SEC. 5. The term "administrative costs" as used in this Act includes, but is not limited to, all costs of (1) conducting an exploratory program to determine the character of the mineral deposits in the land, (2) evaluating the data obtained under the exploratory program to determine the fair market value of the mineral rights to be conveyed, and (3) preparing and issuing the instrument of conveyance. "Administrative costs."

SEC. 6. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the minerals or mineral interests conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts.

Approved April 2, 1974.

Public Law 93-259

AN ACT

April 8, 1974
[S.2747]

To amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, to expand the coverage of the Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fair Labor Standards Amendments of 1974.

SHORT TITLE; REFERENCES TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1974". 29 USC 201 note.

(b) Unless otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE RATE FOR EMPLOYEES COVERED BEFORE 1966

SEC. 2. Section 6(a)(1) is amended to read as follows: 29 USC 206.

"(1) not less than $2 an hour during the period ending December 31, 1974, not less than $2.10 an hour during the year beginning January 1, 1975, and not less than $2.30 an hour after December 31, 1975, except as otherwise provided in this section;".

INCREASE IN MINIMUM WAGE RATE FOR NONAGRICULTURAL EMPLOYEES COVERED IN 1966 AND 1974

SEC. 3. Section 6(b) is amended (1) by inserting ", title IX of the Education Amendments of 1972, or the Fair Labor Standards Amendments of 1974" after "1966", and (2) by striking out paragraphs (1) through (5) and inserting in lieu thereof the following: 29 USC 1681.

"(1) not less than $1.90 an hour during the period ending December 31, 1974,

"(2) not less than $2 an hour during the year beginning January 1, 1975,

"(3) not less than $2.20 an hour during the year beginning January 1, 1976, and

"(4) not less than $2.30 an hour after December 31, 1976."

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

INCREASE IN MINIMUM WAGE RATE FOR AGRICULTURAL EMPLOYEES

29 USC 206.

SEC. 4. Section 6(a)(5) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than—

"(A) $1.60 an hour during the period ending December 31, 1974,

"(B) $1.80 an hour during the year beginning January 1, 1975,

"(C) $2 an hour during the year beginning January 1, 1976,

"(D) $2.20 an hour during the year beginning January 1, 1977, and

"(E) $2.30 an hour after December 31, 1977."

INCREASE IN MINIMUM WAGE RATES FOR EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

29 USC 205.

SEC. 5. (a) Section 5 is amended by adding at the end thereof the following new subsection:

Infra.
29 USC 208.

"(e) The provisions of this section, section 6(c), and section 8 shall not apply with respect to the minimum wage rate of any employee employed in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands, (2) by an establishment which is a hotel, motel, or restaurant, or (3) by any other retail or service establishment which employs such employee primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs. The minimum wage rate of such an employee shall be determined under this Act in the same manner as the minimum wage rate for employees employed in a State of the United States is determined under this Act. As used in the preceding sentence, the term 'State' does not include a territory or possession of the United States.".

29 USC 206.

(b) Effective on the date of the enactment of the Fair Labor Standards Amendments of 1974, subsection (c) of section 6 is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) Except as provided in paragraphs (4) and (5), in the case of any employee who is covered by such a wage order on the date of enactment of the Fair Labor Standards Amendments of 1974 and to whom the rate or rates prescribed by subsection (a) or (b) would otherwise apply, the wage rate applicable to such employee shall be increased as follows:

"(A) Effective on the effective date of the Fair Labor Standards Amendments of 1974, the wage order rate applicable to such employee on the day before such date shall—

"(i) if such rate is under $1.40 an hour, be increased by $0.12 an hour, and

"(ii) if such rate is $1.40 or more an hour, be increased by $0.15 an hour.

"(B) Effective on the first day of the second and each subsequent year after such date, the highest wage order rate applicable to such employees on the date before such first day shall—

"(i) if such rate is under $1.40 an hour, be increased by $0.12 an hour, and

"(ii) if such rate is $1.40 or more an hour, be increased by $0.15 an hour.

In the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by subsection (a)(5) would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the increases prescribed by this paragraph shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage rate is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.

Ante, p. 56.

"(3) In the case of any employee employed in Puerto Rico or the Virgin Islands to whom this section is made applicable by the amendments made to this Act by the Fair Labor Standards Amendments of 1974, the Secretary shall, as soon as practicable after the date of enactment of the Fair Labor Standards Amendments of 1974, appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, which shall be not less than 60 per centum of the otherwise applicable minimum wage rate in effect under subsection (b) or $1.00 an hour, whichever is greater, to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate recommended by the special industry committee shall (A) be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation, but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1974, and (B) except in the case of employees of the government of Puerto Rico or any political subdivision thereof, be increased in accordance with paragraph (2)(B).

"(4)(A) Notwithstanding paragraph (2)(A) or (3), the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2)(A) or (3) of this subsection, shall, on the effective date of the wage increase under paragraph (2)(A) or of the wage rate recommended under paragraph (3), as the case may be, be not less than 60 per centum of the otherwise applicable rate under subsection (a) or (b) or $1.00, whichever is higher.

"(B) Notwithstanding paragraph (2)(B), the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2)(B), shall, on and after the effective date of the first wage increase under paragraph (2)(B), be not less than 60 per centum of the otherwise applicable rate under subsection (a) or (b) or $1.00, whichever is higher.

"(5) If the wage rate of an employee is to be increased under this subsection to a wage rate which equals or is greater than the wage rate under subsection (a) or (b) which, but for paragraph (1) of this subsection, would be applicable to such employee, this subsection shall be inapplicable to such employee and the applicable rate under such subsection shall apply to such employee.

"(6) Each minimum wage rate prescribed by or under paragraph (2) or (3) shall be in effect unless such minimum wage rate has been superseded by a wage order (issued by the Secretary pursuant to the recommendation of a special industry committee convened under section 8) fixing a higher minimum wage rate."

Infra.

29 USC 208.

(c)(1) The last sentence of section 8(b) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following: "except that the committee shall recommend to the Secretary the minimum wage rate prescribed in section 6(a) or 6(b), which would be applicable but for section 6(c), unless there is substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years or in the case of employees of public agencies other appropriate information, in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage."

Ante, p. 55.

Ante, p. 56.

29 USC 210.

(2) The third sentence of section 10(a) is amended by inserting after "modify" the following: "(including provision for the payment of an appropriate minimum wage rate)".

(d) Section 8 is amended (1) by striking out "the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry" in the first sentence of subsection (a) and inserting in lieu thereof "the minimum wage rate which would apply in each such industry under paragraph (1) or (5) of section 6(a) but for section 6(c)", (2) by striking out "the minimum wage rate prescribed in paragraph (1) of section 6(a)" in the last sentence of subsection (a) and inserting in lieu thereof "the otherwise applicable minimum wage rate in effect under paragraph (1) or (5) of section 6(a)", and (3) by striking out "prescribed in paragraph (1) of section 6(a)" in subsection (c) and inserting in lieu thereof "in effect under paragraph (1) or (5) of section 6(a) (as the case may be)".

FEDERAL AND STATE EMPLOYEES

"Employer."

29 USC 203.

SEC. 6. (a)(1) Section 3(d) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization."

"Employee."

(2) Section 3(e) is amended to read as follows:

"(e)(1) Except as provided in paragraphs (2) and (3), the term 'employee' means any individual employed by an employer.

"(2) In the case of an individual employed by a public agency, such term means—

"(A) any individual employed by the Government of the United States—

"(i) as a civilian in the military departments (as defined in section 102 of title 5, United States Code),

"(ii) in any executive agency (as defined in section 105 of such title),

"(iii) in any unit of the legislative or judicial branch of the Government which has positions in the competitive service,

"(iv) in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces, or

"(v) in the Library of Congress;

"(B) any individual employed by the United States Postal Service or the Postal Rate Commission; and

"(C) any individual employed by a State, political subdivision of a State, or an interstate governmental agency, other than such an individual—

"(i) who is not subject to the civil service laws of the State, political subdivision, or agency which employs him; and

"(ii) who—

"(I) holds a public elective office of that State, political subdivision, or agency,

"(II) is selected by the holder of such an office to be a member of his personal staff,

"(III) is appointed by such an officeholder to serve on a policymaking level, or

"(IV) who is an immediate adviser to such an officeholder with respect to the constitutional or legal powers of his office.

"(3) For purposes of subsection (u), such term does not include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family.".

(3) Section 3(h) is amended to read as follows:

"Industry."
29 USC 203.

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(4) Section 3(r) is amended by inserting "or" at the end of paragraph (2) and by inserting after that paragraph the following new paragraph:

"(3) in connection with the activities of a public agency,".

(5) Section 3(s) is amended—

(A) by striking out in the matter preceding paragraph (1) "including employees handling, selling, or otherwise working on goods" and inserting in lieu thereof "or employees handling, selling, or otherwise working on goods or materials",

29 USC 203.

(B) by striking out "or" at the end of paragraph (3),

(C) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or",

(D) by adding after paragraph (4) the following new paragraph:

"(5) is an activity of a public agency.", and

(E) by adding after the last sentence the following new sentence: "The employees of an enterprise which is a public agency shall for purposes of this subsection be deemed to be employees engaged in commerce, or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce.".

"Public agency."
29 USC 203.

(6) Section 3 is amended by adding after subsection (w) the following:

"(x) 'Public agency' means the Government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service and Postal Rate Commission), a State, or a political subdivision of a State; or any interstate governmental agency.".

29 USC 204.

(b) Section 4 is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to individuals employed in the Library of Congress to provide for the carrying out of the Secretary's functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is authorized to administer the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the Library of Congress, United States Postal Service, Postal Rate Commission, or the Tennessee Valley Authority). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

29 USC 216.

29 USC 207.

(c)(1)(A) Effective January 1, 1975, section 7 is amended by adding at the end thereof the following new subsection:

"(k) No public agency shall be deemed to have violated subsection (a) with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—

"(1) in a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed 240 hours; or

"(2) in the case of such an employee to whom a work period of at least 7 but less than 28 days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 240 hours bears to 28 days,

compensation at a rate not less than one and one-half times the regular rate at which he is employed."

Effective date.
Supra.

(B) Effective January 1, 1976, section 7(k) is amended by striking out "240 hours" each place it occurs and inserting in lieu thereof "232 hours".

Effective date.

(C) Effective January 1, 1977, such section is amended by striking out "232 hours" each place it occurs and inserting in lieu thereof "216 hours".

(D) Effective January 1, 1978, such section is amended— Effective date. *Ante*, p. 60.

(i) by striking out "exceed 216 hours" in paragraph (1) and inserting in lieu thereof "exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975"; and *Ante*, p. 58.

(ii) by striking out "as 216 hours bears to 28 days" in paragraph (2) and inserting in lieu thereof "as 216 hours (or if lower, the number of hours referred to in clause (B) of paragraph (1)) bears to 28 days".

(2)(A) Section 13(b) is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or" and by adding after that paragraph the following new paragraph: 29 USC 213.

"(20) any employee of a public agency who is employed in fire protection or law enforcement activities (including security personnel in correctional institutions);".

(B) Effective January 1, 1975, section 13(b)(20) is amended to read as follows: Effective date. 29 USC 213 note.

"(20) any employee of a public agency who in any workweek is employed in fire protection activities or any employee of a public agency who in any workweek is employed in law enforcement activities (including security personnel in correctional institutions), if the public agency employs during the workweek less than 5 employees in fire protection or law enforcement activities, as the case may be; or". *Supra*.

(3) The Secretary of Labor shall in the calendar year beginning January 1, 1976, conduct (A) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in fire protection activities, and (B) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in law enforcement activities (including security personnel in correctional institutions). The Secretary shall publish the results of each such study in the Federal Register. Studies. 29 USC 213 note. *Supra*. Publication in Federal Register.

(d)(1) The second sentence of section 16(b) is amended to read as follows: "Action to recover such liability may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated.". 29 USC 216.

(2)(A) Section 6 of the Portal-to-Portal Pay Act of 1947 is amended by striking out the period at the end of paragraph (c) and by inserting in lieu thereof a semicolon and by adding after such paragraph the following: Statute of limitation, suspension. 29 USC 255.

"(d) with respect to any cause of action brought under section 16(b) of the Fair Labor Standards Act of 1938 against a State or a political subdivision of a State in a district court of the United States on or before April 18, 1973, the running of the statutory periods of limitation shall be deemed suspended during the period beginning with the commencement of any such action and ending one hundred and eighty days after the effective date of the Fair Labor Standards Amendments of 1974, except that such suspension shall not be applicable if in such action judg- *Supra*.

ment has been entered for the defendant on the grounds other than State immunity from Federal jurisdiction.".

29 USC 260. (B) Section 11 of such Act is amended by striking out "(b)" after "section 16".

DOMESTIC SERVICE WORKERS

29 USC 202. SEC. 7. (a) Section 2(a) is amended by inserting at the end the following new sentence: "That Congress further finds that the employment of persons in domestic service in households affects commerce."

29 USC 206. (b)(1) Section 6 is amended by adding after subsection (e) the following new subsection:

"(f) Any employee—

"(1) who in any workweek is employed in domestic service in a household shall be paid wages at a rate not less than the wage rate in effect under section 6(b) unless such employee's compensation for such service would not because of section 209(g) of the Social Security Act constitute wages for the purposes of title II of such Act, or

42 USC 409.
42 USC 401.

"(2) who in any workweek—

"(A) is employed in domestic service in one or more households, and

"(B) is so employed for more than 8 hours in the aggregate, shall be paid wages for such employment in such workweek at a rate not less than the wage rate in effect under section 6(b)."

Ante, p. 55.

(2) Section 7 is amended by adding after the subsection added by section 6(c) of this Act the following new subsection:

Ante, p. 60.

"(l) No employer shall employ any employee in domestic service in one or more households for a workweek longer than forty hours unless such employee receives compensation for such employment in accordance with subsection (a)."

29 USC 213. (3) Section 13(a) is amended by adding at the end the following new paragraph:

"(15) any employee employed on a casual basis in domestic service employment to provide babysitting services or any employee employed in domestic service employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves (as such terms are defined and delimited by regulations of the Secretary)."

Ante, p. 61. (4) Section 13(b) is amended by adding after the paragraph added by section 6(c) the following new paragraph:

"(21) any employee who is employed in domestic service in a household and who resides in such household; or".

RETAIL AND SERVICE ESTABLISHMENTS

Effective date. SEC. 8. (a) Effective January 1, 1975, section 13(a)(2) (relating to employees of retail and service establishments) is amended by striking out "$250,000" and inserting in lieu thereof "$225,000".

Effective date. (b) Effective January 1, 1976, such section is amended by striking out "$225,000" and inserting in lieu thereof "$200,000".

Effective date. (c) Effective January 1, 1977, such section is amended by striking out "or such establishment has an annual dollar volume of sales which is less than $200,000 (exclusive of excise taxes at the retail level which are separately stated)"

TOBACCO EMPLOYEES

Supra. SEC. 9. (a) Section 7 is amended by adding after the subsection added by section 7(b)(2) of this Act the following:

"(m) For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee— 29 USC 207.

"(1) is employed by such employer—

"(A) to provide services (including stripping and grading) necessary and incidental to the sale at auction of green leaf tobacco of type 11, 12, 13, 14, 21, 22, 23, 24, 31, 35, 36, or 37 (as such types are defined by the Secretary of Agriculture), or in auction sale, buying, handling, stemming, redrying, packing, and storing of such tobacco,

"(B) in auction sale, buying, handling, sorting, grading, packing, or storing green leaf tobacco of type 32 (as such type is defined by the Secretary of Agriculture), or

"(C) in auction sale, buying, handling, stripping, sorting, grading, sizing, packing, or stemming prior to packing, of perishable cigar leaf tobacco of type 41, 42, 43, 44, 45, 46, 51, 52, 53, 54, 55, 61, or 62 (as such types are defined by the Secretary of Agriculture); and

"(2) receives for—

"(A) such employment by such employer which is in excess of ten hours in any workday, and

"(B) such employment by such employer which is in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

An employer who receives an exemption under this subsection shall not be eligible for any other exemption under this section.".

(b) (1) Section 13(a)(14) is repealed. Repeal.

(2) Section 13(b) is amended by adding after the paragraph added by section 7(b)(4) of this Act the following new paragraph: 29 USC 213.

"(22) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco; or".

TELEGRAPH AGENCY EMPLOYEES

SEC 10. (a) Section 13(a)(11) (relating to telegraph agency employees) is repealed. Repeal.

(b)(1) Section 13(b) is amended by adding after the paragraph added by section 9(b)(2) of this Act the following new paragraph: *Supra.*

"(23) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under paragraph (2) of subsection (a) with respect to whom the provisions of sections 6 and 7 would not otherwise apply, who is engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed $500 a month, and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or". *Ante*, pp. 55, 60.

(2) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(23) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours". Effective date. *Supra.*

Repeal; effective date.
Ante, p. 63.

(3) Effective two years after such date, section 13(b)(23) is repealed.

SEAFOOD CANNING AND PROCESSING EMPLOYEES

29 USC 213.

SEC. 11. (a) Section 13(b)(4) (relating to fish and seafood processing employees) is amended by inserting "who is" after "employee", and by inserting before the semicolon the following: ", and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

Effective date.

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(4) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

Repeal; effective date.

(c) Effective two years after such date, section 13(b)(4) is repealed.

NURSING HOME EMPLOYEES

SEC. 12. (a) Section 13(b)(8) (insofar as it relates to nursing home employees) is amended by striking out "any employee who (A) is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises" and the remainder of that paragraph.

29 USC 207.

(b) Section 7(j) is amended by inserting after "a hospital" the following: "or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises".

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES AND TIPPED EMPLOYEES

Supra.

SEC. 13. (a) Section 13(b)(8) (insofar as it relates to hotel, motel, and restaurant employees) (as amended by section 12) is amended (1) by striking out "any employee" and inserting in lieu thereof "(A) any employee (other than an employee of a hotel or motel who performs maid or custodial services) who is", (2) by inserting before the semicolon the following: "and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed", and (3) by adding after such section the following:

"(B) any employee of a hotel or motel who performs maid or custodial services and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or".

Effective date.

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, subparagraphs (A) and (B) of section 13(b)(8) are each amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-six hours".

Effective date.

(c) Effective two years after such date, subparagraph (B) of section 13(b)(8) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

Repeal; effective date.

(d) Effective three years after such date, subparagraph (B) of section 13(b)(8) is repealed and such section is amended by striking out "(A)".

29 USC 203.

(e) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an

amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this subsection, and (2) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.".

SALESMEN, PARTSMEN, AND MECHANICS

SEC. 14. Section 13(b)(10) (relating to salesmen, partsmen, and mechanics) is amended to read as follows: 29 USC 213.

"(10)(A) any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trucks, or farm implements, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers; or

"(B) any salesman primarily engaged in selling trailers, boats, or aircraft, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers; or".

FOOD SERVICE ESTABLISHMENT EMPLOYEES

SEC. 15. (a) Section 13(b)(18) (relating to food service and catering employees) is amended by inserting immediately before the semicolon the following: "and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, such section is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours". Effective date.

(c) Effective two years after such date, such section is repealed. Repeal; effective date.

BOWLING EMPLOYEES

SEC. 16. (a) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(19) (relating to employees of bowling establishments) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours". Effective date.

(b) Effective two years after such date, such section is repealed. Repeal; effective date.

SUBSTITUTE PARENTS FOR INSTITUTIONALIZED CHILDREN

SEC. 17. Section 13(b) is amended by inserting after the paragraph added by section 10(b)(1) of this Act the following new paragraph: *Ante*, p. 63.

"(24) any employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, or

"(B) who are enrolled in such institution and reside in residential facilities of the institution,

while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000; or".

EMPLOYEES OF CONGLOMERATES

29 USC 213.

SEC. 18. Section 13 is amended by adding at the end thereof the following:

Ante, p. 55.

"(g) The exemption from section 6 provided by paragraphs (2) and (6) of subsection (a) of this section shall not apply with respect to any employee employed by an establishment (1) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to, but materially support the activities of the establishment employing such employee; and (2) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $10,000,000 (exclusive of excise taxes at the retail level which are separately stated), except that the exemption from section 6 provided by paragraph (2) of subsection (a) of this section shall apply with respect to any establishment described in this subsection which has an annual dollar volume of sales which would permit it to qualify for the exemption provided in paragraph (2) of subsection (a) if it were in an enterprise described in section 3(s).".

Ante, p. 59.

SEASONAL INDUSTRY EMPLOYEES

29 USC 207.

SEC. 19. (a) Section 7(c) and 7(d) are each amended—

(1) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks", and

(2) by striking out "fourteen workweeks" and inserting in lieu thereof "ten workweeks".

(b) Section 7(c) is amended by striking out "fifty hours" and inserting in lieu thereof "forty-eight hours".

Effective date.

(c) Effective January 1, 1975, sections 7(c) and 7(d) are each amended—

(1) by striking out "seven workweeks" and inserting in lieu thereof "five workweeks", and

(2) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks".

Effective date.

(d) Effective January 1, 1976, sections 7(c) and 7(d) are each amended—

(1) by striking out "five workweeks" and inserting in lieu thereof "three workweeks", and

(2) by striking out "seven workweeks" and inserting in lieu thereof "five workweeks".

Repeal; effective date.

(e) Effective December 31, 1976, sections 7(c) and 7(d) are repealed.

COTTON GINNING AND SUGAR PROCESSING EMPLOYEES

SEC. 20. (a) Section 13(b)(15) is amended to read as follows:

"(15) any employee engaged in the processing of maple sap into sugar (other than refined sugar) or syrup; or".

Ante, p. 65.

(b)(1) Section 13(b) is amended by adding after paragraph (24) the following new paragraph:

"(25) any employee who is engaged in ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities and who receives compensation for employment in excess of—

"(A) seventy-two hours in any workweek for not more than six workweeks in a year,

"(B) sixty-four hours in any workweek for not more than four workweeks in that year,

"(C) fifty-four hours in any workweek for not more than two workweeks in that year, and

"(D) forty-eight hours in any other workweek in that year,

at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective January 1, 1975, section 13(b)(25) is amended—

Effective date. *Ante*, p. 66.

(A) by striking out "seventy-two" and inserting in lieu thereof "sixty-six";

(B) by striking out "sixty-four" and inserting in lieu thereof "sixty";

(C) by striking out "fifty-four" and inserting in lieu thereof "fifty";

(D) by striking out "and" at the end of subparagraph (C); and

(E) by striking out "forty-eight hours in any other workweek in that year," and inserting in lieu thereof the following: "forty-six hours in any workweek for not more than two workweeks in that year, and

"(E) forty-four hours in any other workweek in that year,".

(3) Effective January 1, 1976, section 13(b)(25) is amended—

Effective date. *Supra*.

(A) by striking out "sixty-six" in subparagraph (A) and inserting in lieu thereof "sixty";

(B) by striking out "sixty" in subparagraph (B) and inserting in lieu thereof "fifty-six";

(C) by striking out "fifty" and inserting in lieu thereof "forty-eight";

(D) by striking out "forty-six" and inserting in lieu thereof "forty-four"; and

(E) by striking out "forty-four" in subparagraph (E) and inserting in lieu thereof "forty".

(c)(1) Section 13(b) is amended by adding after paragraph (25) the following new paragraph:

Ante, p. 66.

"(26) any employee who is engaged in the processing of sugar beets, sugar beet molasses, or sugarcane into sugar (other than refined sugar) or syrup and who receives compensation for employment in excess of—

"(A) seventy-two hours in any workweek for not more than six workweeks in a year,

"(B) sixty-four hours in any workweek for not more than four workweeks in that year.

"(C) fifty-four hours in any workweek for not more than two workweeks in that year, and

"(D) forty-eight hours in any other workweek in that year,

at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective January 1, 1975, section 13(b)(26) is amended—

Effective date. *Supra*.

(A) by striking out "seventy-two" and inserting in lieu thereof "sixty-six";

(B) by striking out "sixty-four" and inserting in lieu thereof "sixty";

(C) by striking out "fifty-four" and inserting in lieu thereof "fifty";

(D) by striking out "and" at the end of subparagraph (C); and

(E) by striking out "forty-eight hours in any other workweek in that year," and inserting in lieu thereof the following: "forty-six hours in any workweek for not more than two workweeks in that year, and

"(E) forty-four hours in any other workweek in that year,".

Effective date.
Ante, p. 67.

(3) Effective January 1, 1976, section 13(b)(26) is amended—

(A) by striking out "sixty-six" in subparagraph (A) and inserting in lieu thereof "sixty";

(B) by striking out "sixty" in subparagraph (B) and inserting in lieu thereof "fifty-six";

(C) by striking out "fifty" and inserting in lieu thereof "forty-eight";

(D) by striking out "forty-six" and inserting in lieu thereof "forty-four"; and

(E) by striking out "forty-four" in subparagraph (E) and inserting in lieu thereof "forty".

LOCAL TRANSIT EMPLOYEES

Ante, p. 62.

SEC. 21. (a) Section 7 is amended by adding after the subsection added by section 9(a) of this Act the following new subsection:

"(n) In the case of an employee of an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), in determining the hours of employment of such an employee to which the rate prescribed by subsection (a) applies there shall be excluded the hours such employee was employed in charter activities by such employer if (1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment."

29 USC 213.

(b)(1) Section 13(b)(7) (relating to employees of street, suburban or interurban electric railways, or local trolley or motorbus carriers) is amended by striking out ", if the rates and services of such railway or carrier are subject to regulation by a State or local agency" and inserting in lieu thereof the following: "(regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

Effective date.

(2) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, such section is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

Repeal; effective date.

(3) Effective two years after such date, such section is repealed.

COTTON AND SUGAR SERVICES EMPLOYEES

Ante, p. 66.

SEC. 22. Section 13 is amended by adding after the subsection added by section 18 the following:

Supra.

"(h) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year to any employee who—

"(1) is employed by such employer—

"(A) exclusively to provide services necessary and incidental to the ginning of cotton in an establishment primarily engaged in the ginning of cotton;

"(B) exclusively to provide services necessary and incidental to the receiving, handling, and storing of raw cotton and the compressing of raw cotton when performed at a cotton warehouse or compress-warehouse facility, other than one operated in conjunction with a cotton mill, primarily engaged in storing and compressing;

"(C) exclusively to provide services necessary and incidental to the receiving, handling, storing, and processing of cottonseed in an establishment primarily engaged in the receiving, handling, storing, and processing of cottonseed; or

"(D) exclusively to provide services necessary and incidental to the processing of sugar cane or sugar beets in an establishment primarily engaged in the processing of sugar cane or sugar beets; and

"(2) receives for—

"(A) such employment by such employer which is in excess of ten hours in any workday, and

"(B) such employment by such employer which is in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

Any employer who receives an exemption under this subsection shall not be eligible for any other exemption under this section or section 7.". *Ante*, p. 68.

OTHER EXEMPTIONS

SEC. 23. (a) (1) Section 13(a)(9) (relating to motion picture theater employees) is repealed. Repeal. 29 USC 213.

(2) Section 13(b) is amended by adding after paragraph (26) the following new paragraph: *Ante*, p. 67.

"(27) any employee employed by an establishment which is a motion picture theater; or".

(b)(1) Section 13(a)(13) (relating to small logging crews) is repealed. Repeal.

(2) Section 13(b) is amended by adding after paragraph (27) the following new paragraph:

"(28) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight.".

(c) Section 13(b)(2) (insofar as it relates to pipeline employees) is amended by inserting after "employer" the following: "engaged in the operation of a common carrier by rail and".

EMPLOYMENT OF STUDENTS

SEC. 24. (a) Section 14 is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following: 29 USC 214.

"SEC. 14. (a) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe. *Ante*, p. 55.

"(b)(1)(A) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special

certificate issued under a regulation or order provide, in accordance with subparagraph (B), for the employment, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than $1.60 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) in retail or service establishments.

Ante, p. 55.

Ante, p. 56.

29 USC 206.

"(B) Except as provided in paragraph (4)(B), during any month in which full-time students are to be employed in any retail or service establishment under certificates issued under this subsection the proportion of student hours of employment to the total hours of employment of all employees in such establishment may not exceed—

"(i) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) were covered by this Act before the effective date of the Fair Labor Standards Amendments of 1974—

"(I) the proportion of student hours of employment to the total hours of employment of all employees in such establishment for the corresponding month of the immediately preceding twelve-month period,

"(II) the maximum proportion for any corresponding month of student hours of employment to the total hours of employment of all employees in such establishment applicable to the issuance of certificates under this section at any time before the effective date of the Fair Labor Standards Amendments of 1974 for the employment of students by such employer, or

"(III) a proportion equal to one-tenth of the total hours of employment of all employees in such establishment,

whichever is greater;

"(ii) in the case of retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered for the first time on or after the effective date of the Fair Labor Standards Amendments of 1974—

"(I) the proportion of hours of employment of students in such establishment to the total hours of employment of all employees in such establishment for the corresponding month of the twelve-month period immediately prior to the effective date of such Amendments,

"(II) the proportion of student hours of employment to the total hours of employment of all employees in such establishment for the corresponding month of the immediately preceding twelve-month period, or

"(III) a proportion equal to one-tenth of the total hours of employment of all employees in such establishment,

whichever is greater; or

"(iii) in the case of a retail or service establishment for which records of student hours worked are not available, the proportion of student hours of employment to the total hours of employment of all employees based on the practice during the immediately preceding twelve-month period in (I) similar establishments of the same employer in the same general metropolitan area in which such establishment is located, (II) similar establishments of the same or nearby communities if such establish-

ment is not in a metropolitan area, or (III) other establishments of the same general character operating in the community or the nearest comparable community.

For purpose of clauses (i), (ii), and (iii) of this subparagraph, the term 'student hours of employment' means hours during which students are employed in a retail or service establishment under certificates issued under this subsection.

"Student hours of employment."

"(2) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment, at a wage rate not less than 85 per centum of the wage rate in effect under section 6(a)(5) or not less than $1.30 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) in any occupation in agriculture.

Ante, p. 56.

29 USC 206.

"(3) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment by an institution of higher education, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than $1.60 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) who are enrolled in such institution. The Secretary shall by regulation prescribe standards and requirements to insure that this paragraph will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this paragraph is applicable.

Regulations.

"(4)(A) A special certificate issued under paragraph (1), (2), or (3) shall provide that the student or students for whom it is issued shall, except during vacation periods, be employed on a part-time basis and not in excess of twenty hours in any workweek.

"(B) If the issuance of a special certificate under paragraph (1) or (2) for an employer will cause the number of students employed by such employer under special certificates issued under this subsection to exceed four, the Secretary may not issue such a special certificate for the employment of a student by such employer unless the Secretary finds employment of such student will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection. If the issuance of a special certificate under paragraph (1) or (2) for an employer will not cause the number of students employed by such employer under special certificates issued under this subsection to exceed four—

"(i) the Secretary may issue a special certificate under paragraph (1) or (2) for the employment of a student by such employer if such employer certifies to the Secretary that the employment of such student will not reduce the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection, and

"(ii) in the case of an employer which is a retail or service establishment, subparagraph (B) of paragraph (1) shall not apply with respect to the issuance of special certificates for such employer under such paragraph.

The requirement of this subparagraph shall not apply in the case of the issuance of special certificates under paragraph (3) for the employment of full-time students by institutions of higher education; except that if the Secretary determines that an institution of higher education is employing students under certificates issued under paragraph (3) but in violation of the requirements of that paragraph or of regulations issued thereunder, the requirements of this subparagraph shall apply with respect to the issuance of special certificates under paragraph (3) for the employment of students by such institution.

"(C) No special certificate may be issued under this subsection unless the employer for whom the certificate is to be issued provides evidence satisfactory to the Secretary of the student status of the employees to be employed under such special certificate."

Ante, p. 69.

(b) Section 14 is further amended by redesignating subsection (d) as subsection (c) and by adding at the end the following new subsection:

Ante, pp. 60, 68.

"(d) The Secretary may by regulation or order provide that sections 6 and 7 shall not apply with respect to the employment by any elementary or secondary school of its students if such employment constitutes, as determined under regulations prescribed by the Secretary, an integral part of the regular education program provided by such school and such employment is in accordance with applicable child labor laws."

29 USC 204.

(c) Section 4(d) is amended by adding at the end thereof the following new sentence: "Such report shall also include a summary of the special certificates issued under section 14(b)."

Ante, p. 69.

CHILD LABOR

29 USC 212.

SEC. 25. (a) Section 12 (relating to child labor) is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulation require employers to obtain from any employee proof of age."

29 USC 213.

(b) Section 13(c)(1) (relating to child labor in agriculture) is amended to read as follows:

Supra.

"(c)(1) Except as provided in paragraph (2), the provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is less than twelve years of age and (i) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or (ii) is employed, with the consent of his parent or person standing in the place of his parent, on a farm, none of the employees of which are (because of section 13(a)(6)(A)) required to be paid at the wage rate prescribed by section 6(a)(5),

Ante, p. 56.

"(B) is twelve years or thirteen years of age and (i) such employment is with the consent of his parent or person standing in the place of his parent, or (ii) his parent or such person is employed on the same farm as such employee, or

"(C) is fourteen years of age or older.".

29 USC 216.

(c) Section 16 is amended by adding at the end thereof the following new subsection:

Penalty.

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness

of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged;

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court, in an action brought for a violation of section 15(a)(4), to be paid to the Secretary. 29 USC 215.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (29 U.S.C. 9a)."

SUITS BY SECRETARY FOR BACK WAGES

SEC. 26. The first three sentences of section 16(c) are amended to read as follows: "The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid minimum wages or unpaid overtime compensation under sections 6 and 7 or liquidated or other damages provided by this subsection owing to such employee by an employer liable under the provisions of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary." 29 USC 216. *Ante*, pp. 55, 68.

ECONOMIC EFFECTS STUDIES

SEC. 27. Section 4(d) is amended by— *Ante*, p. 72.

(1) inserting "(1)" immediately after "(d)",

(2) inserting in the second sentence after "minimum wages" the following: "and overtime coverage"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall conduct studies on the justification or lack thereof for each of the special exemptions set forth in section 13 of this Act, and the extent to which such exemptions apply to employees of establishments described in subsection (g) of such section and the economic effects of the application of such exemptions to such *Ante*, p. 72. *Ante*, p. 66.

Report to Congress.

employees. The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies conducted under this paragraph not later than January 1, 1976.

"(3) The Secretary shall conduct a continuing study on means to prevent curtailment of employment opportunities for manpower groups which have had historically high incidences of unemployment (such as disadvantaged minorities, youth, elderly, and such other groups as the Secretary may designate). The first report of the results of such study shall be transmitted to the Congress not later than one year after the effective date of the Fair Labor Standards Amendments of 1974. Subsequent reports on such study shall be transmitted to the Congress at two-year intervals after such effective date. Each such report shall include suggestions respecting the Secretary's authority under section 14 of this Act.".

Reports to Congress.

Ante, p. 69.

AGE DISCRIMINATION

SEC. 28. (a)(1) The first sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630(b)) is amended by striking out "twenty-five" and inserting in lieu thereof "twenty".

(2) The second sentence of section 11(b) of such Act is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(3) Section 11(c) of such Act is amended by striking out ", or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

"Employee."

(4) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

29 USC 634.

(5) Section 16 of such Act is amended by striking out "$3,000,000" and inserting in lieu thereof "$5,000,000".

29 USC 621 note, 634.

(b)(1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as sections 16 and 17, respectively.

29 USC 633.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

29 USC 633a.

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in

section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

Enforcement.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

Reports.

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each department, agency, or unit referred to in subsection (a);

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

Civil actions.

"(c) Any person aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law."

EFFECTIVE DATE

29 USC 202 note.

SEC. 29. (a) Except as otherwise specifically provided, the amendments made by this Act shall take effect on May 1, 1974.

29 USC 202 note.

(b) Notwithstanding subsection (a), on and after the date of the enactment of this Act the Secretary of Labor is authorized to prescribe necessary rules, regulations, and orders with regard to the amendments made by this Act.

Approved April 8, 1974.

Public Law 93-260

April 9, 1974 [S. 2174]

AN ACT

To amend certain provisions of law defining widow and widower under the civil service retirement system, and for other purposes.

Civil Service retirement system. Survivor annuities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) clauses (1)(A) and (2)(A) of section 8341(a) of title 5, United States Code, are amended by striking out "2 years" wherever it appears and inserting in lieu thereof "1 year".

(b) The amendments made by subsection (a) of this section shall not apply in the cases of employees, Members, or annuitants who died before the date of enactment of this Act. The rights of such individuals and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

Annuity computation.

SEC. 2. (a) Section 8339(f)(2) of title 5, United States Code, is amended—

(1) by deleting "greater" and inserting "greatest" in place thereof;

(2) by deleting the word "or" immediately after the semicolon at the end of clause (A);

(3) by redesignating clause (B) as clause (C); and

(4) by inserting immediately below clause (A) the following new clause (B):

"(B) the average pay of the Member; or".

Effective date. 5 USC 8339 note.

(b) The amendments made by subsection (a) of this section shall apply to annuities paid for months beginning after the date of enactment of this Act.

Approved April 9, 1974.

Public Law 93-261

April 11, 1974 [H. J. Res. 941]

JOINT RESOLUTION

Making an urgent supplemental appropriation for the fiscal year ending June 30, 1974, for the Veterans Administration, and for other purposes.

Veterans Administration. Supplemental appropriation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1974, namely:

VETERANS ADMINISTRATION

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $750,000,000, to remain available until expended.

Approved April 11, 1974.