CURTIS RATCLIFF REMEMBERED AS FRIEND OF TAXPAYERS

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1999

Mr. TAYLOR of North Carolina. Mr. Speaker, Buncombe County, Western North Carolina and America lost a true leader this week, R. Curtis Ratcliff. "Curt" was a leader in Buncombe County government for nearly two decades and fighter for the taxpayers. I am honored to share with my colleagues The Asheville Citizen Times of March 18th appreciation of Curt.

[From the Asheville Citizen Times, Mar. 18, 1999]

RATCLIFF REMEMBERED AS FRIEND TO TAXPAYERS

(By Barbara Blake)

LEICESTER—R. Curtis "Curt" Ratcliff was a man who ruffled plenty of political feathers during his 16 years at the helm of Buncombe County government. But few would argue with the fact that he was a champion of the "little man" and a passionate advocate for county taxpayers.

Ratcliff, who died Monday at age 69, had friends and foes in the political arena. But community leaders who worked with Ratcliff during more than two decades in public service said Wednesday he was a man of his word, a tireless proponent of fiscal responsibility and a friend to the community.

"Sure, there were partisan politics," said former County Commissioner Doris Giezentanner, one of many Democrats who squabbled with the Republican leader during his four terms as chairman of the county board.

"That always happens on a mixed board or even one that is one party or another," Giezentanner said. "But it's quickly forgotten; I will always remember Curtis as a kind, generous person even when we differed politically."

Ratcliff, who served as commission chairman from 1972 until he was defeated in 1988 by UNCA political science professor Eugene Rainey, differed politically with a lot of elected officials over the years—sometimes even those of his own party, if they seemed to favor citizens inside rather than outside the city of Asheville.

Former Asheville Mayor Louis Bissette was one of them—a Republican, but a champion of the city's interests in divisive issues like the revamping of the city-county water agreement.

"There were some very difficult issues that arose during the 1980s between the city of Asheville and Buncombe County," Blasette said. "But even in the midst of those emotional times, I always found you could depend on Curt Ratcliff's word, and he always acted in what he believed to be the best interests of the people of Buncombe County."

Tom Sobol, current chairman of the board, was a newcomer during Ratcliff's last term, 1984–88. One of two Democrats—with Giezentanner—on the five-member commission, Sobol clashed frequently with the Republican leader.

"Even though I was in the minority party, Curt was always up front and totally honest with me on every issue that came up," Sobol said. "We had different political philosophies, but he was always up front about where he was going to be (on an issue) and what was going to happen."

Ratcliff also kept his door open to the freshman commissioner and offered help when it was needed.

"I never went into Curt's office that he wouldn't take time to explain to me the workings of some county government problem I had a question about," Sobol said, "That meant a great deal to me, that he would take time to deal with me when he didn't have to."

Former Republican Commissioner Jesse Ledbetter, who served two terms with Ratcliff, said the long-time chairman was "an advocate for the little people of Buncombe County, particularly those living outside the city."

"During this century, I do not know of a better friend to the taxpayers than Curt Ratcliff was," Ledbetter said. "He was always very meticulous in the wise use of public funds, and in safeguarding all public assets."

"He was a good friend in every way," Ledbetter said.

EMPLOYEE PENSION PORTABILITY AND ACCOUNTABILITY ACT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1999

Mr. NEAL of Massachusetts. Mr. Speaker, today I am introducing the Administration's pension proposals contained in its fiscal year 2000 budget submission to the 106th Congress. These proposals build on previous efforts to improve the chances for every American to have a secure retirement of which an adequate level of retirement income is a crucial factor. The proposals are aimed at making it easier for employers to offer pension plans, and for employees to retain their pension benefits when switching jobs. Proposals to encourage small businesses to establish pension plans, and to encourage more individuals to utilize retirement accounts are included. In addition, the Administration's pension proposals also contain numerous simplification initiatives.

As we all know, it is assumed that every worker will have retirement income from three different sources—social security, private pensions, and personal savings. This so-called three-legged stool does not exist for many workers, either because they work for employers who do not offer a pension plan, or the benefits offered are inadequate, or because some employees earn too little to save for their retirement on their own. While the 106th Congress is expected to address the problems of the social security system, it is imperative that this Congress expand and improve the private pension system as well.

Many workers, like federal workers in FERS, are eligible to save for their retirement through social security, a defined benefit plan, a defined contribution plan, and hopefully through personal savings. In general, employers in the private sector, however, have moved away from offering defined benefit plans, much to the detriment of overall retirement savings. Since 1985, the number of defined benefit plans has fallen from 114,000 to 45,000 last year. The number of defined contribution plans, conversely, has tripled over the last twenty years. While defined contribution plans have the advantage of being highly portable, and are an important source of savings, it is also important to remember that defined contribution plans were intended to supplement, rather than be a primary source of, retirement income.

In addition, we cannot ignore the fact that women and minorities face special challenges in obtaining adequate retirement savings. For women, this is directly related to employment patterns. Women are more likely to move in and out of the workforce to take care of children or parents, work in sectors of the economy that have low pension coverage rates, and earn only 72 percent of what men earn. Fifty-two percent of working women do not have pension coverage, and 75 percent of women who work part-time lack coverage. For minorities, lack of pension coverage and a lower pension benefit level is often related to low wages. While 52 percent of white retirees receive an employment-based pension at age 55, only 32 percent of Hispanic Americans and 40 percent of African Americans receive such pensions.

While these problems cannot be solved overnight, it is necessary for us to make improvements in the pension system whenever there is an opportunity. I believe we have been provided with just such an opportunity in this Congress, and we should seize that opportunity. The Administration's proposals incorporated into this bill take an important step forward. I encourage my colleagues to join me in making improved pensions a reality for many American workers.

THE EMPLOYEE PENSION PORTABILITY AND ACCOUNTABILITY ACT OF 1999

SECTION BY SECTION

Section 1. Short Title.

This legislation is entitled the Employee Pension Portability and Accountability Act of 1999.

Section 2. Payroll Deduction for Retirement Savings.

This section is intended to promote increased retirement savings among employees. Employees could elect to have contributions, up to a total of $2,000, withheld during the year from their paychecks and contributed to an IRA. Under this Section, employees who are eligible for a deductible IRA could elect to have pre-tax contributions withheld by their employer and deposited to their IRA. These IRA contributions generally would be excluded from taxable income on the W–2 rather than deducted from income on the individual's tax return. However, the amounts would be subject to employment taxes (FICA) and would be reported as contributions to an IRA on the employee's Form W–2. If at the end of the year, the employee is determined not to be eligible for any portion of the $2,000 contribution, the employee would be required to include such amounts as income for that taxable year.

The legislative history under this Section also would clarify that employees not eligible for a deductible IRA could use payroll deductions of after tax amounts as contributions to a nondeductible IRA or Roth IRA. Such an arrangement would not constitute the employer sponsoring a plan.

The provision would be effective for taxable years beginning after December 31, 1999.

Section 3. Credit for Pension Plan Startup Costs of Small Employers.

The credit provided under this Section is intended to be an additional incentive to employers, especially small employers who may not otherwise establish a plan because of high start-up costs. Under this Section, the employer could claim a credit for up to three years after establishing a new qualified defined benefit plan or defined contribution plan including a section 401(k), a SIMPLE, SEP, or IRA payroll deduction arrangement. The credit for the first year of the plan is 50 percent of up to $2,000 in administrative and retirement education expenses. For the second and the third year, the credit would be 50 percent of up to $1000 of such expenses.

For purposes of the credit, an eligible employer is one who employs no more than 100 employees in the preceding tax year and the compensation of each employee was at least $5,000 for the year. The employer would be eligible only if such employer did not have a retirement plan prior to establishing the new plan. In addition, the new plan must cover at least 2 employees, and must be made available to all employees who have worked with the employer for at least three months.

The credit is effective beginning in the year of enactment and would be available only for plans established on or before December 31, 2000. Thus if an eligible employer established a plan in the year 2000, the credit would be available for the years 2000, 2001, and 2002.

Section 4. Secure Money Annuity or Retirement Trusts (SMART).

This Section creates a simplified defined benefit plan. As in all defined benefit plans, contributions are made by the employer. The plan would be available to employers with no more than 100 employees who received at least $5,000 in compensation in the prior year. In addition, the employer could not have maintained a defined benefit plan or money purchase plan within the preceding five years. The plan generally would be available to all employees who have completed two years of service with the employer and earned at least $5,000 in compensation. Like all other qualified plans, contributions to the SMART plan would be excludable from income, earnings would be accumulated tax-free, and distributions at the time the distribution is made would be subject to income tax (unless rolled over). Participants would be guaranteed a minimum annual benefit upon retirement, but could receive a larger benefit if the return on the plan assets exceeds specified conservative assumptions. The employee would be guaranteed a minimum annual benefit upon retirement which would be equal to 1 or 2 percent of the employee's compensation plus a minimum rate of return of 5 percent. The minimum annual benefit would be computed based on the employee's average compensation with the employer, the number of years worked, and the percentage elected by the employer. Thus, an employee with 25 years of service, whose average salary was $50,000, and whose employer elected a 2 percent benefit would receive an annual benefit of $25,000 at retirement (age 65). The guaranteed benefit requirement could result in some employers making additional contributions to the employees' account if the rate of return plus the contributions do not produce sufficient assets to pay the minimum guaranteed benefit. If the rate of return exceeds 5 percent, the employee would receive a benefit greater than the minimum guaranteed benefit. The Pension Benefit Guaranty Corporation (PBGC) would provide insurance to ensure the payment of the guaranteed benefit.

To permit catch-up contributions on behalf of workers (especially workers nearing retirement age) for the years a retirement plan was not available, an employer could elect a benefit equal to 3 percent of compensation for the first 5 years the plan is in existence. This higher percentage would be elected in lieu of 1 or 2 percent and would have to be made available to all employees. The maximum amount of compensation that could be taken into account for purposes of determining the annual benefit would be $100,000 indexed for inflation.

Employees would immediately vest in the contributions made and the earnings that accrue under the plan. Benefits in the account would be treated as all other qualified pension plans, i.e., the contributions or earnings would not be taxable to the employee in the year made (or earned) and the employer would be permitted to deduct currently the contributions made to the plan. Distributions from the plan would be taxable to the employee upon distribution except where the balance is directly rolled over from a SMART plan to another SMART plan by the trustee of the plan.

The provision would be effective for calendar years beginning after December 31, 1999.

Section 5. Faster Vesting of Employer Matching Contributions.

This section changes the vesting requirement for employer contributions. Under current law, employer matching contributions vest after either 5 years cliff vesting or 7 years graded vesting. Under the 5-year vesting, an employee becomes fully vested (i.e., full rights) to employer contributions after the employee has completed five years of service with the employer. If the years of service is less than 5 years, the employee does not vest in any portion of the contributions. Under 7-year graded vesting, the employee becomes fully vested to the employer contributions in increments of 20 percent, which begins after the employee completes three years of service, and is fully vested after seven years of service. Under this provision, the 5-year cliff and the 7-year graded vesting schedules would be modified to provide for 3 year cliff vesting and 6 year graded vesting. The 6 year vesting would begin after the employee has completed two years of service. The vesting schedules would apply for all employer matching contributions made under any qualified plan.

The provision would be effective for plan years beginning after December 31, 1999.

Section 6A. Pension Right to Know Proposals.

This provision would modify current law with respect to a written waiver of a survivor annuity. Under current law, the plan participant (not the spouse) is provided with a written explanation of terms and conditions of the survivor benefit. This provision would require that the same written information provided to the plan participant also is provided to the spouse. This would help the spouse to fully understand both his or her rights under the plan, and the full implication of a waiver of those rights.

This provision would be effective for plan years beginning after December 31, 1999.

Section 6B. Right to Know Pension Plan Distribution Information.

This provision would require employers who use one of the 401(k) safe harbor plan designs to provide employees with sufficient notice that would afford them the real opportunity to make an informed decision regarding electing to contribute (or modify a prior election) to the employer-sponsored plan. The employee would be provided at least a 60-day period before the beginning of each year and a 60-day period when he or she first becomes eligible to participate. In addition, the current requirement that employers notify eligible employees of their rights to make contributions, as well as notify them of the employer contributions formula being used under the plan, would be modified to require that such notice be given within a reasonable period of time before the 60-day period, rather than before the beginning of the year.

This provision would be effective for plan years beginning after December 31, 1999.

Section 7. Mandatory 1 Percent Employer Contribution Required Under Alternative Methods of meeting Nondiscrimination Requirements for 401(k) Plans.

This Section modifies 401(k) matching formula safe harbor by requiring that, in addition to the matching contribution, employers would make a contribution of 1 percent of compensation for each eligible non-highly compensated employee, regardless of whether the employee makes elective contributions. This contribution shows the value of tax-deferred compounding. This provision would not apply where the employer uses the safe harbor design under which the employer contributes 3 percent of compensation on the behalf of each eligible employee without regard to whether the employee makes an elective contribution.

This provision would be effective for plan years beginning after December 31, 1999.

Section 8. Definition of Highly Compensated Employees.

Under current law, a highly compensated employee is defined as an employee who was a 5 percent owner of the employer at any time during the preceding year, or had compensation of $80,000, and if the employer elects, was in the top-paid group of employees for the preceding year. An employee is in the top-paid group if the employee was among the top 20 percent of employees of the employer when ranked on basis of compensation paid to employees in previous years. This Section eliminates the top-paid group from the definition highly compensated employee. Thus, the level of compensation earned or ownership determines whether the employee is highly compensated.

This provision would be effective for plan years beginning after December 31, 1999.

Section 9. Treatment of Multiemployer Plans under section 415.

This Section would repeal the 100 percent-of-compensation limit, but not the $130,000 limit for such plans. Also, it would exempt certain survivor and disability benefits from the adjustments for early commencement and participation, and service of less than 10 years.

This provision would be effective for plan years beginning after December 31, 1999.

Section 10. Full Funding Limitation for Multiemployer Plans.

This Section would eliminate the limit on deductible contributions based on a specified percentage of current liability. The annual dedication for contributions to such a plan would be limited to the amount by which the plan's accrued liability exceeds the value of the plan's assets.

This provision would be effective for plan years beginning after December 31, 1999.

Section 11. Elimination of Partial Termination Rules for Multiemployer Plans.

Under current law, when a qualified retirement plan is terminated, all plan participants are required to become 100 percent vested in their accrued benefits to the extent those benefits are funded. In the case of certain ''partial termination'' that is not actual plan termination, all affected employees must become 100 percent vested in their benefits accrued to the date of the termination, to the extent the benefits are funded. Partial terminations generally occur when there is a significant reduction in workforce covered by the plan. This Section repeals the requirement that affected participants become 100 percent vested in their accrued benefits upon the partial termination of qualified multiemployer retirement plan.

This provision would be effective for partial terminations occurring after December 31, 1999.

Sec. 12. Rollovers Between Qualified Retirement Plans and Section 403(b) Tax-Sheltered Annuities.

Under current law, rules governing eligible rollover distributions do not permit rollover of funds from a section 403(b) tax-sheltered annuity to another type of qualified retirement plan. Amounts saved in a section 403(b) tax-sheltered annuity only can be rolled over to another section 403(b) tax-sheltered annuity. This Section would allow an eligible rollover distribution to be rolled over to a qualified retirement plan, a section 403(b) tax-sheltered annuity, or a traditional IRA. Also, an eligible rollover distribution from a section 403(b) tax-sheltered annuity, could be rolled over to another section 403(b) tax-sheltered annuity, a qualified retirement plan, or a traditional IRA.

This provision would be effective for distributions after December 31, 1999.

Sec. 13. Rollover of Contributions From Non-Qualified Deferred Compensation Plans of State and Local Governments to IRAs.

Current law does not permit participants of eligible non-qualified deferred compensation plans of States and local governments (section 457 plans) to roll over distributions from these plans to an IRA. This Section would allow participants of section 457 plans to roll over distributions from these plans to an IRA.

This provision would be effective for distributions after December 31, 1999.

Sec. 14. Rollover of IRA Contributions To A Qualified Retirement Plan.

Current law does not allow contributions made to an IRA, not including rollover contributions from a qualified retirement plan or a section 403(b) tax-sheltered annuity, to be rolled over to an employer-sponsored qualified retirement plan. This provision would allow individuals to roll over these traditional IRA contributions to a qualified plan, including section 403(b) tax-sheltered annuities.

This provision would be effective for distributions after December 31, 1999.

Sec. 15. Rollover of After-Tax Contributions.

Current law permits employees to make after-tax contributions to qualified retirement plans but they are not allowed to roll over distribution of these amounts either to an IRA or a qualified retirement plan. This provision would allow employees to roll over their after-tax contributions as part of an eligible rollover to a traditional IRA or an employer-sponsored qualified plan provided that the receiving plan or IRA provider agrees to track and report the after-tax portion of the rollover contribution for the individual.

This provision would be effective for distributions after December 31, 1999.

Sec. 16. Purchase of Service Credit in Governmental Defined Benefit Plans.

This provision would permit employees of State and local governments, particular teachers, who often move between States and school districts in the course of their careers to make tax-free transfers from their section 403(b) tax-sheltered annuities of governmental section 457 plans to purchase service credits under their defined benefit plan.

This provision would be effective for distributions after December 31, 1999.

Sec. 17. Modifications to Joint and Survivor Annuity Requirements.

This provision would modify current law to provide that retirement plans which are required to provide a joint and survivor annuity option must include the option under which the plan participant could elect to receive a lifetime benefit equal to at least 75 percent of the benefit, to be paid to the surviving spouse, the couple received while both were alive. Under current law, a joint survivor annuity provides for a benefit of 50 percent of the benefit received while both are alive.

This provision would be effective for plan years beginning after December 31, 1999, with an extended effective date for plans maintained pursuant to a collective bargaining agreement.

Sec. 18. Period of Family and Medical Leave Treated as Hours of Service for Pension Participation and Vesting.

This provision would allow leave taken by an employee under the Family and Medical Leave Act (FMLA) to be taken into account for purposes of (a) determining the employee's eligibility to participate in the employer-sponsored plan, and (b) vesting in benefits accrued to the employee's retirement account/plan.

This provision would be effective for plan years beginning after December 31, 1999.