholic bishops.

The council said that by this action Gonzalez placed himself "on the side of big business and against the Farah strikers, who are only asking for a fair shake."

In a telegram to the Texas congressman, the LCLAA spelled out its disapproval of his actions and urged him to help persuade Farah to abandon its anti-union policy and "treat its employes as human beings and not with the contempt and prejudice presently demonstrated."

I wrote the editor of the newspaper to say that the whole business had been cooked up by a few enemies of mine, and that I felt I had an apology coming. He was good enough to reply, but said in effect, "What I printed was an accurate quotation." In other words, if somebody says something and you quote it right you are not doing anything wrong, even if the whole thing is a lie.

So here I am: A life long friend of labor, even by its own standards, assailed by a little group of unknowns who somehow have access to the keys to George Meany's empire, via the redoubtable Don Slaiman, director of Meany's civil rights division. Knowing that Slaiman was largely responsible for this, I wrote him twice to protest and ask for justice—but have never received an answer.

When you or I have a life-long friend who somehow gets accused of something

awful, the first response is to ask what happened. The next impulse might be to give your friend some benefit of the doubt. Not so here. Despite my record, the very shadow of a possible doubt crossed somebody's mind out there in the ranks of Meany's empire, and that perforce made me the equivalent of anti-unionism incarnate. I, friend though I had been in times thick and thin, would not be worthy of the merest courtesy from the great mogul Don Sailman, who never even deigned to acknowledge my letters.

My principles have always been plain. They have not changed. I believe in the right of workers to organize. Labor knows where I stand. What I wonder is, where is Don Slaiman? Does he recognize a friend, or does he care?

I will have more to say on this in coming days. I have been a friend of labor; it seems more than a little curious that this is to be repaid not just with ingratitude, but with outright assault. It may just be that great moguls like Slaiman are too busy to bother with little friends who are troubled by his casual injustice. Where is this guy Slaiman?

THE STATE OF THE ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

Mr. ADDABBO. Mr. Speaker, I would like to address the state of the energy crisis as I see it today. I realize, of course, that President Nixon has decreed that it is no longer a crisis but simply a problem. I and my family and my constituents, I regret to say, do not have the lofty view that the White House has, and when we are spending great amounts of time and energy to purchase gasoline at inflated prices, perhaps we can be excused for considering it a crisis.

I would like to insert into the RECORD just as a reminder that in 1970, 1971, 1972, and 1973, the House Select Committee on Small Business held hearings and issued reports which indicated the United States was running headlong into a shortage of energy fuels if the administration did not act. The administration took part in these hearings—reluctantly, I recall—and it was not until April of 1973 that the White House formally responded to our calls for action.

That the President did not heed our warnings in no way alleviates the present crisis situation. I insert this in the RECORD only so that those who hear this speech or who read it in the CONGRESSIONAL RECORD might recall it the next time the President goes on nationwide television to castigate the Congress for lack of action.

By passing the energy bill yesterday, the Congress has taken a massive step forward in dealing with the energy crisis. The President has announced that he will veto the bill, primarily because it contains a provision rolling back oil prices to $5.25 a barrel at the wellhead. I would hope he will reconsider that decision. But since he probably will not, I would urge all my colleagues to vote with me to override the veto.

Now, what does this bill do? It rolls back prices, as I have indicated, and it gives the President the power to impose gasoline rationing, should he see the need to do so.

The Congress has been told that if the rollback provision is allowed to stand, the oil companies will simply stop producing domestic oil until the prices are increased. That action, says the President, will increase gas lines rather than shortening them.

Well, insofar as he goes, he is right. The question goes far beyond that, however.

If I were the President, I think I would sign the bill into law and call the presidents of the oil companies into the oval office.

"Boys," I would tell them, "you have lived pretty fat off this country for a long time. In a time when gasoline lines stretch all across the country, your corporate profits in the last 3 months of 1973 reached an all-time high, ranging from a 50-percent increase in one company to a 159-percent increase in another."

I would say to these gentleman that while the President of the United States believes in the free enterprise system, it is really not good form to glut yourself while the rest of your countrymen starve.

I would suggest further to them that if the oil companies had any intention of cutting back domestic oil production, the President would be forced to respond. He might just threaten to cut off their sweet, little oil depletion allowance; he might propose some tax law changes; he might provide incentives for wildcat oil searches. He might even go so far as to suggest that the rich harvest of oil shale and offshore oil sites would suddenly become unattainable to the big seven companies unless they cooperated.

He could suggest to the oil companies that the U.S. Government could develop some of these areas itself, as well as create new Government-owned-and-operated refineries if domestic oil production dropped.

I think that if the President put his mind to it, he could probably come up with enough reasons why the major oil companies would not care to drop back domestic oil production.

Now, we in the Congress have heard reliable testimony from independent witnesses about some rather interesting maneuvers by the oil companies. We have heard the Shah of Iran say flatly that the oil companies are buying as much oil now as they did before the blockade, and that interesting things happen to those oil shipments enroute to the United States. We have all seen and heard news media reports of major companies holding back supplies of gasoline while the retail service stations were empty.

We, in the Congress, and in the Nation have a great deal to be suspicious of, and it would help greatly if the President and his Federal Energy Office would be more open and candid with all of us.

We have also heard that the oil companies are using this gasoline shortage, real or artificially created, to drive the independent gasoline station owners out of business. Specific acts of discrimination against the independents by the majors have been documented and I would refer all of you to hearings my subcommittee of the Small Business Committee will conduct March 8 in New York City.

Let me close by noting that the Congress was not created to deal with day-to-day problems; for that, the framers of the Constitution created the office of the Presidency.

The function of Congress, then and today, was to deliberate the laws of the Nation and to remedy injustices in those laws as they were exposed. The additional duties were to deliberate matters of national importance and to fashion, in concert with the President, national policies.

In this energy crisis, the President has done everything possible to make it appear that Congress is failing the people, keeping him from taking the bold action he prefers to resolve the crisis. That is a plate filled with yesterday's beans.

The crisis is real but what this country really wants to know is the answer to whether the causes are real or were they manufactured.

I and my staff, as I am sure is true in the case of every other Representative in this Chamber, are working overtime 7 days a week to get relief whenever and wherever possible. You do what you can in a crisis.

But that relief, however necessary, will not cure the causes for our national shortage. Only the Office of the Presidency can do that. I am as aware of what he says he is doing as are you. And I of course wish him well in ending the Arab blockade. And I would hope he will sign the energy bill and, for a change, take the part of the little man against the oil barons. But beyond that, I want to know, beyond any doubt, how this all came to be and what internal maneuvering took place during the crisis. That is a role the Congress is adequately qualified to play, and I would hope the leadership on both sides of the aisle will join with me to implement just such a study as soon as possible.

INTRODUCTION OF A BILL TO MAKE AIRLINE TICKET THEFT A FEDERAL OFFENSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 10 minutes.

Mr. MURPHY of New York. Mr. Speaker, I introduce for appropriate reference a bill 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.

The legislation expands the definition of "security" in title 18 to include airline tickets and blank ticket forms. It is urgent that these items be included under the Criminal Code in order to provide travel agencies and the commercial airline industry the assistance of the Federal Bureau of Investigation in their efforts to halt the mammoth diversion of tickets to criminal use.

This amendment will allow the Federal Bureau of Investigation and the Justice Department to investigate and prosecute

those involved in the trafficking in stolen and counterfeit tickets. Under the penalty provisions of the title (section 2315, title 18 U.S.C.) violators will be subject of a $10,000 fine and/or 10 years in jail for the theft, sale or receipt of stolen tickets. Because this activity many times involves the crossing of State lines, however, an additional $10,000 fine and/or 10 years is added for interstate trafficking (section 2314, title 18 U.S.C.).

Airline ticket thieves until now have been handled as petty offenders in many jurisdictions. Quick action on a national law that puts this criminal act in the $20,000 fine and 20 years in prison category will put the black marketeers and courts across the country on notice that the Federal Government takes this problem seriously.

Mr. Speaker, the airline industry has constantly been plagued with the loss of time and service because of lost, counterfeit, or stolen tickets and validator die plates. The monetary revenue loss in any given year is in the multiple millions and in the end it is the U.S. taxpayer that makes up the deficit.

In January 1974 this loss will amount to over $20 million.

At the present time there is no legal control over the printing, distribution and issuance of airline tickets. The Air Transport Association, a private organization, makes every effort to control such losses, but is predictably ineffective.

Local police investigations to date find people from all walks of life purchasing and selling stolen or counterfeit airline tickets. Thievery is so simple that there are hundreds of entrepreneurs operating on a small but lucrative scale.

I have been told stories covering a large span; from a husband and wife team who formerly worked for a New York airline to a maitre d' pushing tickets in a prominent New York restaurant. They do not advertise, but by word of mouth their clientele covers every walk of life. One recent case involved an elderly grandmother and her grandson who had a nephew "who could get it for her wholesale." The woman was not arrested because the nephew supplied information to the police to protect her.

The bulk of the theft and distribution of stolen and counterfeit tickets, however, is attributable to organized crime. As with other illegal endeavors, professional criminals spotted a lucrative potential with a low probability of apprehension and moved in fast.

It is the opinion of police authorities that since airline tickets are as good as cash, they should be treated the same as a negotiable instrument, under Federal law.

My bill will do just that.

Counterfeit tickets are a problem, but the two main sources of supply are theft of airline and air transport association tickets. The Federal Aviation Administration reports to me that the most common source are the ATA rip-offs. Rand McNally prints all ATA tickets and these are distributed in bulk directly to travel agencies handling airline business.

The Air Transport Association is presently encountering excessive losses with stolen and counterfeit airline tickets under their jurisdiction because controls are minimal. The main problem area is the disappearance of airline tickets between pickup from the printer and delivery to the travel agency. Wings and Wheels and UPS have the worst record of tickets stolen in transit. The ATA suspects "conspiracy" situations, but they do not have the capability to ferret out the facts and apprehend the perpetrators.

Mr. Speaker, the basic problem is the lack of central control for all airline tickets, ATA as well as airline carriers. Even more critical is the fact that each police department acts and reacts independently.

Although the Air Transport Association has limited the number of tickets to be on hand at a given travel agency, they have no way of enforcing the ruling. For example, a popular professional criminal activity is to purchase a travel agency, sell all the tickets available in as short a time as possible, make no payments to the airlines, and close the door of the agency. The airline must honor the tickets as they are legitimate and the agent gets away scott free claiming financial difficulties.

This activity is becoming familiar enough to police that they have a name for it—a "bust out operation." The two most recent cases of this kind involved the Bradford Travel Agency of Newark, N.J., and the Empress Travel Agency of New York City.

In my own city of New York the problem has exploded during the past 4 months. The situation is so rampant in the metropolitan area that investigators of the Federal Aviation Administration were called in to help. A current case in New York involves 175 people and 7,000 stolen tickets from just four agencies and airlines.

The following is a sampling of recent ticket losses by four metropolitan agencies being worked on by local police in my part of the country.

First. Odyssey Travel Agency, New Jersey: 250 missing tickets—105 accounted for by police as having been used; 95 are still outstanding, and 50 are miscellaneous charge orders that cannot be traced.

Second. Bayonne Travel of New Jersey lists 900 stolen tickets.

Third. Greenwald Travel Agency of New Jersey lists 1,500 stolen tickets.

Fourth. Ambassador Travel, Manhattan, N.Y., lists 1,825 stolen tickets.

Other areas of the country have been hit just as hard.

The problem originally was most acute in Los Angeles which earned it the title, "the stolen ticket capital of the world." A recent count by airline officials turned up $3 million in stolen tickets having gone through Los Angeles International Airport alone. It is not unusual to turn up theft rings with up to a million dollars worth of blank tickets.

Mr. Speaker, in view of the tremendous economic loss to the airlines and the inability of private organizations and local authorities to put a dent into this problem, I urge that speedy action be taken on the bill I introduce today to prevent further economic losses to our hard-pressed air carriers and an even bigger dent being made in the air passenger's already dented pocketbook.

The following is a copy of the bill which I introduce today:

H.R. 13147

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 airline tickets

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 2311 of title 18 of the United States Code is amended:

(1) by inserting after the second paragraph the following new paragraph: "Airline Ticket". "Airline ticket" shall include any ticket, exchange order or other document in the form accepted or issued by air carriers or foreign air carriers for air transportation and services related thereto, or supplied by air carriers to their employees and agents for such issuance, whether or not entries have been made thereto purporting to show routings, reservations, fare or rate paid, and similar information prerequisite to acceptance of the ticket for air transportation and services related thereto, or any counterfeit thereof

(2) by adding the words "airline ticket or equivalent instrument which evidences a right to receive a service", after the word "securities" in the definition of "Value" in the said section.

That (b) Section 2314 of title 18 of the United States Code is amended.

(1) by inserting a comma and adding the words "Airline tickets" after the word "securities" and before the words "or money" in the first paragraph; and

(2) by inserting a comma and adding the words "airline tickets" after the word "securities" and before the words "or tax stamps" in the third and fifth paragraphs.

That (c) Section 2315 of title 18 of the United States Code is amended:

(1) by adding the words "airline tickets" after the word "securities" and before the words "or money" in the first paragraph;

(2) by adding the words "or has in his possession at least five (5) airline tickets whether or not entries have been made thereon," after the words "$5,000 or more," and before the words "or pledges" in the first paragraph; and (3) by inserting a comma and adding the words "airline tickets" after the word "securities" and before the words "or tax stamps" wherever they appear in the second paragraph.

ON INTRODUCTION OF A BILL TO PROVIDE PUBLIC REPRESENTATION ON MULTISTATE POWER POOLING ORGANIZATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. HARRINGTON) is recognized for 5 minutes.

Mr. HARRINGTON. Mr. Speaker, I am today introducing legislation to require public representation on all multistate electric power pooling organizations. In recent years, organizations like the New England Power Pool—NEPOOL—have grown increasingly more powerful. Today, these organizations, which are in reality publicly sanctioned private cartels, are responsible for much of the Nation's future supply planning, powerplant siting, and construction rate setting. In New England, all the new generating stations are NEPOOL-planned units.

Yet, despite the importance and power

of regional utility organizations, there is no regulatory oversight of their activities nor any public input into their decisionmaking process. The legislation I am introducing today will help rectify this situation.

The most critical need for legislation of this sort lies in the environmenal area. It is becoming increasingly clear that a major casualty of the energy crisis will be the environment. Industry, the administration, and some congressional leaders have all called for more "reasonable" environmental regulations. Disguised behind this phrase is a desire to roll back the clock 10 years to the time when environmental quality was of little concern to anyone.

Governors throughout the country have granted thousands of high-sulfur variances to utilities and industry. In the energy emergency bill, secondary clean air standards are waived. The auto industry has been increasingly successful in delaying and modifying their emission controls standards. The Alaska pipeline and offshore oil development are moving ahead at full speed. And William Simon has announced a plan to require every State to license a minimum number of oil refineries and nuclear generators.

This strategy of speeding up and relaxing powerplant siting procedures is of particular concern to me. No other single structure or industrial process has as great an impact on the environment as an electric generator. Modern nuclear and fossil fuel units can cost up to a billion dollars. Often three or more individual units are clustered together on one site.

Fossil fuel generators are the largest single stationary source of air pollution in the country. A single station is capable of producing 437 tons an hour of particulate matter. Each year, electric powerplants emit 17 million tons of sulfur dioxide and 6 million tons of nitrous oxide into the atmosphere.

Nuclear reactors, which emit low-level radiation in place of poisonous gasses, also are a prime polluter of our waterways. An average nuclear plant uses around 650,000 gallons of water per hour to cool its reactor—water which is then returned to its source at higher temperatures. This thermal pollution kills fish, encourages the growth of algae, and generally upsets the ecological balance of the water source.

Because modern powerplants are so complex, and because their impact on the environment is so great, the construction of a number of plants have been delayed because of licensing problems. These delays have been attacked by the electric utility industry as unnecessary and contributory to the energy crisis.

I disagree with this view. In my opinion, a thorough investigation of the possible safety and environmental hazards of a powerplant actually is more efficient in the long run than an expedited siting procedure. The Atomic Energy Commission is presently considering halting the construction of a group of powerplants in Virginia—one of which is 90-percent complete—because the site is located on an earthquake fault. A more rigorous siting procedure would have brought this problem to light before construction had begun.

Yet it is becoming increasingly clear that new powerplants will have to be built soon to make up for the poor planning and overpromotion of electricity by utility companies. In New England this year, four new nuclear generators, each with a capacity of over 1,000 megawatts, have been proposed. And the administration is intent on promoting new siting procedures which will allow these plants to be built as quickly as possible.

The legislation I am offering today offers a new approach to the powerplant siting question—an approach which will not result in delaying construction of plants, but one which may actually speed up licensing procedures. To put it in its simplest terms, my bill will allow public participation in the preplanning and planning stages of powerplant development, rather than allowing all the decisions to be made without any input, and then presented as a fait accompli to an overworked, underfunded regulatory agency.

Under the present system, environmental considerations play a minor part in determining where a powerplant will be located. Because most utilities are private, profitmaking corporations, economic considerations always take first place. Often an inferior site from an environmental viewpoint is selected because its economic benefits are superior to an alternative site. Quite often, powerplants are located for political reasons.

But, regardless of the reason for the site, once it has been chosen, the regulatory agency makes its determination with regard to that particular site, without considering alternatives. It is this situation which my bill corrects.

The bill provides that every multistate power pooling association must have one public representative for each of the States the organization serves. Each public member will be appointed by, and serve at the pleasure of, the Governor of the respective State.

The public members will not have a vote in the organization, but will have access to all meetings, reports, memoranda, and will participate in all decisions of the power pool. Each public member will also record his approval or disapproval of every activity undertaken by the pool.

By mandating public participation in powerplant planning, we can help assure that plants will be built where they should be. Through each State's Governor, who will choose the public representative to serve on the power pool, we will also assure political accountability for the decisions of the pool. And finally, the job of the siting agencies will be made far easier because information which previously had been kept secret will now be available for public inspection.

Up to this point, I have talked only of the environmental aspects of this bill. But recently, the price of electricity has begun to skyrocket to such levels that a fundamental rethinking of our regulatory policies is now in order.

Regional power pools are playing an increasing role in the setting of rates, both from powerplant output, and through transmission charges. Many of the rates now being charged are not in the public interest. Public participation in the rate decisionmaking process will also be of value to the consumers of this country.

In the past, we have placed our trust in private individuals and corporations to provide us with the energy we need to live. Only now are we beginning to learn that our trust has been misplaced—that it has been abused for private gain over the public good.

Our present regulatory agencies are unable to cope with the tremendous problems being posed by the energy crisis. Unless we develop new approaches to assure the delivery of our most basic energy resources, we may well destroy not only our environment, but our economy as well. The legislation I am introducing today, while certainly not a panacea, will be, I hope, a step toward developing that new approach.

Mr. Speaker, reprinted below is a copy of the bill:

H.R. 13138

A bill to amend the Federal Power Act to provide for public representation on any multistate power organization

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 of the Federal Power Act is amended by inserting at the end thereof the following new subsection:

"(g) Any regional reliability council or other organization which regulates the voluntary interconnection and coordination of facilities for the generation, transmission, and sale of electric energy (as provided for in subsection (a) of this section) shall provide for the public to be represented in such organization by a public member from each State in which facilities affected by such interconnection and coordination are located. Such member shall be appointed by and serve at the pleasure of the Governor of such State, and shall have access to all meetings, records, hearings, memorandums, and any other information and data compiled by such organization. Such member may not vote on matters before such organization, but he shall be afforded all other rights and privileges of such members, including the right to participate in any meetings, hearings, and at other times as may be determined by the Commission, and shall be permitted to publicly record his support or opposition to any decision of such organization. He shall be paid $20,000 per annum by such organization in the manner which such organization shall determine."

SALARY INCREASES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, there is still considerable confusion about what action should be taken concerning the President's proposal to raise salaries for judges, top-level executive department officials, and Members of Congress.

In the event a vote on pay raises is held during the week of March 4 when I am required to be away from Washington to conduct hearings as a member of the Special Subcommittee on the U.S.

Military/Troop Commitment to Europe, I want the House to know my views on this issue.

I have long felt that a Member of Congress should not vote for a pay raise which takes effect during that Members' current term of office. That is one reason why I voted against a similar pay raise last year and will vote against the President's proposed pay raise bill this year.

I do believe, however, that Federal judges should be seriously considered for a pay raise. This is especially true for Federal district judges in order to keep these judges from leaving judicial service. At least, Federal district judges should be paid at the same level as that paid to Federal circuit court judges, which is presently not the case.

Therefore, I urge my colleagues to vote against the President's pay raise proposal. Also, I urge the House to defeat the latest Senate proposal which would result in top-level executive bureaucrats, sub-Cabinet-level officials and judges being compensated more than Congress. This makes no sense either.

All we should consider this year is to make Federal district judges' compensation more equitable.

REPORT ON CHEMICAL WARFARE AVAILABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, as I have advised the Members on previous occasions, I have been attempting to collect additional information of possible use in evaluating the legislation which I and my cosponsors have proposed for a reevaluation of U.S. policies on chemical warfare. At this time I would like to advise the Members that a report which I asked to have prepared by the Congressional Research Service is now available. This report, prepared by Dr. James M. McCullough of the Science Policy Research Division, CRS, entitled "Chemical and Biological Warfare: Issues and Development During 1974," CRS 74-21SP, provides a summary of the many topics which were brought before the Nation about chemical warfare issues in 1973. I was particularly interested in having the available data on funding, including fiscal year 1974, prepared in brief form so that all the Members could readily see how the R.D.T. & E. programs are being developed. The report is available upon request to the Congressional Research Service or my office, and may assist you in your continuing consideration of this issue.

There are discussions on a number of topics in the report, but one is of particular interest to me at the moment—the emphasis on offensive against defensive work in chemical warfare. The report shows, for example, that we have been spending money developing defense systems. Yet Gen. Creighton Abrams, in his recent testimony before the Armed Services Committee, indicated that, on the basis of Soviet equipment captured in the Arab-Israeli October war—the United States is behind the Soviet Union in the capability to defend itself in a toxic environment.

In my opinion, I find it strange that after all of these many years of research on chemical systems, we still must have considerable time to equip our own troops with the defensive equipment required for protection against chemical attack. This is a curious and dangerous situation. Our announced policy is to wait for an enemy attack with chemical weapons and then we will retaliate in kind. And yet, we find that our own troops are well behind the Soviets in defensive equipment. It seems to me that if a nation is weak defensively with regard to a particular weapons system, this is more of a temptation to another nation to attack with that weapon than would be the threat to retaliate with that same weapon. Further, it is of little value to the troops destroyed in an initial attack because they were not fully equipped with the best defensive equipment, to be aware of the fact that retaliation with that same weapon will occur. The Soviet defensive equipment, examined following the October war could not have been much different than the defensive equipment examined following the 6-day war.

Have we been devoting more energy to the development of binary weapons or the discovery of new toxic weapons than we have to purchasing the very best of chemical defensive equipment for issue to each and every one of our troops? I do not disagree with the concept of exploring new avenues of real potential value in weapons development, but I have a feeling that we have stayed on the course of developing and improving offensive chemical weapons for too long, with the possible detriment, not only to our own defensive posture, as pointed out by General Abrams, but also of the development of other more needed equipment.

I would like to add at this time, however, particularly in view of the comment of General Abrams about our deficiencies in defense systems, that even in our chemical warfare research we see occasional side benefits just as we do in our NASA programs. I noted in the CRS report mentioned previously that the U.S. Army research laboratories at Edgewood have accomplished a feat of major scientific achievement. The researchers at that laboratory have opened the door to the possibility of being able to provide an immunization against small, nonprotein molecules. As you know, we can provide an immunity against many infectious diseases by inoculating with antibodies for that disease. These chemical investigators have demonstrated that it may just be possible to provide an antibody against a toxic substance. This research, if it develops as anticipated, could have great significance for workers in industries who are unavoidably exposed to toxic chemicals or to pesticide applicators in agriculture and other occupations. Of course, the primary objective at Edgewood is to provide a method of immunizing the soldier against nerve agents. While I consider this type of research important, I am not a proponent of justifying the chemical warfare effort simply because we get such side benefits. The same benefits could be obtained within our biomedical research community with similar objectives. I mention this point simply to indicate my understanding that we do have very competent people engaged in our chemical warfare programs. I am concerned that we may have these competent people working on the wrong objectives.

I have asked General Abrams to comment on any immediate plans which the Army might have for earlier open-air testing of the binary chemical weapons loaded with the ingredients to produce the toxic agent, and where the production and funding for the binary system now stands. To this date, I have received no reply. Without objection I would like to have included in the RECORD a copy of this letter so that the Members may be aware of the request, as well as to focus attention on at least two critical points which may be considered in current authorization and appropriations hearings.

The letter follows:

FEBRUARY 4, 1974.

Gen. CREIGHTON W. ABRAMS,
Chief of Staff, U.S. Army,
Washington, D.C.

DEAR GENERAL ABRAMS: As you know, I have become quite interested in the total issue of the U.S. policies established in the field of chemical warfare. I have been receiving a number of briefings from various agencies as a part of trying to develop my own background knowledge in this subject. During these briefings, I have become aware that the U.S. Army is apparently very near to a decision to adopt and go into production on a binary chemical munition system. One issue associated with this proposal is the determination of whether field trials for live munitions will actually be conducted with toxic agent, and if so, when these trials might be anticipated. To this date, it is my understanding that no environmental impact statement has been filed for approval of such testing. However, I have the impression that the Army may actually be near to a decision on this point.

I would appreciate it very much if you could advise me as to any immediate plans which may be under consideration at this time with regard to field testing of either GB or VX artillery munitions. I have heard comments by Mr. Callaway on this point but I am also interested in any information which you may be able to supply from the immediate operational viewpoint.

Sincerely,

WAYNE OWENS.

CORNERING THE SILVER MARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, as many of my colleagues have done, I have followed with serious concern the rapid rise in gold prices. We are led to believe this upward pressure on gold prices has been caused by a fear of further weakness in paper currencies and the threat of further serious inflation.

Silver, which is also important to the users in my district, has likewise been a victim of high speculative fever. The New York price for silver has increased more than 150 percent during the past year. I have learned from various articles in highly respected publications that silver

has been the target of an attempt by two individuals to corner the silver market.

Mr. Speaker, I should like to quote from the New York Times of February 10, 1974:

Another silver hoard is the estimated 50 million ounces controlled by the sons of H. L. Hunt, the Texas oil baron . . .

To put this in perspective it should be noted that this country produced less than 40 million ounces of silver during 1973 and that American industry consumed about 195 million ounces last year.

The February 11, 1974, edition of Barron's reported:

Now, Bunker Hunt is back, with a slightly larger commitment to buy silver. Is he serious? Will he take still another 27 million ounces and bring his bullion holdings up to nearly 50 million ounces, which, at Friday's closing price for the nearby contract, means that he would have about $250 million worth of physical silver laid aside . . .

Silver is an unregulated commodity and apparently there is no way to prevent an individual from holding for personal gain an unlimited quantity of a raw material essential to important manufacturing operations which provide products such as film, electrical appliances, electronic parts, silverware, and medical supplies.

Action should be taken to prevent speculative activities of this type. Constituents from my district are seriously affected because the recent increases in price have completely disrupted normal manufacturing and marketing practices causing cutbacks in employment.

The recent price rises are almost unbelievable. Since January 2 of this year the increase of $2.30 per ounce equaled the full selling price for an ounce just a year ago. Last week the price was $5.64 per ounce. On Tuesday of this week the price was $6.70. The average price in 1973 was $2.56 per ounce.

It seems to be common knowledge in the trade that the actions by the Hunt brothers working through Bache & Co. have been the main cause for the unprecedented price levels. Despite the apparent legality of this activity, I submit that these multimillionaires acting in unison should not be allowed to hold the silver-using industries at ransom. It is difficult to be sympathetic to two oil barons whose thirst for personal gain and further enrichment are having the result of forcing silver prices upward, of adding another inflationary factor to the economy and of causing havoc in the silver manufacturing and marketing areas.

Mr. Speaker, as a minimum, these practices raise the question as to whether an investigation should be made of the commodity exchanges and measures adopted to prevent the cornering of the market by a few individuals. Effective action is needed immediately. The silver market must be returned to normalcy before further damage is done to this sector of the economy.

THE CONSUMER HOME MORTGAGE ASSISTANCE ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, it is my privilege to serve as the ranking majority member of the Subcommittee on Banking Supervision and Insurance under the chairmanship of our distinguished colleague, the gentleman from Rhode Island, FERNAND J. ST GERMAIN.

Today, we began hearings on H.R. 12421 introduced by our chairman on January 30. On that occasion he stated that our subcommittee stood ready to act immediately in our continuing efforts to bring relief to the hard-pressed consumer who desires to either sell his existing home or to purchase a new home and to assist our devastated homebuilding industry. The extraordinary knowledge, compassion and sensitivity of our chairman from Rhode Island is best illustrated by these words from his opening statement:

Entire viable neighborhoods of our major central cities such as Chicago so ably represented by our ranking majority member, Frank Annunzio, find their neighborhoods deteriorating to an alarming degree due to the failure of our financial institutions to provide access to credit for the sale and resale and rehabilitation while these same institutions continue to receive the vast majority of their deposits from the citizens of these neighborhoods who desire to continue to remain in the neighborhoods of their birth.

Mr. Speaker, it has been written that "A prophet is not without honour, save in his own country." I am delighted to report that such is not the case where the gentleman from Rhode Island is concerned. I commend to the attention of my colleagues an in-depth article appearing in the finance section of the Providence Journal on February 24, 1974, which describes in remarkable detail the rise to national prominence on banking matters of our chairman. Recently, the Honorable Dan Walker, Governor of Illinois, has joined me in requesting that our subcommittee hold hearings in Chicago concerning the mortgage disinvestment crisis not only in my city of Chicago but in virtually every major urban center about which Chairman ST GERMAIN spoke in his opening remarks today on H.R. 12421.

It remains my hope that our chairman will provide the guidance not only to Chicago but to other major cities so essential if our cities as we know them today are to survive.

I enclose at this point in the RECORD the article from the February 24 Providence Journal:

DEPOSIT BILL SURVIVES ATTACKS

(By James H. Marshall)

Congressman Fernand J. St Germain, despite heavy opposition, earlier this month successfully managed House passage of a bill that would increase the limits of federal insurance on bank deposits and provide full coverage on time deposits of public units.

For the first time in American banking history, individual depositors can have their accounts insured up to $50,000 if the bill is approved in the Senate and signed into law by the President. Current deposit insurance limits are $20,000.

It is also the first time that there will be unlimited coverage on time deposits (savings accounts) placed in financial institutions by towns, cities, and state and federal governments.

This extra coverage will be at no additional cost to the banks or in administrative costs to the insuring agencies, such as the Federal Deposit Insurance Corp., which insures commercial and mutual savings banks, the Federal Savings and Loan Insurance Corp. or federally chartered credit unions insured under the National Credit Union Administration. Financial institutions must pay 1/12 of one per cent of their deposits as premiums.

Demand deposits (checking accounts) of public units will be insured up to $50,000 under the bill, although the act includes provisions for collateral of demand deposits above that amount.

SCORES COUPS

Personally managing the bill (H.R. 11221) on the House floor, Mr. St Germain scored several parliamentary coups to save his measure, including defeating a motion to send it back to his subcommittee on banking and insurance; something that, under most other circumstances, would have effectively killed it for this session.

Mr. St Germain, in a recent interview, said he had two main goals in introducing the legislation: to provide sufficient deposit insurance for all persons to meet rising inflationary trends and to encourage more public funds to be deposited in mutual thrift institutions (as opposed to commercial banks) so that more money would be available for mortgage lending.

Mutual thrift institutions—which are depositor-owned—include mutual savings banks, savings and loan associations and credit unions, although the latter were not included in the original bill.

The bill sparked opposition from many quarters, namely some commercial banking groups, including the American Bankers Association, the Federal Deposit Insurance Corp. and its counterpart, the Federal Savings and Loan Insurance Corp., leading officials of municipal finance officer groups and a variety of other organizations representing public and professional interests in the financial community.

The commercial bankers feared a large portion of their public deposits would flow to the mutual thrift institutions, mainly because they are able to pay a higher interest rate on savings deposits.

Mr. St Germain feels the outflow, while significant, would not be as much a disaster as the commercial bankers fear. He estimates about $10 billion would eventually wind up in the thrifts. He bases his calculations on the $40 billion average daily balance of public funds now on deposit throughout the country. He said about 25 per cent of those funds will leave.

$8 BILLION

Of that $10 billion, Mr. St Germain believes some $8 billion will be translated into home mortgage money, creating a tremendous infusion of funds into the market and helping the home building industry which traditionally suffers when money gets tight.

The congressman's arguments have been challenged by commercial bankers who say public funds are so volatile (short term) that they will not do much good toward freeing up mortgage money.

But Mr. St Germain says the $40-billion figure he uses is the average daily balance of public funds on deposit and this figure consistently remains at that level despite the volatility. He cites the fact that most states require at least 100 per cent security (generally in the form of municipals) on public deposits and of the $100 billion in municipal bonds held by U.S. banks, only 40 per cent is needed for collateral.

Mr. St Germain and several commercial bankers in the Rhode Island area don't think there will be the flood of public deposits

flowing into mutual thrift institutions for another, more practical reason.

VALUED SERVICE

Commercial banks today provide a wide range of financial services to communities and other government units which cannot be found in thrift institutions elsewhere in the country. Because of this, a finance officer would be reluctant to sever this relationship with a commercial bank for a mere quarter of a percentage point in savings interest.

(In Rhode Island it's a different story, since most thrift institutions, except credit unions, have a commercial affiliate and it is currently illegal under most circumstances for a government to have a savings account in a commercial bank.)

Municipal finance officers opposed the bill on the belief that the elimination of collateralization requirements for public deposits, the bottom would fall out of the municipal bond market. The fear is that bond rates would go up, since banks would not be interested in them because they were no longer needed as collateral.

Mr. St Germain says this is not the case. Pointing out that the $100 billion in municipals held by financial institutions is some $60 billion more than is currently needed as collateral, he said these bonds have an important shelter that commercials utilize to boost their after-tax earning. Thrifts have their own tax advantage and generally don't invest in municipal bonds for that reason, but rather to provide depth to their portfolios, he said.

Perhaps the most surprising opposition came from officials of the Federal Deposit Insurance Corp. and the Federal Savings and Loan Insurance Corp. They indicated a ceiling of a lesser amount, say $35,000, would be more appropriate. Mr. St Germain during the House debate blasted this argument by noting the FDIC in 1963 was seeking to increase its deposit insurance to $50,000. "I was just catching up on something that was sought 11 years ago," he told the congressmen.

The FDIC had another pinion knocked from its opposition when it admitted the increased coverage would not cost any more to administer and that its huge reserves would not be endangered by the new ceiling.

One less-heralded provision of the bill also charges the insuring agencies to set limits on the amount of public deposits a financial institution can accept. Mr. St Germain said this was given in order to ensure the stability of the institutions and that they would not have a disproportionate ratio of public deposits.

MORE THAN LUCK . . .

There was a little more than luck involved in the 282 to 94 victory scored earlier this month by Congressman Fernand J. St Germain in getting passage in the U.S. House of his bill increasing federal deposit insurance from $20,000 to $50,000 and providing full insurance coverage on time deposits by public units.

Utilizing intricate and little-used parliamentary procedures, Mr. St. Germain as floor manager, was able to stave off several attacks on his bill as it headed for final passage. The elan he displayed in getting overwhelming approval of his bill still has Washington observers buzzing, according to sources there.

The first assault came when Rep. Albert W. Johnson of Pennsylvania attempted to equalize the interest rates paid on savings deposits, covered under Regulation Q. Mutual thrift institutions are allowed to pay a quarter of a percentage point more in interest than commercial banks on deposits up to $100,000.

At a point where it looked as though the bill might be bogged down over this issue, Mr. St Germain called for a ruling on the germaneness of the Regulation Q debate. This took place when the House was meeting as the Committee of the whole, a procedure that allows full debate and insertion of amendments to any measure being debated. During that stage of proceedings, the Speaker of the House steps down and assigns a member to act as chairman.

But when Mr. St Germain called for a ruling on the germaneness of the debate, Rep. Carl Albert of Oklahoma resumed his chair as speaker and subsequently ruled it was not germane. Thus the first assault was repelled.

Business then turned to other aspects of the bill, including the subcommittee on banking and insurance's amendment to include credit unions in the full insurance provision and requiring banks to provide collateral for time deposits in excess of the $50,000 limit.

This was introduced by Rep. Robert G. Stephens of Georgia and it was subsequently approved. But along the way, this corrective provision was snarled in legislative maneuvers because Rep. Chalmers P. Wylie of Ohio amended the bill so that the entire section covering public unit deposits was deleted.

This was done by voice vote, to which Mr. St Germain protested, claiming there was no quorum present.

Another amendment to cut the coverage to $35,000, submitted by Rep. Ben. B. Blackburn of Georgia was turned back.

Thus the bill without the vital Stephens amendment passed on to the full House for a second reading prior to a vote for final passage. At that point it only provided for federal deposit insurance of $50,000 and had no mention of full insurance coverage for public unit deposits.

When Mr. Albert resumed his post as speaker, Mr. St Germain demanded another vote on the Wylie amendment, successfully pleading there was no quorum present when it was voted on in the committee of the whole.

The chairman called a quorum and as House members filed into the chamber, they were buttonholed by Mr. St Germain and his subcommittee colleagues. The Wylie amendment was defeated in a rollcall vote, thus restoring most of the provisions of the bill. Left out was the Stephens amendment, having foundered in the move to kill off the first section.

Now the committee was on the spot. In order to get the Stephens amendment back into the bill, it normally would have to go back to the subcommittee for revision and then be guided through the various channels required prior to final debate.

Mr. St Germain had another idea, however. Mr. Blackburn, after the Wylie amendment was beaten down, called for indefinite recommittal, which under most circumstances would have killed the bill.

But Mr. St Germain mustered his forces and managed to defeat the recommittal, 122 to 259. Then, utilizing another rare procedure, Rep. Thomas L. Ashley of Ohio called for an amendment to recommittal which included all the provisions of the Stephens amendment. In short, the bill was now at the stage where the banking and insurance subcommittee wanted it.

The House approved the recommittal with its amendment and just as quickly Mr. St Germain with the rocommendation reported it back to the House for final passage. As the clerk of the House reported in the Congressional Record, "And so the bill was passed."

THE PRESIDENT'S ACTIONS REGARDING MINIMUM WAGE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, the President's actions regarding minimum wage legislation brings to mind the picture of a barefooted dancer on a hot stove. He seems to forget what he said yesterday and thinks the rest of the Nation has the same mental lapse. Just a few short months ago the President vetoed a bill that would have done essentially what he now proposes as his minimum wage bill. But no amount of doubletalk or rhetoric can wipe away his stonehearted decision to veto this legislation on September 6, 1973.

The wage provisions of that bill would have given some small measure of relief to the lowest paid workers in America. This same President, ignoring his own veto message in which he called a $2-an-hour minimum wage inflationary, a few months later raised Federal pay by 4.7 percent, a total tax bill amounting to not millions, but billions of dollars, apparently without any regard for his own previously expressed views.

He also shows a lack of knowledge of the law now on the books in regard to youth labor. More youth have been employed under the provisions of the present Fair Labor Standards Act than at any time in our history, except for the bygone days of child labor and sweatshops.

I feel certain that the Congress will not accede to his demands that we reinstitute uncontrolled, unregulated employment of teenagers in dangerous, hazardous, and health destructive jobs. The Government has spent billions of dollars in job training and back-to-school programs, to bring the dropouts into the mainstream of American life. The President's proposal is an open-door invitation to the lower paid families to take their teenagers out of school and put them into the competitive job market, which is already overcrowded with unemployed adults.

I also believe the President cannot be serious about denying a very inadequate minimum wage rate to the very lowest paid workers in America, the domestic service employees. The President's argument and approach to this subject are just a rehash of the years and years of opposition to every move made by many Congresses to bring the lowest paid wage workers somewhere near a minimum standard of living.

Further, I suggest to the President that while it is his prerogative to state his views, it remains the constitutional prerogative of Congress of the United States to initiate and to legislate the laws governing this country. He can, as he has done so many times in the past, veto if he wishes, but that will not be the fault of the Congress but his own decision.

To refresh the memories of the Members and the President, I insert the President's veto message of September 6, 1973, in which he condemned the Dent proposal calling for a $2-an-hour minimum wage. He now proposes the same as though it were something new and never before thought of by anyone but himself:

VETO OF H.R. 7935—FEDERAL LABOR STANDARDS ACT AMENDMENTS OF 1973

On September 6th, President Nixon returned to Congress without his signature H.R. 7935, proposed Fair Labor Standards Act Amendments of 1973. The text of his veto message follows. 119 Congressional Record H 7596 (H. Doc. No. 93–147).

To the House of Representatives:

I am returning today, without my approval, H.R. 7935, a bill which would make major changes in the Fair Labor Standards Act.

This bill flows from the best of intentions. Its stated purpose is to benefit the working man and woman by raising the minimum wage. The minimum wage for most workers has not been adjusted for five years and in the interim, as sponsors of this bill recognize, rising prices have seriously eroded the purchasing power of those who are still paid at the lowest end of the wage scale.

There can be no doubt about the need for a higher minimum wage. Both fairness and decency require that we act now—this year—to raise the minimum wage rate. We cannot allow millions of America's low-income families to become prime casualties of inflation.

Yet in carrying out our good intentions, we must also be sure that we do not penalize the very people who need help most. The legislation which my Administration has actively and consistently supported would ultimately raise the minimum wage to higher levels than the bill that I am today vetoing, but would do so in stages over a longer period of time and thereby protect employment opportunities for low wage earners and the unemployed.

H.R. 7935, on the other hand, would unfortunately do far more harm than good. It would cause unemployment. It is inflationary. And it hurts those who can least afford it. For all of these reasons, I am compelled to return it without my approval.

ADVERSE EFFECT ON EMPLOYMENT

H.R. 7935 would raise the wage rate to $2.00 for most non-farm workers on November 1 and 8 months later, would increase it to $2.20. Thus in less than a year, employers would be faced with a 37.5 percent increase in the minimum wage rate.

No one knows precisely what impact such sharp and dramatic increases would have upon employment, but my economic advisors inform me that there would probably be a significant decrease in employment opportunities for those affected. When faced with the decision to increase their pay rates by more than a third within a year or to lay off their workers, many employers will be forced to cut back jobs and hours. And the worker will be the first victim.

The solution to this problem is to raise the minimum wage floor more gradually, permitting employers to absorb the higher labor costs over time and minimizing the adverse effects of cutting back on employment. That is why I favor legislation which would raise the floor to a higher level than H.R. 7935 but would do so over a longer period of time. The bill supported by the Administration would raise the minimum wage for most non-farm workers from $1.60 to $1.90, effective immediately, and then over the next three years, would raise it to $2.30. I believe this is a much more prudent and helpful approach.

INCREASING INFLATION

Sharp increases in the minimum wage rate are also inflationary. Frequently workers paid more than the minimum gauge their wages relative to it. This is especially true of those workers who are paid by the hour. An increase in the minimum therefore increases their demands for higher wages—in order to maintain their place in the structure of wages. And when the increase is as sharp as it is in H.R. 7935, the result is sure to be a fresh surge of inflation.

Once again, prudence dictates a more gradual increase in the wage rate, so that the economy can more easily absorb the impact.

HURTING THE DISADVANTAGED

Changes in the minimum wage law as required by H.R. 7935 would also hurt those who need help most. The ones who would be the first to lose their jobs because of a sharp increase in the minimum wage rate would frequently be those who traditionally have had the most trouble in finding new employment—the young, members of racial and ethnic minority groups, the elderly, and women who need work to support their families.

Three groups would be especially hard hit by special provisions in this bill:

Youth: One major reason for low earnings among the young is that their employment has a considerable element of on-the-job training. Low earnings can be accepted during the training period in expectation of substantially higher earnings after the training is completed. That is why the Administration has urged the Congress to establish a modest short-term differential in minimum wages for teenagers, coupled with protections against using teenagers to substitute for adults in jobs. H.R. 7935, however, includes no meaningful youth differential of this kind. It does provide marginal improvement in the special wage for students working part-time, but these are the young people whose continuing education is improving their employability anyway; the bill makes no provision at all for the millions of non-student teenagers who need jobs most.

Unemployment rates for the young are already far too high, recently averaging three to four times the overall national unemployment rate. H.R. 7935 would only drive that rate higher, especially for young people from minority groups or disadvantaged backgrounds. It thus would cut their current income, delay—or even prevent—their start toward economic improvement, and create greater demoralization for the age group which should be most enthusiastically involved in America's world of work.

Domestic household workers: H.R. 7935 would extend minimum wage coverage to domestic household workers for the first time. This would be a backward step. H.R. 7935 abruptly requires that they be paid the same wages as workers who have been covered for several years. The likely effect would be a substantial decrease in the employment and hours of work of current household workers. This view is generally supported by several recent economic studies.

Employees in small retail and service establishments: By extending coverage to these workers for the first time, H.R. 7935 takes aim at the very businesses least able to absorb sharp, sudden payroll increases. Under the burden of this well-intended but impractical requirement, thousands of such establishments would be forced to curtail their growth, lay off employees, or simply close their doors altogether. A "paper" entitlement to a higher minimum wage would be cold comfort indeed to workers whose jobs were eliminated in this squeeze.

OTHER PROBLEMS

H.R. 7935 would also bring almost all government employees under the Fair Labor Standards Act. For Federal employees, such coverage is unnecessary—because the wage rates of this entire group already meet the minimum—and undesirable, because coverage under the act would impose a second, conflicting set of overtime premium pay rules in addition to those already governing such pay for Federal employees. It would be virtually impossible to apply both laws in a consistent and equitable manner.

Extension of Federal minimum wage and overtime standards to State and local government employees is an unwarranted interference with State prerogatives and has been opposed by the Advisory Commission on Intergovernmental Relations.

NEED FOR BALANCE AND MODERATION

In sum, while I support the objective of increasing the minimum wage, I cannot agree to doing so in a manner which would substantially curtail employment of the least experienced and least skilled of our people and which would weaken our efforts to achieve full employment and price stability. It is to forestall these unacceptable effects that I am vetoing H.R. 7935.

I call upon the Congress to enact in its place a moderate and balanced set of amendments to the Fair Labor Standards Act which would be consistent with the Nation's economic stabilization objectives and which would protect employment opportunities for low wage earners and the unemployed and especially non-student teenagers who have the most severe unemployment problems. To the millions of working Americans who would benefit from sound and carefully drawn legislation to raise the minimum wage, I pledge the Administration's cooperation with the House and Senate in moving such a measure speedily onto the statute books.

RICHARD NIXON.

THE WHITE HOUSE, *September 6, 1973.*

MATTHEW S. McCAULEY

(Mr. DORN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DORN. Mr. Speaker, on Friday, March 1, 1974, Matthew S. McCauley, known to most as "Matt," will retire from Monsanto Co. after nearly 45 years of distinguished service with his company. It is in his capacity as manager of legislative affairs in Monsanto's Washington office that I have come to know and respect Mr. McCauley, for he ably personifies the proper relationship between business and government.

Mr. McCauley has been a responsible and forthright advocate of his company's position in those many matters at the Federal level which directly touch upon business enterprise. At the same time, Mr. McCauley has been of valuable service to many Members in providing information and data about his industry and his firm's operations which aid us in our legislative responsibilities. Additionally, he has actively worked with his fellow employees in advising and encouraging them to participate in the governmental process at all levels. It is this sort of responsible corporate citizenship that Mr. McCauley so ably represents and for which I wish to commend him to the House and the membership.

Mr. McCauley now retires, following a most productive and admirable business career. Joining Monsanto in the fall of 1929 as a chemist, he worked in his native city of St. Louis in a variety of chemical and analytical positions later moving into the sales area in the early 1950's. He was a director of business research and marketing research, both positions serving as a valuable base when he transferred to Monsanto's Washington office in 1964. I wish to salute Mr. McCauley and wish him and his wife, Winifred, a happy, productive, and well-deserved retirement.

HON. ROBERT L. SHEVIN ADDRESSES DADE COUNTY BAR ASSOCIATION

(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, in Miami on November 21, 1973, the Honorable Robert L. Shevin, distinguished attorney general of Florida, delivered a very able address to the Dade County Bar Association. Mr. Shevin, who has made an outstanding record not only in law enforcement, but in innovative legislation curbing crime in Florida, addressed himself to some of the challenging problems facing the bar of Florida—indeed the bar of the Nation. Mr. Shevin emphasized that a responsible bar, sensitive to the quality and the adequacy of justice rendered in this country, was essential to the preservation of the American way of life. He significantly pointed out many of the particular problems of the bar and movingly called upon the members of the bar to rise to meet the highest traditions and the great opportunities of the bar.

Mr. Speaker, not only the Members of Congress, but the people of the country who read this RECORD will profit by reading Attorney General Shevin's able address.

Mr. Speaker, I insert the address in the body of the RECORD immediately after my remarks:

REMARKS BY THE HONORABLE ROBERT L. SHEVIN

Thank you very much for the chance to meet with you today. This is a timely meeting because the topics I should like to discuss are those which directly relate to the legal profession.

As a profession and as individuals I think we should make a solemn resolve . . . a resolve to restore decency to our government, a resolve to reinstate respect for law and order and the institutions created to preserve them, and a resolve that the people shall be restored to their proper role in American government.

The legal profession has been blighted and smeared. During the past few months we, as a respectable citizenry of a respected country, have seen the Vice President of the United States resign in disgrace, two former cabinet officers are awaiting trial on criminal charges, and nearly forty White House aides from the top level down have lost their jobs or are facing legal proceedings against them.

Across the nation federal grand juries are investigating alleged wrongdoings of public officials including governors, senators, judges, mayors, district attorneys, and legislators.

Watergate goes on and on. And who knows where the tentacles of the wheat deal, the milk deal, the ITT deal, the Vesco and the other deals will take us?

And the pathetic part of this whole bleak picture is that ninety percent of the people involved in these sordid allegations are attorneys . . . men trained in the law to uphold, enforce, and protect the law.

In some encouraging news the President . . . himself a lawyer . . . has conceded that he is within the law and has agreed to answer a multitude of questions concerning his own involvement in many of the activities surrounding the 1972 election campaigns.

From the first faint stench of Watergate and other wrongdoing began to torment the public's nostrils, the President had the opportunity to "come clean," to give the whole smelly mess a blast of open, fresh air. On each occasion to date, he has gone only so far as public revelations have forced him and no further. Hopefully, his latest move will lift all clouds of suspicion of personal involvement from the President himself.

It is not these individual incidents which concern us most deeply anyway. It is the pervasive attitude . . . the philosophy . . . among the officials involved that they were or are exercising some kind of divine right.

As a public official I find myself appalled and shocked with the flippancy, the nonchalance, of the former vice president's contention that kickbacks are customary and that, by inference, there is nothing wrong with them. This is what leads to the demoralization reflected in this statement by a sixteen-year-old reacting to Agnew's resignation. "They are all that way," he said. "It is part of the system."

Well, I am not that way. And I can tell you with the deepest conviction that the overwhelming majority of public officials with whom I have been privileged to serve are not that way. Indeed, most would act with repugnance and indignation if they were approached with such seamy proposals.

What has happened to our system that has caused such cynicism? I think there are two fundamental answers: 1) We have never come to realistic terms with the issue of campaign financing. It has to twit the public conscience somewhat to see scores of millions of dollars donated by corporate leaders and financiers. These people just do not look upon the financing of politics as philanthropy. They expect their quid pro quo. There is evidence seeping out of Washington that they have been getting it.

The second answer is that private individuals elected to public office begin to view their offices as their own and conduct their business privately. If there is anything that has been made "perfectly clear" by the sequence of disclosures over the past several months, it is that the Federal Government and its officials have been too secret and isolated. I do not intend here to single out the President. There is an unfortunate aloofness and isolation—even disdain of the people who elected them—by some public men and women at each level of government.

The people of Florida have set an excellent example of what is needed in government if the republic is to survive this centralization of power, this royalism.

First, we have the best "government in the sunshine" and "public records" laws in the country. We demand that our elected officials conduct our affairs out in the open so we can see who is giving what to whom and why. The legislature, the cabinet, county and city commissions and school boards, all are subject to constant public scrutiny, and several months ago I put all public bodies in the State including school boards, county commissions, and city commissions on notice that I would take them to court if I felt they were attempting to undermine this powerful public tool. As a matter of fact, we have already gone to court in several cases.

Our public records law makes it possible for any of us at any time to go to our statehouse, courthouse, or city hall to find out how much was paid to whom for what service or product. It tells who was hired for a job and how much he makes. It tells who got what contract or zoning change and who voted for or against it. No system of laws will be foolproof. But I'm certain that such openness has kept a few dubious public servants honest.

But we need more. I think that this is the time that the legal profession put itself fully behind full financial disclosure by public officials and candidates. The people are looking for someone to believe in. Let's show them that the vast majority of lawyers are *concerned* over the cavalier attitude taken by that minority of public officials who have recently been caught with their hand in the cookie jar. During the last session of the legislature my office drew two bills which constitute the strongest and most sweeping conflict of interest legislation in the United States.

One bill requires complete disclosure of financial interests by public officials and candidates for public office. In addition to requiring that federal tax returns and net worth statements be made public, the bill calls for disclosure of all income, sources of income, and creditors not reflected on the tax return.

The second bill would prohibit public officials and employees from engaging in business transactions with public agencies or representing people before public agencies at the same level of government. Also, it would prohibit public officials from voting on matters affecting them or their families and from serving on regulatory boards which regulate businesses in which they have an interest.

If these proposals become law, violation of either could subject the offender to fine and imprisonment as well as possible removal from office, impeachment, dismissal from employment or expulsion from the legislature.

These bills will receive consideration at next year's session of the lawmakers. Additionally, I shall be urging passage of a law to prohibit sales to or purchases from corporations held in blind trust. This should close one more loophole through which unethical public officials and businessmen leap in efforts to avoid the law.

We need to get all of these laws passed and enforced if we are going to restore government to the high plane of respect and confidence it usually deserves.

Next year we'll have an opportunity to mold government into the form we think it should take. We shall be electing a Governor, members of the State cabinet, a United States Senator, fifteen Congressmen, State senators and legislators, and numerous county and municipal officials. You can have a tremendous effect on whether it is going to be "business as usual" a la Watergate or whether we shall have dedicated men and women determined to bring sunshine and full disclosure into the darkest recesses of local, State, and Federal Government.

The Florida Bar Association is to be deeply commended for setting its own example of this attitude by voting to make public disciplinary proceedings against members of the bar. I believe this can only have a salutary effect on our collective reputations. It will point out that we do punish and expel those who violate our very strict code of ethics. It will also show how few of us engage in unethical or questionable business and government activities. Under the mantle of secrecy that has existed to this date, I fear that we all have been suspect. And as both a lawyer and public official I tell you I resent being tarred with the brush of dishonesty and double-dealing just to keep others' indiscretions secret.

We are strong enough as a republic to absorb and survive the foibles of a few misguided public officials. I doubt if we are strong enough to survive for very long the widespread belief that all politicians and all public officials are grabbers and grafters. Therefore, I believe it is imperative that we in the legal profession . . . we who have the responsibility to uphold and enforce and protect the law . . . we collectively and individually begin to set the examples and standards that we must demand of everyone in government.

TRIBUTE TO ROBERT JIM

(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, the Honorable Buffalo Tiger, chairman of the

Miccosukee Tribe of Indians of Florida, has provided me with some information about the Honorable Robert Jim, chairman of the Yakima Indian Tribe, Washington, member of the National Council on Indian Opportunity, and the National Tribal Chairman's Association, who died on October 30, 1973, while attending the National Congress of American Indians convention in Tulsa, Okla. The passing of the Honorable Robert Jim was a deep personal loss to Chairman Buffalo Tiger, as well as to Indians all over America—indeed to all who knew him.

Immediately after Chairman Robert Jim's passing, the Honorable Marvin L. Franklin, assistant to the Secretary of the Interior for Indian Affairs, issued a public statement addressed to Mrs. Robert Jim on the passing of her distinguished husband.

The wire of the Assistant Secretary together with an additional public statement he made are contained in a release from the Bureau of Indian Affairs dated November 1, 1973, by Assistant Secretary Franklin. I ask, Mr. Speaker, that the Assistant Secretary's public statement in commendation of this great American who embodied the highest traditions of the Indian and the white American and was esteemed and admired by all who knew him appear in the body of the RECORD immediately following my remarks:

ASSISTANT TO THE SECRETARY OF THE INTERIOR FOR INDIAN AFFAIRS PAYS TRIBUTE TO ROBERT JIM, YAKIMA TRIBAL CHAIRMAN

Marvin L. Franklin, Assistant to the Secretary of the Interior for Indian Affairs, today made public his remarks to Mrs. Robert Jim on the passing of her husband Robert Jim, Chairman of the Yakima Indian Tribe, Washington, member of the National Council on Indian Opportunity, and the National Tribal Chairman's Association.

In a wire to Mrs. Jim, Franklin said "I cannot begin to express to you the sense of loss that all of us in the Indian community feel at the passing of Robert Jim. He gave up an Indian way of life to serve the Yakima Tribe and the Indian people as a whole. He served them at the highest possible levels.

"He was given a mandate to lead his people when he became chairman of the Yakima Tribe. He also received a mandate from the President of the United States when he was named to the National Council on Indian Opportunity.

"Few Indian people have achieved one or the other of these honors. Only a handful have achieved both. He is sorely missed."

Jim died October 30 while attending the National Congress of American Indians convention in Tulsa, Okla.

He was born June 28, 1929 at Dry Creek, Wash., and spent his early years chasing wild horses for a living. He attended public schools in Toppenish, Washington. He was graduated from high school June 1948 and enlisted in the United States Air Force September 2, 1948. He served in France, Germany, and England and was discharged April 1954 as a staff sergeant.

In subsequent years he chased wild horses, hunted, and fished at Jackson Fishing Site, Celilo, Ore., until it was inundated in 1957.

He became treasurer of the National Congress of American Indians in 1961 and Commander of Chiefs, White Swan Post 191, American Legion, in 1962. That same year he was elected secretary of the Affiliated Tribes of Northwest Indians.

In 1964 he became chairman of the American Indian Civil Liberties Trust, a 21 year appointment. That same year he became a delegate for the United States Department of State to Quito, Ecuador, to participate in the North American Treaty Organization. In 1972 he was elected to the board of directors of the National Tribal Chairman's Association.

He was appointed to the National Council on Indian Opportunity by President Richard M. Nixon to serve until August 31, 1974. He had been chairman of the Yakima Tribal Council since 1967.

Jim spent many years working not only for his own Yakima people in order to have 21,000 acres of land including a part of Mount Adams returned to the tribe but for other Indian groups as well. He worked on provisions of the Alaska Native Land Claims Act which provides that about $962.5 million and 40 million acres of land will go to Indians, Eskimos, and Aleuts of Alaska. He also helped bring about the restoration of 48,000 acres of land that had been a part of Carson National Forest, N. Mex., to the Taos Pueblo.

October 2, 1973, he was elected to the board of the American Indian National Bank.

NOTICE

We were saddened to learn of the sudden passing of Mr. Robert Jim, Chairman of the Yakima Tribal Council, on October 30. Mr. Jim, 44 years old, who was serving as the Chief Member of the National Council on Indian Opportunity Indian Members, was in Tulsa, Oklahoma, for a meeting of the council.

Funeral services will be held at 8:00 a.m., Saturday, November 3, at the White Swan Long House, and burial services at 10:00 a.m. at the Toppenish Creek Cemetery.

Mr. Jim was also serving as the Portland Area Representative on the NTCA Board, Chairman of the Indian Civil Liberties Trust, and on the Board of Directors of the newly established American Indian National Bank.

Mr. Jim has served continuously on the Yakima Tribal Council since 1957, and in December 1969 assumed the chairmanship of the Yakima Indian Nation. He will be long remembered for his untiring dedication to causes for the betterment of his people on the Yakima Reservation and of the Indian people throughout the country. He is survived by his wife, Ernestine, and family.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WHITEHURST (at the request of Mr. RHODES), for the week of March 4, on account of official business as a member of the House Committee on Armed Services.

Mr. KETCHUM (at the request of Mr. RHODES) for Monday, March 4, on account of official business.

Mrs. SULLIVAN (at the request of Mr. O'NEILL), for today, on account of illness.

Mrs. GREEN of Oregon (at the request of Mr. ULLMAN), for today, on account of illness.

Mr. TREEN (at the request of Mr. RHODES), for the week of March 4, on account of official business as a member of the House Committee on Armed Services.

Mr. STRATTON (at the request of Mr. RANDALL), for the week of March 4, on account of official business as member of ad hoc NATO Committee.

Mr. JONES of Oklahoma (at the request of Mr. RANDALL), for the week of March 4, on account of official business as member of ad hoc NATO Committee.

Mr. RANDALL, for the week of March 4, on account of official business as member of ad hoc NATO Committee.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. RANDALL, for 5 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. MARTIN of North Carolina) and to revise and extend their remarks and include extraneous matter:)

Mr. COUGHLIN, for 10 minutes, today.
Mr. COHEN, for 5 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. MCKINNEY, for 5 minutes, today.

(The following Members (at the request of Mr. MEZVINSKY) and to revise and extend their remarks and include extraneous matter:)

Mr. WOLFF, for 5 minutes, today.
Mr. DIGGS, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. MINISH, for 10 minutes, today.
Mr. ADDABBO, for 30 minutes, today.
Mr. MURPHY of New York, for 10 minutes, today.
Mr. HARRINGTON, for 5 minutes, today.
Mr. JONES of Oklahoma, for 5 minutes, today.
Mr. OWENS, for 10 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. DENT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DORN in two instances.
Mr. PICKLE immediately following the remarks of Ms. ABZUG.

(The following Members (at the request of Mr. MARTIN of North Carolina) and to include extraneous material:)

Mr. BLACKBURN.
Mr. DERWINSKI in three instances.
Mr. BROYHILL of Virginia.
Mr. BROOMFIELD.
Mr. VEYSEY in two instances.
Mr. WYMAN in two instances.
Mr. FRENZEL in two instances.
Mr. QUIE.
Mr. BUCHANAN in two instances.
Mr. FORSYTHE.
Mr. COLLINS of Texas in four instances.
Mr. DELLENBACK in two instances.
Mr. KEMP in three instances.
Mr. BELL.
Mr. CHAMBERLAIN.
Mrs. HECKLER of Massachusetts.
Mr. ESCH.
Mr. HUBER.
Mr. DICKINSON.
Mr. BOB WILSON.
Mr. WHALEN.
Mr. SARASIN.
Mr. PRICE of Texas.
Mr. GROVER.
Mr. MCKINNEY.
Mr. STEIGER of Wisconsin in two instances.
Mr. LANDGREBE.
Mr. ASHBROOK in three instances.

Mr. FINDLEY.

(The following Members (at the request of Mr. MEZVINSKY) and to include extraneous matter:)

Mr. FORD in two instances.
Ms. HOLTZMAN in 10 instances.
Mr. HARRINGTON in four instances.
Mr. MCKAY.
Mr. MEZVINSKY in two instances.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mrs. CHISHOLM.
Mr. MONTGOMERY.
Mr. ROGERS in five instances.
Mr. ASHLEY.
Mr. FASCELL in five instances.
Mr. PATTEN in five instances.
Mr. STEED.
Mr. UDALL.
Mr. HUNGATE.
Mr. JOHNSON of California.
Mr. ALEXANDER.
Mr. BERGLAND in three instances.
Mr. ANDERSON of California in five instances.
Mr. MCCORMACK.
Mr. THOMPSON of New Jersey.
Mr. SMITH of Iowa.
Mr. RONCALIO of Wyoming.
Mr. DIGGS.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2343. An act to authorize the Secretary of the Interior to convey, by quit-claim deed, all right, title and interest of the United States in and to certain lands in Coeur d'Alene, Idaho, in order to eliminate a cloud on the title to such lands; to the Committee on Interior and Insular Affairs.

S. 2957. An act relating to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2589. An act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes.

ADJOURNMENT

Mr. MEZVINSKY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until Monday, March 4, 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:

1952. A letter from the Deputy Secretary of Defense, transmitting a report of a study by the National Academy of Sciences on the ecological and physiological effects of the military use of herbicides in Vietnam, pursuant to section 506(c) of Public Law 91-441; to the Committee on Armed Services.

1953. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

1954. A letter from the First Vice President, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank to Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland during January 1974; to the Committee on Foreign Affairs.

1955. A letter from the President, Overseas Private Investment Corporation, transmitting a report on the possibilities of transferring OPIC programs to the private sector, pursuant to section 240A(b) of the Foreign Assistance Act; to the Committee on Foreign Affairs.

1956. A letter from the Clerk, U.S. House of Representatives, transmitting his semiannual report of receipts and expenditures for the period July-December, 1973, pursuant to 2 U.S.C. 104a (H. Doc. No. 93-223); to the Committee on House Administration and ordered to be printed.

1957. A letter from the Administrator of General Services, transmitting amendments to the approved prospectuses for the Courthouse and Federal Office Building in Dayton, Ohio, the Richard H. Poff Federal Building in Roanoke, Va., and the Courthouse and Federal Office Building in Charlotte Amalie, Virgin Islands, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works.

1958. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting the 18th annual report on the financial condition and results of the operations of the Highway Trust Fund, pursuant to section 209 (e)(1) of the Highway Revenue Act of 1956, as amended (H. Doc. No. 93-224); to the Committee on Ways and Means and ordered to be printed.

1959. A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that act; to the Committee on Ways and Means.

1960. A letter from the Assistant Secretary of Labor, transmitting notice of action taken by the Advisory Council on Employee Welfare and Pension Benefit Plans relative to pension reform legislation; to the Committee on Education and Labor.

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. MORGAN: Committee on Foreign Affairs. H.R. 12412. A bill to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa; with amendment (Rept. No. 93-816). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 9199. A bill to amend title 35, United States Code, "Patents", and for other purposes; with amendment (Rept. No. 93-856). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 778. Resolution to provide further funds for the expenses of the investigations and study authorized by House Resolution 187 (H. Rept. No. 93-844). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 789. Resolution to provide funds for the further expenses of the investigation and study authorized by House Resolution 134. (Rept. No. 93-845). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 790. Resolution to provide for the further expenses of the investigations and studies authorized by House Resolution 185 for the Committee on Armed Services. (Rept. No. 93-846). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 793. Resolution to provide funds for the further expenses of the investigations and studies authorized by House Resolution 253. (Rept. No. 93-847). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 797. Resolution to provide funds for the expenses of the investigations and studies by the Committee on House Administration. (Rept. No. 93-848). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 800. Resolution to provide additional funds for the expenses of studies, investigations, and inquiries authorized by House Resolution 18. (Rept. No. 93-849). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 810. Resolution to provide funds for the expenses of the investigation and study authorized by House Resolution 72. (Rept. No. 93-850). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 814. Resolution providing for funds for the investigations and studies authorized by House Resolution 180. (Rept. No. 93-851). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 846. Resolution to provide funds for the expenses of the investigation and study authorized by rule XI(8) and House Resolution 224 (Rept. No. 93-852). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 855. Resolution to provide funds for further expenses of the investigations and studies authorized by House Resolution 175 (Rept. No. 93-853). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 937. Resolution authorizing the expenditure of certain funds for the expenses of the Committee on Internal Security (Rept. No. 93-854). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE 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. EILBERG: Committee on the Judiciary. S. 205. An act for the relief of Jorge Mario Bell (Rept. No. 93-817). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 245. An act for the relief of Kamal

Antoine Chalaby (Rept. No. 93-818). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 428. An act for the relief of Ernest Edward Scofield (Ernesto Espino) (Rept. No. 93-819). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 507. An act for the relief of Wilhelm J. R. Maly (Rept. No. 93-820). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 816. An act for the relief of Mrs. Jozefa Sokolowska Domanski (Rept. No. 93-821). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 912. An act for the relief of Mahmood Shareef Suleiman (Rept. No. 93-822). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1673. An act for the relief of Mrs. Zosima Telebanco Van Zanten. (Rept. No. 93-823). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1852. An act for the relief of Georgina Henrietta Harris. (Rept. No. 93-824). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 2112. An act for the relief of Vo Thi Suong (Nini Anne Hoyt) (Rept. No. 93-825). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. S. 1615. An act for the relief of August F. Walz. (Rept. No. 93-826). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. S. 1922. An act for the relief of Robert J. Martin. (Rept. No. 93-827). Referred to the Committee of the Whole House.

Mr. SEIBERLING: Committee on the Judiciary. H.R. 1961. A bill for the relief of Mildred Christine Ford, with amendment (Rept. No. 93-828). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 2537. A bill for the relief of Lidia Myslinska Bokosky (Rept. No. 93-829). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 3203. A bill for the relief of Nepty Masauo Jones; with amendment (Rept. No. 93-830). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 4590. A bill for the relief of Melissa Catambay Guiterrez, with amendment (Rept. No. 93-831). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 4591. A bill for the relief of Milagros Catambay Guiterrez; with amendment (Rept. No. 93-832). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 5266. A bill for the relief of Ursula E. Moore; with amendment (Rept. No. 93-833). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 6202. A bill for the relief of Thomas C. Johnson. (Rept. No. 93-834). Referred to the Committee of the Whole House.

Miss JORDAN: Committee on the Judiciary. H.R. 7128. A bill for the relief of Mrs. Rita Petermann Brown (Rept. No. 93-835). Referred to the Committee of the Whole House.

Mr. BUTLER: Committee on the Judiciary. H.R. 7207. A bill for the relief of Emmett A. and Agnes J. Rathbun; with amendment (Rept. No. 93-836). Referred to the Committee of the Whole House.

Mr. WALDIE: Committee on the Judiciary. H.R. 7685. A bill for the relief of Giuseppe Ottaviano-Greco; with amendment (Rept. No. 93-837). Referred to the Committee of the Whole House.

Mr. DONOHUE: Committee on the Judiciary. H.R. 9393. A bill for the relief of Mary Notarthomas (Rept. No. 93-838). Referred to the Committee of the Whole House.

Mr. BUTLER: Committee on the Judiciary. H.R. 11392. A bill for the relief of Raymond Monroe; with amendment (Rept. No. 93-839). Referred to the Committee of the Whole House.

Mr. BUTLER: Committee on the Judiciary. H.R. 2950. A bill for the relief of Mrs. Gertrude Berkley (Rept. No. 93-840). Referred to the Committee of the Whole House.

Mr. MOORHEAD of California: Committee on the Judiciary. H.R. 7397. A bill for the relief of Viola Burroughs; with amendment (Rept. No. 93-841). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 8322. A bill for the relief of William L. Cameron, Jr. (Rept. No. 93-842). Referred to the Committee of the Whole House.

Mr. DONOHUE: Committee on the Judiciary. H.R. 8823. A bill for the relief of James A. Wentz (Rept. No. 93-843). Referred to the Committee of the Whole House.

Mr. KASTENMEIER: Committee on the Judiciary. S. 71. An act for the relief of Uhel D. Polly (Rept. No. 93-855). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG (for herself, Mr. BINGHAM, Mr. BOLAND, Mr. BROWN of California, Ms. COLLINS of Illinois, Mr. DELLUMS, Mr. DIGGS, Mr. EDWARDS of California, Mr. EILBERG, Mr. FASCELL, Mr. HELSTOSKI, Ms. HOLTZMAN, Mr. HUNGATE, Mr. KOCH, Mr. MELCHER, Mr. NIX, Mr. PODELL, Mr. RANGEL, Mr. ROE, Mr. ROSENTHAL, Mr. SARBANES, Mr. VAN DEERLIN, Mr. WHITEHURST, Mr. YOUNG of Georgia, and Mr. HARRINGTON):

H.R. 13126. A bill to amend title XVI of the Social Security Act to provide for emergency Federal assistance grants to aged, blind, or disabled individuals whose supplemental security income checks (or the proceeds thereof) are lost, stolen, or undelivered; to the Committee on Ways and Means.

By Mr. ANDREWS of North Carolina:

H.R. 13127. A bill to provide for the establishment of the Deacon Jacob Estay National Monument; to the Committee on Interior and Insular Affairs.

By Mr. BREAUX:

H.R. 13128. A bill to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 5-year period, and for other purposes; to the Committee on Public Works.

By Mr. BROYHILL of Virginia:

H.R. 13129. A bill to amend title 5, United States Code, to revise certain provisions relating to eligibility for civil service retirement deferred annuities, to provide for cost-of-living increases in such annuities, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CLEVELAND:

H.R. 13130. A bill to amend title 18 of the United States Code to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries authorized by law and conducted by a State, and for other purposes; to the Committee on the Judiciary.

By Mr. CONLAN:

H.R. 13131. A bill to require the mandatory imposition of the death penalty for individuals convicted of certain crimes; to the Committee on the Judiciary.

By Mr. DENHOLM:

H.R. 13132. A bill to amend the Agricultural Act of 1949 to permit payments made to farmers in the case of 1974 and 1975 crops of wheat, feed grain, and cotton to reflect changes during the calendar years 1973 and 1974, respectively, in prices paid by farmers for production items, interest, taxes, and wage rates; to the Committee on Agriculture.

H.R. 13133. A bill to amend the Uniform Time Act of 1966 to provide for daylight saving time for the period beginning May 31 through Labor Day annually, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DORN:

H.R. 13134. A bill to amend title 38, United States Code, to authorize the issuance of life insurance to insure a policyholder against death who has a policy loan against his Government life insurance contract; to the Committee on Veterans' Affairs.

H.R. 13135. A bill to amend section 620, title 38, United States Code, to authorize direct admission to community nursing homes at the expense of the U.S. Government; to the Committee on Veterans' Affairs.

H.R. 13136. A bill to amend section 214 of the Internal Revenue Code of 1954 to allow a taxpayer to deduct certain household and dependent care expenses if the spouse of such taxpayer is a full-time student; to the Committee on Ways and Means.

By Mr. GOLDWATER:

H.R. 13137. A bill to require the execution of an oath or affirmation or declaration of allegiance before a passport is granted or issued; to the Committee on Foreign Affairs.

By Mr. HARRINGTON:

H.R. 13138. A bill to amend the Federal Power Act to provide for public representation on any multi-State power organization; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON (for himself, Mr. UDALL, Mr. GIBBONS, and Mr. VANIK):

H.R. 13139. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HASTINGS:

H.R. 13140. A bill to amend the Small Business Act to provide low-interest operating loans to small businesses seriously affected by a shortage in energy producing materials; to the Committee on Banking and Currency.

By Ms. JORDAN (for herself, Mrs. BOGGS, Mr. EDWARDS of California, Ms. HOLTZMAN, Mr. MOAKLEY, and Mr. RIEGLE):

H.R. 13141. A bill to amend the Internal Revenue Code of 1954 so as to reduce by 8 percent the amount of individual income tax withheld at the source; to the Committee on Ways and Means.

By Mr. KETCHUM:

H.R. 13142. A bill to amend titles II and XVIII of the Social Security Act to remove the earnings limitation; to the Committee on Ways and Means.

By Mr. KING:

H.R. 13143. A bill to amend the Small Business Act to provide low-interest operating loans to small businesses seriously affected by a shortage in energy producing materials; to the Committee on Banking and Currency.

By Mr. LITTON:

H.R. 13144. A bill to amend the Federal Election Campaign Act of 1971, and chapter 29 of title 18, United States Code, to regulate the financing of Federal election campaigns, and for other purposes; to the Committee on House Administration.

By Mr. MATHIS of Georgia (for himself, Mr. ESCH, and Mr. ANDREWS of North Carolina):

H.R. 13145. A bill to prohibit the exportation of fertilizer from the United States until the Secretary of Agriculture determines that an adequate domestic supply of fertilizer exists; to the Committee on Banking and Currency.

By Mr. MITCHELL of Maryland:

H.R. 13146. A bill to amend the Small Business Act to provide for direct loans at the rate of 4 percent per annum to small business concerns adversely affected by the energy crisis; to the Committee on Banking and Currency.

By Mr. MURPHY of New York:

H.R. 13147. 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 airline tickets; to the Committee on the Judiciary.

By Mr. NIX:

H.R. 13148. A bill to amend the Internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions as under present law or to claim a credit against tax of $200 for each such exemption; to the Committee on Ways and Means.

By Mr. PATTEN:

H.R. 13149. 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. PEPPER (for himself, Mrs. CHISHOLM, Mr. ROYBAL, Mr. STOKES, and Mr. RINALDO):

H.R. 13150. A bill to increase the production, transportation, and conversion of coal as a source of energy; to the Committee on Interstate and Foreign Commerce.

By Mr. PICKLE:

H.R. 13151. A bill to amend section 428(a) of the Higher Education Act of 1965, as amended, and section 2(a)(7) of the Emergency Insured Student Loan Act of 1969, to better assure that students will have reasonable access to loans to meet their post-secondary education costs, and for other purposes; to the Committee on Education and Labor.

By Mr. QUILLEN:

H.R. 13152. A bill to require the execution of an oath or affirmation or declaration of allegiance before a passport is granted or issued; to the Committee on Foreign Affairs.

By Mr. RANGEL (for himself and Mr. MOAKLEY):

H.R. 13153. A bill to amend the Economic Opportunity Act of 1964 to establish a special emphasis program of emergency energy conservation services for the poor, and for other purposes; to the Committee on Education and Labor.

By Mr. ST GERMAIN:

H.R. 13154. A bill to amend title 38 of the United States Code to provide pension benefits for widows and children of certain persons whose in-service death occurred not in the line of duty; to the Committee on Veterans' Affairs.

By Mr. SCHNEEBELI:

H.R. 13155. A bill to extend the period for administrative review of certain customs protests; to the Committee on Ways and Means.

By Mr. SEIBERLING (for himself, Mr. FRASER, Ms. ABZUG, Mr. BADILLO, Mr. BINGHAM, Mr. DELLUMS, Mr. HARRINGTON, Mr. METCALFE, Mr. MURPHY of New York, Mr. REES, and Mr. VAN DEERLIN):

H.R. 13156. A bill to protect the constitutional rights of professional athletes; to the Committee on the Judiciary.

By Mr. TAYLOR of North Carolina (for himself, Mr. HALEY, Mr. HOSMER, Mr. SKUBITZ, Mr. JOHNSON of California, Mr. SEBELIUS, Ms. MINK, Mr. STEPHENS, Mr. KETCHUM, Mr. BINGHAM, Mr. CRONIN, Mr. SEIBERLING, Mr. WON PAT, Mr. UDALL, Mr. MELCHER, Ms. ABZUG, Mr. ANDREWS of North Dakota, Mr. BOLAND, Mr. CONTE, Mr. FISH, Mr. GUDE, Mr. NICHOLS, and Mr. ULLMAN):

H.R. 13157. A bill to provide for the establishment of the Clara Barton National Historic Site, Md.; John Day Fossil Beds National Monument, Oreg.; Knife River Indian Villages National Historic Site, N. Dak.; Springfield Armory National Historic Site, Mass.; Tuskegee Institute National Historic Site, Ala.; and Martin Van Buren National Historic Site, N.Y., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. THOMSON of Wisconsin:

H.R. 13158. A bill to make it a crime to move or travel in interstate or foreign commerce to avoid compliance with certain support orders, and for other purposes; to the Committee on the Judiciary.

By Mr. WILLIAMS:

H.R. 13159. A bill to provide for access to all duly licensed psychologists, and optometrists without prior referral in the Federal employee health benefits program; to the Committee on Post Office and Civil Service.

By Mr. BENNETT:

H.R. 13160. A bill to divorce the businesses of production, refining, and transporting of petroleum products from that of marketing petroleum products; to the Committee on the Judiciary.

By Mr. DORN:

H.R. 13161. A bill to designate the Veterans' Administration hospital in Columbia, Mo., as the "Harry S. Truman Memorial Veterans' Hospital", and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GUDE (for himself and Mr. Moss):

H.R. 13162. A bill to make a supplemental appropriation for the Administrator of General Services to enable him to plan, design, and construct an official residence for the Vice President of the United States in the District of Columbia; to the Committee on Appropriations.

By Mr. HOLIFIELD (for himself, Mr. HORTON, Mr. ROSENTHAL, Mr. ERLENBORN, Mr. WRIGHT, Mr. WYDLER, Mr. ST GERMAIN, Mr. BROWN of Ohio, Mr. FUQUA, Mr. MALLARY, Mr. MOORHEAD of Pennsylvania, and Mr. JONES of Alabama):

H.R. 13163. A bill to establish a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; to the Committee on Government Operations.

By Mr. McCLORY:

H.R. 13164. A bill to regulate the exchange of criminal justice information; to the Committee on the Judiciary.

By Mr. MEZVINSKY (for himself, Ms. ABZUG, Mr. BELL, Mr. BERGLAND, Mr. BOLAND, Mr. BROWN of California, Ms. CHISHOLM, Ms. COLLINS of Illinois, Mr. CONYERS, Mr. CRONIN, Mr. CULVER, Mr. DE LUGO, Mr. DENT, Mr. EDWARDS of California, Mr. EILBERG, Mr. FASCELL, Mr. FINDLEY, Mr. FRASER, Mr. FRENZEL, Ms. HOLTZMAN, Mr. JOHNSON of California, Mr. KYROS, Mr. McCORMACK, Mr. MELCHER, and Mr. PODELL):

H.R. 13165. A bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns; to the Committee on Ways and Means.

By Mr. MEZVINSKY (for himself, Mr. PRITCHARD, Mr. ROE, Mr. SANDMAN, Mr. SARBANES, and Mr. STARK):

H.R. 13166. A bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns; to the Committee on Ways and Means.

By Mr. MURPHY of Illinois:

H.R. 13167. A bill to name a Federal office building to be located in Carbondale, Ill., the "Kenneth Gray Federal Building"; to the Committee on Public Works.

By Mr. PERKINS:

H.R. 13168. A bill to amend the National School Lunch Act, to authorize the use of certain funds to purchase agricultural commodities for distribution to schools, and for other purposes; to the Committee on Education and Labor.

H.R. 13169. A bill to amend title 38 of the United States Code to provide that monthly social security benefit payments and payments under title IV of the Federal Coal Mine Health and Safety Act of 1969 shall not be considered to be income for the purpose of determining eligibility for a pension under that title; to the Committee on Veterans' Affairs.

By Mr. RANDALL:

H.R. 13170. A bill to amend Public Law 90-206, relative to the terms under which recommendations submitted to the Congress pursuant to the report of the Commission on Executive, Legislative, and Judicial Salaries may become effective, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H.R. 13171. A bill to amend the Food Stamp Act of 1964, as amended, and for other purposes; to the Committee on Agriculture.

H.R. 13172. A bill to amend the National School Lunch and Child Nutrition Act Amendments of 1973, and for other purposes; to the Committee on Education and Labor.

H.R. 13173. A bill to provide for improved labor-management relations in the Federal service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROGERS:

H.R. 13174. A bill to amend the Public Health Service Act to extend to commissioned officers of the service the benefits and immunities of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS:

H.R. 13175. A bill to amend the Public Health Service Act to strengthen the research programs of the National Institutes of Health and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. TIERNAN, Mr. CARTER, Mr. HASTINGS, and Mr. HUDNUT):

H.R. 13176. A bill to amend the Solid Waste Disposal Act so as to provide for a comprehensive system of waste management and resource recovery, to protect the public health and environment, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS:

H.R. 13177. A bill, Individual Retirement Income Security Act of 1974; to the Committee on Ways and Means.

By Mr. RONCALIO of Wyoming:

H.R. 13178. A bill to amend the Mineral Lands Leasing Act to provide for a minimum royalties payment to the Federal Government for shale oil produced on Federal lands, to establish an Oil Shale Area Impact Fund, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROY:

H.R. 13179. A bill to prohibit the exportation of fertilizer from the United States until the Secretary of Agriculture determines that an adequate domestic supply of fertilizer exists; to the Committee on Banking and Currency.

By Mr. TIERNAN:

H.R. 13180. A bill to provide for wheat export marketing stamps to regulate the price of wheat in order to stabilize food prices

and to establish the National Wheat Council; to the Committee on Agriculture.

By Mr. CHARLES H. WILSON of California (for himself, Mr. NIX, Mr. WALDIE, Mr. CLAY, Mrs. SCHROEDER, Mr. ADDABBO, Mr. HELSTOSKI, Mr. BIAGGI, Mr. CORMAN, Mr. HARRINGTON, Mr. FULTON, Mr. ST GERMAIN, Mrs. BURKE of California, Mr. MOAKLEY, Mr. YOUNG of Georgia, Mr. EILBERG, Mr. NEDZI, Mr. STUDDS, Mr. RODINO, Mr. STOKES, Mr. STARK, Mr. FAUNTROY, Mr. DELLUMS, Mr. MOSS, and Mr. WHALEN):

H.R. 13181. A bill to amend title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the U.S. Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CHARLES H. WILSON of California (for himself, Mr. DOMINICK V. DANIELS, Mr. MITCHELL of Maryland, Mr. MURPHY of New York, Mr. YATRON, Mr. FORD, Mr. KARTH, Mr. BRASCO, Mr. RIEGLE, Mr. HAWKINS, and Mr. EDWARDS of California):

H.R. 13182. A bill to amend title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the U.S. Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WOLFF (for himself, Mr WALSH, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, Mr. CARNEY of Ohio, Mr. ROE, Mr. RONCALIO of Wyoming, Mr. ROSE, Mr. ROSENTHAL, Mrs. SCHROEDER, Mr. STUDDS, Mr. TIERNAN, Mr. WINN, Mr. MITCHELL of New York, and Mrs. CHISHOLM):

H.R. 13183. A bill to amend chapter 34 of title 38, United States Code, to authorize additional payments to eligible veterans to partially defray the cost of tuition; to the Committee on Veterans' Affairs.

By Mr. WOLFF (for himself, Mr. WALSH, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, Mr. CARNEY of Ohio, Ms. ABZUG, Mr. ADDABBO, Mr. BADILLO, Mr. BERGLAND, Mr. BOLAND, Mr. BROWN of California, Mr. CLAY, Mr. CLEVELAND, Mr COHEN, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CONYERS, Mr. CRONIN, Mr. DANIELSON, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. ESCH, Mr. MORGAN, and Mr. MURTHA):

H.R. 13184. A bill to amend chapter 34 of title 38, United States Code, to authorize additional payments to eligible veterans to partially defray the cost of tuition; to the Committee on Veterans' Affairs.

By Mr. WOLFF (for himself, Mr WALSH, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, Mr. CARNEY of Ohio, Mr. FISH, Mr. FRASER, Mr. GILMAN, Mr. GROVER, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. HORTON, Mr. KAZEN, Mr. KOCH, Mr. KYROS, Mr. MARAZITI, Mr. MINISH, Mr MITCHELL of Maryland, Mr. NIX, Mr. OWENS, Mr. PEPPER, Mr. PEYSER, Mr. PODELL, Mr. RANGEL, and Mr. REGULA):

H.R. 13185. A bill to amend chapter 34 of title 38, United States Code, to authorize additional payments to eligible veterans to partially defray the cost of tuition; to the Committee on Veterans' Affairs.

By Mr. YATRON (for himself, Mr. MEZVINSKY, Mr. DANIELSON, Mr. CARTER, and Mr. COHEN):

H.R. 13186. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. YOUNG of Georgia:

H.R. 13187. A bill to establish a national homestead program, in cooperation with local housing agencies, under which single-family dwellings owned by the Secretary of Housing and Urban Development may be conveyed at nominal cost to individuals and families who will occupy and rehabilitate them; to the Committee on Banking and Currency.

By Mr. BIAGGI:

H.J. Res. 922. Joint resolution to amend the joint resolution entitled "Joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America", to the Committee on the Judiciary.

By Mr. FINDLEY (for himself, Mr. ROSENTHAL, Mr. FRASER, and Mr. HARRINGTON):

H.J. Res. 923. Joint resolution to bring Atlantic Community policy toward the Government of Greece before the Council of NATO; to the Committee on Foreign Affairs.

By Mr. HANLEY (for himself, Ms. ABZUG, Mr. ADDABBO, Mr. ANNUNZIO, Mr. BRINKLEY, Mr. CLAY, Mr. DAVIS of Georgia, Mr. DERWINSKI, Mr. FAUNTROY, Mr. FISH, Mr. HELSTOSKI, Mr. HICKS, Mr. HINSHAW, Mr. JOHNSON of Pennsylvania, Mr. LEHMAN, Mr. MATSUNAGA, Mr. MELCHER, Mr. MILLER, Mr. MURPHY of New York, Mr. NICHOLS, Mr. NIX, Mr. PEPPER, Mr. RINALDO, and Mr. ROBISON of New York):

H.J. Res. 924. Joint resolution to provide for the designation of February 20 of each year as "Postal Employees Day"; to the Committee on the Judiciary.

By Mr. HANLEY (for himself, Mr. ST GERMAIN, Mr. SANDMAN, Mr. SISK, Mr. TIERNAN, Mr. UDALL, Mr. WHITE, Mr. WHITEHURST, Mr. WILLIAMS, Mr. WINN, Mr. WON PAT, Mr. OWENS, Mr. KOCH, Mr. CAREY of New York, and Mr. FORD):

H.J. Res. 925. Joint resolution to provide for the designation of February 20 of each year as "Postal Employees Day"; to the Committee on the Judiciary.

By Mr. ANDREWS of North Carolina:

H. Res. 941. Resolution providing for the disapproval of the recommendations of the President of the United States with respect to the rates of pay of offices and positions within the purview of the Federal Salary Act of 1967 (81 Stat. 643: Public Law 90-206) transmitted by the President 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. KYROS:

H. Res. 942. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials 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. LONG of Maryland (for himself, Mr. LOTT, Mr. BROWN of California, Mr. HANLEY, Mr. HINSHAW, Mr. YOUNG of Florida, Mrs. COLLINS of Illinois, Mr. EDWARDS of California, Mr. DENT, Mr. O'HARA, Mrs. HOLT, Mr. VEYSEY, Mr. GUBSER, Ms. ABZUG, Mr. DU PONT, Mr. JONES of Tennessee, Mrs. CHISHOLM, and Mr. BYRON):

H. Res. 943. Resolution to authorize the Committee on Interstate and Foreign Commerce to conduct an investigation and study of the importing, inventorying, and disposition of crude oil, residual fuel oil, and refined petroleum products; to the Committee on Rules.

By Mr. MATHIS of Georgia:

H. Res. 944. Resolution relating to the serious nature of the supply, demand, and price situation of fertilizer; to the Committee on Agriculture.

By Mr. MILLS (for himself and Mr. SCHNEEBELI):

H. Res. 945. Resolution providing funds for the expenses of the Committee on Ways and Means in the second session of the 93d Congress; to the Committee on House Administration.

By Mr. SCHERLE (for himself and Mr. RANDALL):

H. Res. 946. 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.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

360. The SPEAKER presented a memorial of the Legislature of the State of California, relative to education benefits for Vietnam veterans; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BROYHILL of Virginia introduced a bill (H.R. 13188) for relief of Samir Ghosh, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

NORWALK'S CVA—A SUCCESS STORY

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 28, 1974

Mr. McKINNEY. Mr. Speaker, the college crunch of the late 1950's and early 1960's was more than just a population explosion and space problem for at the time, we seemed caught up in a new syndrome known as "You've got to go to college."

The pressures this concept brought to bear on a number of our young people was much more than some could handle and falling short of the dreams of others, some simply opted for the drop out, academically and socially.

In recent years, a more realistic attitude has begun to prevail and some of our more progressive communities have made the point that there are those youngsters who are either not equipped or not inclined to continue on with an academic career. Their response has not been to shuttle them to one side but to utilize and nurture God-given talents which heretofore have remained untapped.