

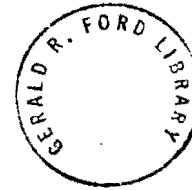
LEGISLATION:

COMMERCE

Export Administration Act (S. 2053; H. R. 8547)

BACKGROUND:

Special message - 6/13/73



PROVISIONS:

Amends the Export Administration Act of 1969, protects the domestic drain of scarce materials and commodities and reduces the inflationary impact of abnormal foreign demand.

STATUS:

- A. HOUSE: House Floor originally scheduled for 7/19 postponed, until September at least.
- B. SENATE: Senate Banking Committee mark-up scheduled for 7/25

OUTLOOK:

The Ashley bill, H.R. 8547, faces some opposition in the House, but the overall outlook is good. Free traders and agriculture bloc can be expected to fight measure.

H. R. 8547

[Report No. 93-325]



IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1973

Mr. ASHLEY introduced the following bill; which was referred to the Committee on Banking and Currency

JUNE 25, 1973

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Export Administration Act of 1969, to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That (a) section 4 (e) of the Export Administration Act of
4 1969 (50 U.S.C. App. 2403 (e)) is amended to read as
5 follows:

6 “(e) (1) The Secretary of Commerce, in consultation
7 with appropriate United States Government departments and
8 agencies and any appropriate technical advisory committee
9 established under section 5 (c) (2), shall undertake an in-

1 vestigation to determine which materials or commodities
2 shall be subject to export controls because of the present
3 or prospective domestic inflationary impact or short supply
4 of such material or commodity in the absence of any such
5 export control. The Secretary shall develop forecast indices
6 of the domestic demand for such materials and commodi-
7 ties to help assure their availability on a priority basis to
8 domestic users at stable prices.

9 “(2) To effectuate the policy set forth in clause (A)
10 of paragraph (2) of section 3 with respect to any agricultural
11 commodity, the authority conferred by this section shall not
12 be exercised without the approval of the Secretary of Agri-
13 culture.”

14 “(3) (A) On Tuesday of each week, the Secretary shall
15 publish in the Federal Register with respect to each group
16 of agricultural commodities listed in subparagraph (B) and
17 each category within each such group the following informa-
18 tion:

19 “(i) estimated domestic supply (including any re-
20 serve and carryover) of such commodity as of the day
21 preceding the date of publication of this information in
22 the Federal Register,

23 “(ii) the estimated domestic requirements for such
24 commodity by crop year,

25 “(iii) the estimated domestic use of such commodity

1 by crop year as of the day preceding the date of publica-
2 tion of this information in the Federal Register, and

3 “(iv) the exports and commitments of such com-
4 modity by crop year as of the day preceding the date of
5 publication of this information in the Federal Register.

6 “(B) The following is the listing of agricultural com-
7 modities referred to in subparagraph (A):

8 “Group I—Wheat

9 “Wheat—Hard red winter.

10 “Wheat—Soft red winter.

11 “Wheat—Hard red spring.

12 “Wheat—White.

13 “Wheat—Durum.

14 “Group II—Rice

15 “Rice in the husk, unmilled.

16 “Rice, husked, long grain.

17 “Rice, husked, medium grain.

18 “Rice, husked, short grain.

19 “Rice, husked, mixed.

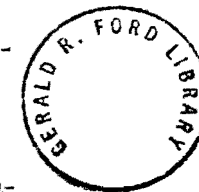
20 “Rice, parboiled, long grain.

21 “Rice, parboiled, medium grain.

22 “Rice, parboiled, short grain.

23 “Rice, parboiled, mixed grain.

24 “Rice, milled, containing 75 percent or more broken
25 kernels.



1 "Rice, milled, long grain, containing less than 75
2 percent broken kernels.

3 "Rice, milled, medium grain, containing less than 75
4 percent broken kernels.

5 "Rice, milled, short grain, containing less than 75
6 percent broken kernels.

7 "Rice, milled, mixed grain, containing less than 75
8 percent broken kernels.

9 "Group III—Barley

10 "Barley, unmilled.

11 "Group IV—Corn

12 "Corn, except seed, unmilled.

13 "Group V—Rye

14 "Rye, unmilled.

15 "Group VI—Oats

16 "Oats, unmilled.

17 "Group VII—Grain sorghums

18 "Grain sorghums, unmilled.

19 "Group VIII—Soybeans and soybean products

20 "Soybean oil-cake and meal.

21 "Soybeans.

22 "Group IX—Cottonseeds and cottonseed products

23 "Cottonseed oil-cake and meal.

24 "Cottonseed."

25 (b) (1) Section 3(2)(A) of the Export Administration

1 Act of 1969 is amended by striking out "and" and inserting
2 in lieu thereof "or".

3 (2) Section 4(c) of the Export Administration Act of
4 1969 is amended by inserting "or to reduce the serious in-
5 flationary impact of abnormal foreign demand" immediately
6 after "scarce materials".

7 ~~(b)~~(c) Section 5 (c) of the Export Administration Act
8 of 1969 (50 U.S.C. App. 2404 (c)) is amended by redesign-
9 nating paragraphs (2), (3), and (4) as paragraphs (3),
10 (4), and (5), and—

11 (1) by inserting immediately after paragraph (1)
12 the following new paragraph:

13 "(2) Upon written request by representatives of a sub-
14 stantial segment of any industry which processes materials or
15 commodities which are subject to export controls or are being
16 considered for such controls because of the present or
17 prospective domestic inflationary impact or short supply of
18 such materials or commodities in the absence of any such
19 export controls, the Secretary of Commerce shall appoint a
20 technical advisory committee for any grouping of such ma-
21 terials or commodities to evaluate technical matters, licensing
22 procedures, worldwide availability, and actual use of domes-
23 tic production facilities and technology. Each such committee
24 shall consist of representatives of United States industry and
25 government. No person serving on any such committee who



1 is representative of industry shall serve on such committee
 2 for more than two consecutive years. Nothing in this sub-
 3 section shall prevent the Secretary from consulting, at any
 4 time, with any person representing industry or the general
 5 public regardless of whether such person is a member of a
 6 technical advisory committee. Members of the public shall be
 7 given a reasonable opportunity, pursuant to regulations pre-
 8 scribed by the Secretary of Commerce, to present evidence
 9 to such committees.”;

10 (2) in paragraph (4) thereof, as redesignated by
 11 this subsection, by striking out “such committee” and
 12 by inserting in lieu thereof “committee established under
 13 paragraph (1) or (2)”;

14 (3) in paragraph (5) thereof, as redesignated by
 15 this subsection, by striking out “such committee” the
 16 first time it appears therein and inserting in lieu thereof
 17 “committee established under paragraph (1) or (2)”.

18 SEC. 2. The Export Administration Act of 1969 is
 19 amended by redesignating sections 10, 11, 12, 13, and 14
 20 as sections 11, 12, 13, 14, and 15, respectively, and by
 21 inserting immediately after section 9 the following new
 22 section:

23 “LUMBER AND LOGS.

24 “SEC. 10. (a) For each of the calendar years 1973
 25 and 1974—

1 “(1) not more than two billion five hundred mil-
 2 lion board feet (Scribner scale) of softwood logs may
 3 be sold for export from the United States; and

4 “(2) not more than one billion board feet (lumber
 5 scale) of softwood lumber may be sold for export from
 6 the United States;

7 unless the Secretary of Agriculture shall certify, within
 8 thirty days of the date of enactment of this section, that
 9 there shall be offered for sale from national forests not less
 10 than eleven billion eight hundred million board feet (local
 11 log scale) of softwood timber during each such calendar
 12 year.

13 “(b) No unprocessed timber may be sold for export
 14 from the United States from Federal lands located west of
 15 the one hundredth meridian. Such limitation on exports shall
 16 stay in effect until the President determines that there is
 17 available for domestic use an adequate supply of softwood
 18 logs and lumber at reasonable price levels. Upon making
 19 such determination, the President may remove such limita-
 20 tion on a partial basis, up to an annual maximum of three
 21 hundred and fifty million board feet in the aggregate.

22 “(c) After public hearing and finding by the appro-
 23 priate Secretary of the department administering Federal
 24 lands referred to in subsection (b) of this section that specific
 25 quantities and species of unprocessed timber are surplus to



1 the needs of domestic users and processors, such quantities
2 and species may be designated by the said Secretary as avail-
3 able for export from the United States in addition to that
4 quantity permitted under subsection (b) of this section.

5 “(d) The Secretaries of the departments administering
6 lands referred to in subsection (a) of this section shall issue
7 rules and regulations to carry out the purposes of this section,
8 including the prevention of substitution of timber restricted
9 from export by this section for exported non-Federal timber.

10 “(e) In issuing rules and regulations pursuant to sub-
11 section (d) of this section, the appropriate Secretaries may
12 include therein provisions authorizing the said Secretaries, in
13 their discretion, to exclude from the limitations imposed by
14 this section sales having an appraised value of less than
15 \$2,000.”



Union Calendar No. 153

93D CONGRESS
1ST SESSION

H. R. 8547

[Report No. 93-325]

A BILL

To amend the Export Administration Act of 1969, to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand.

By Mr. ASHLEY

JUNE 8, 1973

Referred to the Committee on Banking and Currency

JUNE 25, 1973

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

LEGISLATION:

Foreign Assistance Act (S 1711; HR 7484)

BACKGROUND:

Presidential Message



PROVISIONS:

Authorizes \$2.9 (b) billion for economic and military assistance.
Of this amount, \$1.2 (b) billion is for military assistance and the remainder for economic assistance.

STATUS:

A. HOUSE:

House Foreign Affairs Committee on 7/19/73
ordered reported a clean bill -- HR 9360(Morgan)
Scheduled for Floor action Wednesday, July 25, 1973.

OUTLOOK:

Union Calendar No. 182

93^D CONGRESS
1ST SESSION

H. R. 9360

[Report No. 93-388]



IN THE HOUSE OF REPRESENTATIVES

JULY 18, 1973

Mr. MORGAN introduced the following bill; which was referred to the Committee on Foreign Affairs

JULY 20, 1973

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Foreign Assistance Act of 1961, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Mutual Development and
4 Cooperation Act of 1973".

5 CHANGE OF TITLE OF ACT AND NAME OF AGENCY

6 SEC. 2. The Foreign Assistance Act of 1961 is amended
7 as follows:

8 (a) In the first section, strike out "this Act may be
9 cited as "The Foreign Assistance Act of 1961'" and insert in
10 lieu thereof "this Act may be cited as the 'Mutual Develop-

1 ment and Cooperation Act' ". The amendment made by this
2 subsection shall take effect on the day after the date of the
3 enactment of this Act.

4 (b) Strike out "Agency for International Development"
5 each place it appears in such Act and insert in lieu thereof
6 in each such place "Mutual Development and Cooperation
7 Agency".

8 POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATIONS

9 SEC. 3. Chapter 1 of part I of the Foreign Assistance
10 Act of 1961 is amended as follows:

11 (a) In the chapter heading, immediately after "CHAP-
12 TER 1—POLICY" insert "; DEVELOPMENT ASSISTANCE AU-
13 THORIZATIONS".

14 (b) In section 102, relating to statement of policy, in-
15 sert "(a)" immediately after "STATEMENT OF POLICY.—",
16 and at the end thereof add the following:

17 "(b) The Congress further finds and declares that, with
18 the help of United States economic assistance, progress has
19 been made in creating a base for the peaceful advance of the
20 less developed countries. At the same time, the conditions
21 which shaped the United States foreign assistance program in
22 the past have changed. While the United States must con-
23 tinue to seek increased cooperation and mutually beneficial
24 relations with other nations, our relations with the less devel-
25 oped countries must be revised to reflect the new realities.

1 In restructuring our relationships with those countries, the
2 President should place appropriate emphasis on the follow-
3 ing criteria:

4 "(1) Bilateral development aid should concentrate in-
5 creasingly on sharing American technical expertise, farm
6 commodities, and industrial goods to meet critical develop-
7 ment problems, and less on large-scale capital transfers,
8 which when made should be in association with contribu-
9 tions from other industrialized countries working together
10 in a multilateral framework.

11 "(2) Future United States bilateral support for devel-
12 opment should focus on critical problems in those functional
13 sectors which affect the lives of the majority of the people
14 in the developing countries: food production, rural develop-
15 ment, and nutrition; population planning and health; educa-
16 tion, public administration, and human resource develop-
17 ment.

18 "(3) United States cooperation in development should
19 be carried out to the maximum extent possible through the
20 private sector, particularly those institutions which already
21 have ties in the developing areas, such as educational in-
22 stitutions, cooperatives, credit unions, and voluntary agencies.

23 "(4) Development planning must be the responsibility
24 of each sovereign country. United States assistance should



1 be administered in a collaborative style to support the de-
2 velopment goals chosen by each country receiving assistance.

3 “(5) United States bilateral development assistance
4 should give the highest priority to undertakings submitted
5 by host governments which directly improve the lives of
6 the poorest majority of people and their capacity to partici-
7 pate in the development of their countries.

8 “(6) United States development assistance should con-
9 tinue to be available through bilateral channels until it is
10 clear that multilateral channels exist which can do the job
11 with no loss of development momentum.

12 “(7) Under the policy guidance of the Secretary of
13 State, the Mutual Development and Cooperation Agency
14 should have the responsibility for coordinating all United
15 States development-related activities.”.

16 (c) At the end thereof, add the following new sections:

17 “SEC. 103. FOOD AND NUTRITION.—In order to pre-
18 vent starvation, hunger, and malnutrition, and to provide
19 basic services to the people living in rural areas and enhance
20 their capacity for self-help, the President is authorized to
21 furnish assistance, on such terms and conditions as he may
22 determine, for agriculture, rural development, and nutrition.
23 There are authorized to be appropriated to the President
24 for the purposes of this section, in addition to funds other-
25 wise available for such purposes, \$300,000,000 for each of

1 the fiscal years 1974 and 1975, which amounts are author-
2 ized to remain available until expended.

3 “SEC. 104. POPULATION PLANNING AND HEALTH.—
4 In order to increase the opportunities and motivation for
5 family planning, to reduce the rate of population growth, to
6 prevent and combat disease, and to help provide health serv-
7 ices for the great majority, the President is authorized to
8 furnish assistance on such terms and conditions as he may
9 determine, for population planning and health. There are
10 authorized to be appropriated to the President for the pur-
11 poses of this section, in addition to funds otherwise available
12 for such purposes, \$150,000,000 for each of the fiscal years
13 1974 and 1975, which amounts are authorized to remain
14 available until expended.

15 “SEC. 105. EDUCATION AND HUMAN RESOURCE DE-
16 VELOPMENT.—In order to reduce illiteracy, to extend basic
17 education, and to increase manpower training in skills re-
18 lated to development, the President is authorized to furnish
19 assistance on such terms and conditions as he may determine,
20 for education, public administration, and human resource de-
21 velopment. There are authorized to be appropriated to the
22 President for the purposes of this section, in addition to funds
23 otherwise available for such purposes, \$115,000,000 for each
24 of the fiscal years 1974 and 1975, which amounts are au-
25 thorized to remain available until expended.



1 "SEC. 106. SELECTED DEVELOPMENT PROBLEMS.—

2 The President is authorized to furnish assistance on such
3 terms and conditions as he may determine, to help solve
4 economic and social development problems in fields such
5 as transportation and power, industry, urban development,
6 and export development. There are authorized to be appro-
7 priated to the President for the purposes of this section, in
8 addition to funds otherwise available for such purposes,
9 \$93,000,000 for each of the fiscal years 1974 and 1975,
10 which amounts are authorized to remain available until
11 expended.

12 SEC. 107. SELECTED COUNTRIES AND ORGANIZA-

13 TIONS.—The President is authorized to furnish assistance on
14 such terms and conditions as he may determine, in support
15 of the general economy of recipient countries or for devel-
16 opment programs conducted by private or international
17 organizations. There are authorized to be appropriated to
18 the President for the purposes of this section, in addition
19 to funds otherwise available for such purposes, \$60,000,000
20 for each of the fiscal years 1974 and 1975, which amounts
21 are authorized to remain available until expended.

22 "SEC. 108. APPLICATION OF EXISTING PROVISIONS.—

23 Assistance under this chapter shall be furnished in accord-
24 ance with the provisions of title I, II, VI, or X of chapter 2
25 of this part, and nothing in this chapter shall be construed

1 to make inapplicable the restrictions, criteria, authorities, or
2 other provisions of this or any other Act in accordance with
3 which assistance furnished under this chapter would other-
4 wise have been provided.

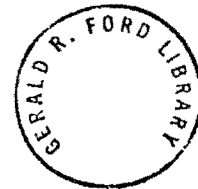
5 "SEC. 109. TRANSFER OF FUNDS.—Notwithstanding
6 the preceding section, whenever the President determines it
7 to be necessary for the purposes of this chapter, not to ex-
8 ceed 15 per centum of the funds made available for any pro-
9 vision of this chapter may be transferred to, and consolidated
10 with, the funds made available for any other provision of this
11 chapter, and may be used for any of the purposes for which
12 such funds may be used, except that the total in the provi-
13 sion for the benefit of which the transfer is made shall not be
14 increased by more than 25 per centum of the amount of
15 funds made available for such provision."

16 DEVELOPMENT LOAN FUND

17 SEC. 4. Section 203 of chapter 2 of part I of the Foreign
18 Assistance Act of 1961, relating to fiscal provisions, is
19 amended as follows:

20 (a) Strike out "the Mutual Security Act of 1954, as
21 amended," and insert in lieu thereof "predecessor foreign as-
22 sistance legislation".

23 (b) Strike out "for the fiscal year 1970, for the fiscal
24 year 1971, for the fiscal year 1972, and for the fiscal year
25 1973 for use for the purposes of this title, for loans under



1 title VI, and for the purposes of section 232” and insert in
2 lieu thereof “for the fiscal years 1974 and 1975 for use for
3 the purposes of chapter 1 of this part and part VI of this
4 Act”.

5 TECHNICAL COOPERATION AND DEVELOPMENT GRANTS

6 SEC. 5. Title II of chapter 2 of part I of the Foreign
7 Assistance Act of 1961, relating to technical cooperation and
8 development grants, is amended as follows:

9 (a) In section 211 (a), relating to general authority,
10 in the last sentence immediately after the word “assistance”
11 insert the word “directly”.

12 (b) In section 214, relating to authorization for Ameri-
13 can schools and hospitals abroad, strike out subsections (c)
14 and (d) and insert in lieu thereof the following:

15 “(c) To carry out the purposes of this section, there
16 are authorized to be appropriated to the President for the
17 fiscal year 1974, \$20,000,000, and for the fiscal year 1975,
18 \$20,000,000, which amounts are authorized to remain avail-
19 able until expended.

20 “(d) There are authorized to be appropriated to the
21 President to carry out the purposes of this section, in addi-
22 tion to funds otherwise available for such purposes, for the
23 fiscal year 1974, \$7,000,000, and for the fiscal year 1975,
24 \$7,000,000, in foreign currencies which the Secretary of

1 the Treasury determines to be excess to the normal require-
2 ments of the United States.

3 “(e) Amounts appropriated under this section shall
4 not be used to furnish assistance under this section in any
5 fiscal year to more than four institutions in the same country,
6 and not more than one such institution shall be a university
7 and not more than one such institution shall be a hospital.”.

8 HOUSING GUARANTIES

9 SEC. 6. Title III of chapter 2 of part I of the Foreign
10 Assistance Act of 1961, relating to housing guaranties, is
11 amended as follows:

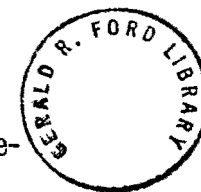
12 (a) In section 221, relating to worldwide housing
13 guaranties, strike out “\$205,000,000” and insert in lieu
14 thereof “\$305,000,000”.

15 (b) In section 223 (i), relating to general provisions,
16 strike out “June 30, 1974” and insert in lieu thereof “June
17 30, 1976”.

18 OVERSEAS PRIVATE INVESTMENT CORPORATION

19 SEC. 7. Title IV of chapter 2 of part I of the Foreign
20 Assistance Act of 1961, relating to the Overseas Private In-
21 vestment Corporation, is amended as follows:

22 (a) In section 235 (a) (4), relating to issuing authority
23 of the Overseas Private Investment Corporation, strike out



1 "June 30, 1974" and insert in lieu thereof "June 30,
2 1975".

3 (b) In section 240 (h), relating to agricultural credit
4 and self-help community development projects, strike out
5 "June 30, 1973" and insert in lieu thereof "June 30, 1975".

6 ALLIANCE FOR PROGRESS

7 SEC. 8. Section 252 (b) of title VI of chapter 2 of
8 part I of the Foreign Assistance Act of 1961, relating to
9 authorization of appropriations, is amended to read as
10 follows:

11 "(b) There are hereby authorized to be appropriated
12 to the President for the fiscal year 1974, \$968,000, and
13 for the fiscal year 1975, \$968,000, for grants to the Na-
14 tional Association of the Partners of the Alliance, Inc. in
15 accordance with the purposes of this title."

16 PROGRAMS RELATING TO POPULATION GROWTH

17 SEC. 9. Section 292 of title X of chapter 2 of part I
18 of the Foreign Assistance Act of 1961, relating to authori-
19 zation, is amended by striking out "1972 and 1973" and
20 inserting in lieu thereof "1974 and 1975".

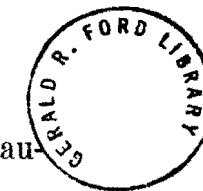
21 INTERNATIONAL ORGANIZATIONS AND PROGRAMS

22 SEC. 10. Chapter 3 of part I of the Foreign Assistance
23 Act of 1961, relating to international organizations and pro-
24 grams, is amended as follows:

1 (a) At the end of section 301, relating to general au-
2 thority, add the following new subsection:

3 "(e) (1) In the case of the United Nations and its
4 affiliated organizations, including the International Atomic
5 Energy Agency, the President shall, acting through the
6 United States representative to such organizations, propose
7 and actively seek the establishment by the governing author-
8 ities of such organizations a single professionally qualified
9 group of appropriate size for the purpose of providing an
10 independent and continuous program of selective examina-
11 tion, review, and evaluation of the program and activities of
12 such organizations. Such proposal shall provide that such
13 group shall be established in accordance with such terms of
14 reference as such governing authority may prescribe and that
15 the reports of such group on each examination, review, and
16 evaluation shall be submitted directly to such governing au-
17 thority for transmittal to the representative of each individual
18 member nation. Such proposal shall further include a state-
19 ment of auditing and reporting standards, as prepared by the
20 Comptroller General of the United States, for the considera-
21 tion of the governing authority of the international organiza-
22 tion concerned to assist in formulating terms of reference for
23 such review and evaluation group.

24 "(2) In the case of the International Bank for Recon-



1 struction and Development and the Asian Development
 2 Bank, the President shall, acting through the United States
 3 representative to such organizations, propose and actively
 4 seek the establishment by the governing authorities of such
 5 organizations professionally qualified groups of appropriate
 6 size for the purpose of providing independent and contin-
 7 uous program of selective examination, review, and evalua-
 8 tion of the program and activities of such organizations. Such
 9 proposal shall provide that such groups shall be established
 10 in accordance with such terms of reference as such govern-
 11 ing authorities may prescribe and that the reports of such
 12 groups on each examination, review, and evaluation shall be
 13 submitted directly to such governing authority for transmit-
 14 tal to the representative of each individual member nation.
 15 Such proposal shall further include a statement of auditing
 16 and reporting standards, as prepared by the Comptroller
 17 General of the United States, for the consideration of the
 18 governing authority of the international organization con-
 19 cerned to assist in formulating terms of reference for such
 20 review and evaluation groups.

21 “(3) Reports received by the United States representa-
 22 tives to these international organizations under this subsec-
 23 tion and related information on actions taken as a result of
 24 recommendations made therein shall be submitted promptly
 25 to the President for transmittal to the Congress and to the

1 Comptroller General. The Comptroller General shall periodi-
 2 cally review such reports and related information and shall
 3 report simultaneously to the Congress and to the President
 4 any suggestions the Comptroller General may deem appro-
 5 priate concerning auditing and reporting standards followed
 6 by such groups, the recommendations made and actions taken
 7 as a result of such recommendations.”.

8 (b) In section 302 (a), strike out “for the fiscal year
 9 1972, \$138,000,000 and for the fiscal year 1973, \$138,-
 10 000,000” and insert in lieu thereof, “for the fiscal year
 11 1974, \$127,800,000 and for the fiscal year 1975, such
 12 sums as may be necessary”.

13 (c) In section 302 (b) (2), strike out “for use in the
 14 fiscal year 1972, \$15,000,000, and for use in the fiscal year
 15 1973, \$15,000,000” and insert in lieu thereof “for use in
 16 the fiscal year 1974, \$15,000,000, and for use in the fiscal
 17 year 1975, \$15,000,000.”.

18 (d) Section 302 (d) is amended to read as follows:
 19 “(d) Of the funds provided to carry out the provisions
 20 of this chapter for each of the fiscal years 1974 and 1975,
 21 \$18,000,000 shall be available in each such fiscal year only
 22 for contributions to the United Nations Children’s Fund.”.

23 (e) In section 302 (e), strike out “\$1,000,000 for the
 24 fiscal year 1972 and \$1,000,000 for the fiscal year 1973”



1 and insert in lieu thereof "\$2,000,000 for the fiscal year
2 1974 and \$2,000,000 for the fiscal year 1975".

3 CONTINGENCY FUND

4 SEC. 11. Subsection (a) of section 451 of chapter 5
5 of part I of the Foreign Assistance Act of 1961, relating
6 to the contingency fund, is amended as follows:

7 (a) Strike out "for the fiscal year 1972 not to exceed
8 \$30,000,000, and for the fiscal year 1973 not to exceed
9 \$30,000,000" and insert in lieu thereof "for the fiscal year
10 1974 not to exceed \$30,000,000, and for the fiscal year
11 1975 not to exceed \$30,000,000".

12 (b) Strike out the proviso contained in the first sen-
13 tence of such subsection and at the end of such subsection
14 add the following: "In addition to the amounts author-
15 ized to be appropriated by this subsection, there are au-
16 thorized to be appropriated such additional amounts as may
17 be required from time to time to provide relief, rehabilitation,
18 and related assistance in the case of extraordinary disaster
19 situations. Amounts appropriated under this subsection are
20 authorized to remain available until expended."

21 INTERNATIONAL NARCOTICS CONTROL

22 SEC. 12. (a) Section 481 of chapter 8 of part I of the
23 Foreign Assistance Act of 1961, relating to international
24 narcotics control, is amended by inserting "(a)" immediately

1 after "INTERNATIONAL NARCOTICS CONTROL.—" and by
2 adding at the end thereof the following new subsection:

3 "(b) (1) Not later than forty-five days after the date
4 on which each calendar quarter of each year ends, the Presi-
5 dent shall transmit to the Speaker of the House of Repre-
6 sentatives, and to the Committee on Foreign Relations of the
7 Senate, a report on the programing and obligation, per calen-
8 dar quarter, of funds under this chapter prior to such date.

9 "(2) Not later than forty-five days after the date on
10 which the second calendar quarter of each year ends and not
11 later than forty-five days after the date on which the fourth
12 calendar quarter of each year ends, the President shall trans-
13 mit to the Speaker of the House of Representatives, and to
14 the Committee on Foreign Relations of the Senate, a com-
15 plete and detailed semiannual report on the activities and
16 operations carried out under this chapter prior to such date.
17 Such semiannual report shall include, but shall not be limited
18 to—

19 "(A) the status of each agreement concluded prior
20 to such date with other countries to carry out the pur-
21 poses of this chapter; and

22 "(B) the aggregate of obligations and expenditures
23 made, and the types and quantity of equipment provided,
24 per calendar quarter, prior to such date—



1 “(i) to carry out the purposes of this chapter
2 with respect to each country and each international
3 organization receiving assistance under this chap-
4 ter, including the cost of United States personnel
5 engaged in carrying out such purposes in each such
6 country and with each such international organiza-
7 tion;

8 “(ii) to carry out each program conducted un-
9 der this chapter in each country and by each inter-
10 national organization, including the cost of United
11 States personnel engaged in carrying out each such
12 program; and

13 “(iii) for administrative support services with-
14 in the United States to carry out the purposes of
15 this chapter, including the cost of United States per-
16 sonnel engaged in carrying out such purposes in the
17 United States.”

18 (b) Section 482 of chapter 8 of part I of the For-
19 eign Assistance Act of 1961, relating to authorization,
20 is amended by striking out “\$42,500,000” and all that
21 follows down through the period at the end of such section
22 and inserting in lieu thereof “\$50,000,000 for each of the
23 fiscal years 1974 and 1975. Amounts appropriated under
24 this section are authorized to remain available until
25 expended.”

1 COOPERATIVE ECONOMIC EXPANSION

2 SEC. 13. Part I of the Foreign Assistance Act is
3 amended by adding at the end thereof the following new
4 chapter:

5 “CHAPTER 10—COOPERATIVE ECONOMIC EXPANSION

6 “SEC. 495. COOPERATIVE ECONOMIC EXPANSION.—
7 The President is authorized to use up to \$2,000,000 of the
8 funds made available for the purposes of this part in each of
9 the fiscal years 1974 and 1975 to assist friendly countries,
10 especially those in which United States development pro-
11 grams have been concluded or those not receiving assistance
12 under section 211, in the procurement of technical assistance
13 from United States public or private agencies or individuals.
14 Assistance under this chapter shall be for the purpose of (1)
15 encouraging development of natural resources of interest to
16 the United States, (2) encouragement of a climate favorable
17 to mutually profitable trade and development, and (3) stim-
18 ulation of markets for United States exports. Any funds
19 used for purposes of this section may be provided on a loan
20 or grant basis and may be used notwithstanding any other
21 provision of this Act.”

22 MILITARY ASSISTANCE

23 SEC. 14. Chapter 2 of part II of the Foreign Assistance
24 Act of 1961, relating to military assistance, is amended as
25 follows:



1 (a) In section 504 (a), relating to authorization, strike
2 out "\$500,000,000 for the fiscal year 1972" and insert in
3 lieu thereof "\$550,000,000 for the fiscal year 1974".

4 (b) In section 506 (a), relating to special authority,
5 strike out the words "the fiscal year 1972" wherever they
6 appear and insert in lieu thereof "the fiscal year 1974".

7 (c) Section 513 is amended—

8 (1) by striking out "THAILAND.—" in the section
9 heading and inserting in lieu thereof "THAILAND, LAOS,
10 AND VIETNAM.— (a)"; and

11 (2) by adding at the end thereof the following
12 new subsection:

13 " (b) After June 30, 1974, no military assistance shall
14 be furnished by the United States to Laos or Vietnam di-
15 rectly or through any other foreign country unless that as-
16 sistance is authorized under this Act or the Foreign Military
17 Sales Act."

18 (d) Section 514 is repealed.

19 SECURITY SUPPORTING ASSISTANCE

20 SEC. 15. Section 532 of chapter 4 of part II of the
21 Foreign Assistance Act of 1961, relating to authorization,
22 is amended by striking out "for the fiscal year 1972 not to
23 exceed \$618,000,000, of which not less than \$50,000,000
24 shall be available solely for Israel" and inserting in lieu
25 thereof "for the fiscal year 1974 not to exceed \$125,000,-

1 000 of which not less than \$50,000,000 shall be available
2 solely for Israel".

3 INTERNATIONAL MILITARY EDUCATION AND TRAINING

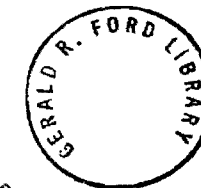
4 SEC. 16. (a) Part II of the Foreign Assistance Act of
5 1961 is amended by adding at the end thereof the following
6 new chapter:

7 "CHAPTER 5—INTERNATIONAL MILITARY EDUCATION
8 AND TRAINING

9 "SEC. 541. STATEMENT OF PURPOSE.—The purpose of
10 this chapter is to establish an international military educa-
11 tion and training program which will—

12 " (1) improve the ability of friendly foreign coun-
13 tries, through effective military education and training
14 programs relating particularly to United States military
15 methods, procedures, and techniques, to utilize their own
16 resources and equipment and systems of United States
17 origin with maximum effectiveness for the maintenance
18 of their defensive strength and internal security, thereby
19 contributing to enhanced professional military capability
20 and to greater self-reliance by the armed forces of such
21 countries;

22 " (2) encourage effective and mutually beneficial
23 relationships and enhance understanding between the
24 United States and friendly foreign countries in order to
25 maintain and foster the environment of international



1 peace and security essential to social, economic, and
2 political progress; and

3 " (3) promote increased understanding by friendly
4 foreign countries of the policies and objectives of the
5 United States in pursuit of the goals of world peace and
6 security.

7 "SEC. 542. GENERAL AUTHORITY.—The President is
8 authorized in furtherance of the purposes of this chapter, to
9 provide military education and training by grant, contract,
10 or otherwise, including—

11 " (1) attendance by military and related civilian per-
12 sonnel of friendly foreign countries at military educa-
13 tional and training facilities in the United States (other
14 than the Service Academies) and abroad;

15 " (2) attendance by military and related civilian
16 personnel of friendly foreign countries in special courses
17 of instruction at schools and institutions of learning or
18 research in the United States and abroad;

19 " (3) observation and orientation visits by foreign
20 military and related civilian personnel to military fa-
21 cilities and related activities in the United States and
22 abroad; and

23 " (4) activities that will otherwise assist and en-
24 courage the development and improvement of the mili-
25 tary education and training of members of the armed

1 forces and related civilian personnel of friendly foreign
2 countries so as to further the purposes of this chapter,
3 including but not limited to the assignment of noncom-
4 batant military training instructors, and the furnishing of
5 training aids, technical, educational and informational
6 publications and media of all kinds.

7 "SEC. 543. AUTHORIZATION.—To carry out the pur-
8 poses of this chapter, there are authorized to be appropriated
9 to the President \$30,000,000 for the fiscal year 1974.
10 Amounts appropriated under this section are authorized to
11 remain available until expended.

12 "SEC. 544. ANNUAL REPORTS.—The President shall
13 submit no later than December 31 each year a report to the
14 Congress of activities carried on and obligations incurred
15 during the immediately preceding fiscal year in furtherance
16 of the purposes of this chapter. Each such report shall contain
17 a full description of the program and the funds obligated with
18 respect to each country concerning which activities have been
19 carried on in furtherance of the purposes of this chapter."

20 (b) The Foreign Assistance Act of 1961 is amended
21 as follows:

22 (1) Section 503 (d), relating to general author-
23 ity, is amended by striking out the comma and the
24 words "including those relating to training or advice".

25 (2) Section 504 (a), relating to authorization, is



1 amended by striking out "(other than training in the
2 United States)".

3 (3) Section 510, relating to restrictions on train-
4 ing foreign military students, is repealed.

5 (4) Section 622, relating to coordination with for-
6 eign policy, is amended as follows:

7 (A) In subsection (b) immediately after the
8 phrase "(including civic action)" insert the words
9 "and military education and training".

10 (B) Subsection (c) is amended to read as
11 follows:

12 "(c) Under the direction of the President, the Secre-
13 tary of State shall be responsible for the continuous supervi-
14 sion and general direction of economic assistance, military
15 assistance and military education and training programs, in-
16 cluding but not limited to determining whether there shall be
17 a military assistance (including civic action) or a military
18 education and training program for a country and the value
19 thereof, to the end that such programs are effectively in-
20 tegrated both at home and abroad and the foreign policy of
21 the United States is best served thereby."

22 (5) Section 623, relating to the Secretary of De-
23 fense, is amended as follows:

24 (A) In subsection (a) (4), immediately after

1 the word "military", insert the words "and related
2 civilian".

3 (B) In subsection (a) (6), immediately after
4 the word "assistance", insert a comma and the
5 words "education and training".

6 (6) Section 632, relating to allocation and reim-
7 bursement among agencies, is amended by inserting in
8 subsections (a), (b), and (e) immediately after the
9 word "articles", wherever it appears, a comma and the
10 words "military education and training".

11 (7) Section 636, relating to provisions on uses of
12 funds, is amended as follows:

13 (A) In subsection (g) (1), immediately after
14 the word "articles", insert a comma and the words
15 "military education and training,".

16 (B) In subsection (g) (2), strike out the word
17 "personnel" and insert in lieu thereof the words
18 "and related civilian personnel".

19 (8) Section 644, relating to definitions, is amended
20 as follows:

21 (A) Subsection (f) is amended to read as
22 follows:

23 "(f) 'Defense service' includes any service, test, inspec-
24 tion, repair, publication, or technical or other assistance or



1 defense information used for the purposes of furnishing mil-
2 itary assistance, but shall not include military educational
3 and training activities under chapter 5 of part II.”.

4 (B) There is added at the end thereof the fol-
5 lowing new subsection:

6 “(n) ‘Military education and training’ includes formal
7 or informal instruction of foreign students in the United
8 States or overseas by officers or employees of the United
9 States, contract technicians, contractors (including in-
10 struction at civilian institutions), or by correspondence
11 courses, technical, educational, or information publications
12 and media of all kinds, training aids, orientation, and mili-
13 tary advice to foreign military units and forces.”.

14 (c) Except as may be expressly provided to the con-
15 trary in this Act, all determinations, authorizations, regula-
16 tions, orders, contracts, agreements, and other actions issued,
17 undertaken or entered into under authority of any provision
18 of law amended or repealed by this section shall continue in
19 full force and effect until modified by appropriate authority.

20 (d) Funds made available pursuant to other provisions
21 of law for foreign military educational and training activi-
22 ties shall remain available for obligation and expenditure for
23 their original purposes in accordance with the provisions of
24 law originally applicable thereto, or in accordance with the
25 provisions of law currently applicable to those purposes.

PROHIBITIONS

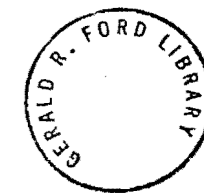
1
2 SEC. 17. (a) Section 620 (e) of chapter 1 of part III
3 of the Foreign Assistance Act of 1961, relating to expro-
4 priation, is amended by striking out paragraph (1), by
5 striking out “(2)” at the beginning of paragraph (2), and
6 by striking out “subsection: *Provided*, That this sub-
7 paragraph” and inserting in lieu thereof “section (as in
8 effect before the date of the enactment of the Mutual De-
9 velopment and Cooperation Act of 1973): *Provided*, That
10 this subsection”.

11 (b) Section 620 (n) of such chapter, relating to equip-
12 ment materials or commodities furnished to North Vietnam,
13 is amended by striking out the period at the end thereof and
14 inserting in lieu thereof a comma and the following: “unless
15 the President finds and reports, within thirty days of such
16 finding, to the Committee on Foreign Relations of the Senate
17 and the Committee on Foreign Affairs of the House that such
18 assistance is in the national interest of the United States.”.

19 (c) Section 620 (o) of such chapter, relating to seizure
20 of fishing vessels, is repealed.

EMPLOYMENT OF PERSONNEL

21
22 SEC. 18. Section 625 of chapter 2 of part III of the
23 Foreign Assistance Act of 1961, relating to employment of
24 personnel, is amended by adding at the end thereof the
25 following new subsection:

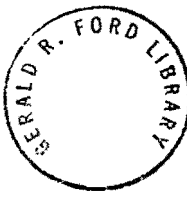


1 “(k) (1) In accordance with such regulations as the
2 President may prescribe, the following categories of per-
3 sonnel who serve in the Agency for International Develop-
4 ment shall become participants in the Foreign Service Re-
5 tirement and Disability System:

6 “(A) Persons serving under unlimited appointments in
7 employment subject to section 625 (d) (2) of this Act as
8 Foreign Service Reserve officers and as Foreign Service staff
9 officers and employees; and

10 “(B) A person serving in a position to which he was
11 appointed by the President, whether with or without the
12 advice and consent of the Senate, provided that (1) such
13 person shall have served previously under an unlimited
14 appointment pursuant to said section 625 (d) (2) or a com-
15 parable provision of predecessor legislation to this Act, and
16 (2) following service specified in proviso (1) such person
17 shall have served continuously with the Agency for Inter-
18 national Development or its predecessor agencies only in
19 positions established under the authority of sections 624 (a)
20 and 631 (b) or comparable provisions of predecessor legis-
21 lation to this Act.

22 “(2) Upon becoming a participant in the Foreign Serv-
23 ice Retirement and Disability System, any such officer or
24 employee shall make a special contribution to the Foreign
25 Service Retirement and Disability Fund in accordance with



1 the provisions of section 852 of the Foreign Service Act of
2 1946, as amended. Thereafter, compulsory contributions will
3 be made with respect to each such participating officer or
4 employee in accordance with the provisions of section 811
5 of the Foreign Service Act of 1946, as amended.

6 “(3) The provisions of section 636 and title VIII of
7 the Foreign Service Act of 1946, as amended, shall apply
8 to participation in the Foreign Service Retirement and Dis-
9 ability System by any such officer or employee.

10 “(4) If an officer who became a participant in the For-
11 eign Service Retirement and Disability System under para-
12 graph (1) of this subsection is appointed by the President,
13 by and with the advice and consent of the Senate, or by the
14 President alone, to a position in any Government agency, any
15 United States delegation or mission to any international or-
16 ganization, in any international commission, or in any inter-
17 national body, such officer shall not, by virtue of the accept-
18 ance of such an appointment, lose his status as a participant in
19 the system.

20 “(5) Any such officer or employee who becomes a par-
21 ticipant in the Foreign Service Retirement and Disability
22 System under paragraph (1) of this subsection shall be man-
23 datorily retired (a) at the end of the month in which he
24 reaches age seventy or (b) earlier if, during the third year
25 after the effective date of this subsection, he attains age

1 sixty-four or if he is over age sixty-four; during the fourth
 2 year at age sixty-three; during the fifth year at age sixty-
 3 two; during the sixth year at age sixty-one; and thereafter
 4 at the end of the month in which he reaches age sixty:
 5 *Provided*, That no participant shall be mandatorily retired
 6 under this paragraph while serving in a position to which
 7 appointed by the President, by and with the advice and
 8 consent of the Senate. Any participant who completes a
 9 period of authorized service after reaching the mandatory
 10 retirement age specified in this paragraph shall be retired
 11 at the end of the month in which such service is completed.

12 “(6) Whenever the President deems it to be in the
 13 public interest, he may extend any participant’s service for
 14 a period not to exceed five years after the mandatory retire-
 15 ment date of such officer or employee.

16 “(7) This subsection shall become effective on the first
 17 day of the first month which begins more than one year
 18 after the date of its enactment, except that any officer or
 19 employee who, before such effective date, meets the re-
 20 quirements for participation in the Foreign Service Retire-
 21 ment and Disability System under paragraph (1) of this
 22 subsection may elect to become a participant before the ef-
 23 fective date of this subsection. Such officer or employee shall
 24 become a participant on the first day of the second month
 25 following the date of his application for earlier participation.

1 Any officer or employee who becomes a participant in the
 2 system under the provisions of paragraph (1) of this sub-
 3 section, who is age fifty-seven or over on the effective date
 4 of this subsection, may retire voluntarily at any time before
 5 mandatory retirement under paragraph (5) of this sub-
 6 section and receive retirement benefits under section 821 of
 7 the Foreign Service Act of 1946, as amended.

8 “(8) Any officer or employee who is separated for
 9 cause while a participant in the Foreign Service Retire-
 10 ment and Disability System pursuant to this subsection, shall
 11 be entitled to benefits in accordance with subsections 637
 12 (b) and (d) of the Foreign Service Act of 1946, as
 13 amended. The provisions of section 625 (e) of this Act
 14 shall apply to participants in lieu of the provisions of sec-
 15 tions 633 and 634 of the Foreign Service Act of 1946, as
 16 amended.”.

17 REPORTS AND INFORMATION

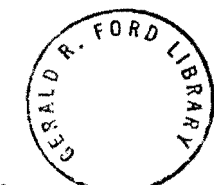
18 SEC. 19. Section 634 of chapter 2 of part III of the
 19 Foreign Assistance Act of 1961, relating to reports and in-
 20 formation, is amended by striking out subsection (f) and
 21 inserting in lieu thereof the following new subsections:

22 “(f) The President shall transmit to the Speaker of the
 23 House of Representatives and to the Committee on Foreign
 24 Relations of the Senate, a comprehensive report showing, as
 25 of June 30 and December 31 of each year, the status of



1 each loan, and each contract of guarantee or insurance, there-
 2 tofore made under this Act, with respect to which there re-
 3 mains outstanding any unpaid obligation or potential liabil-
 4 ity; the status of each sale of defense articles or defense serv-
 5 ices on credit terms, and each contract of guarantee in con-
 6 nection with any such sale, theretofore made under the For-
 7 eign Military Sales Act, with respect to which there remains
 8 outstanding any unpaid obligation or potential liability; the
 9 status of each sale of agriculture commodities on credit terms
 10 theretofore made under the Agricultural Trade Development
 11 and Assistance Act of 1954, with respect to which there re-
 12 mains outstanding any unpaid obligation; and the status of
 13 each transaction in which a loan, contract of guarantee or
 14 insurance, or extension of credit (or participation therein)
 15 was theretofore made under the Export-Import Bank Act
 16 of 1945, with respect to which there remains outstanding any
 17 unpaid obligation or potential liability: *Provided, however,*
 18 That this report shall report individually only those loans,
 19 contracts, sales, extensions of credit, or other transactions
 20 listed above in excess of \$1,000,000.

21 : “(g) The President shall transmit to the Speaker of
 22 the House of Representatives and to the Committee on
 23 Foreign Relations of the Senate, not later than January 31
 24 of each year, a comprehensive report, based upon the
 25 latest data available, showing—



1 “(1) a summary of the worldwide dimensions of
 2 debt-servicing problems among such countries, together
 3 with a detailed statement of the debt-servicing prob-
 4 lems of each such country;

5 “(2) a summary of all forms of debt relief granted
 6 by the United States with respect to such countries, to-
 7 gether with a detailed statement of the specific debt relief
 8 granted with respect to each such country and the pur-
 9 pose for which it was granted;

10 “(3) a summary of the worldwide effect of the debt
 11 relief granted by the United States on the availability
 12 of funds, authority, or other resources of the United
 13 States to make any such loan, sale, contract of guarantee
 14 or insurance, or extension of credit, together with a de-
 15 tailed statement of the effect of such debt relief with
 16 respect to each such country; and

17 “(4) a summary of the net aid flow from the United
 18 States to such countries, taking into consideration the
 19 debt relief granted by the United States, together with
 20 a detailed analysis of such net aid flow with respect to
 21 each such country.”

22 ADMINISTRATIVE EXPENSES

23 SEC. 20. Section 637 (a) of chapter 2 of part III of
 24 the Foreign Assistance Act of 1961, relating to authoriza-
 25 tions for administrative expenses, is amended by striking out

1 "for the fiscal year 1972, \$50,000,000, and for the fiscal
2 year 1973, \$50,000,000," and inserting in lieu thereof "for
3 the fiscal year 1974, \$53,100,000 and for the fiscal year
4 1975, \$53,100,000".

5 FAMINE AND DISASTER RELIEF AND AFRICAN SAHEL

6 DEVELOPMENT PROGRAM

7 SEC. 21. Chapter 2 of part III of the Foreign Assistance
8 Act of 1961 is amended by striking out section 639 and in-
9 serting in lieu thereof the following new sections:

10 "SEC. 639. FAMINE AND DISASTER RELIEF.—Notwith-
11 standing the provisions of this or any other Act, the Presi-
12 dent is authorized to furnish famine or disaster relief or
13 rehabilitation or related assistance abroad on such terms and
14 conditions as he may determine.

15 "SEC. 639A. FAMINE AND DISASTER RELIEF TO THE
16 AFRICAN SAHEL.—(a) The Congress affirms the response
17 of the United States Government in providing famine and
18 disaster relief and related assistance in connection with the
19 drought in the Sahelian nations of Africa.

20 "(b) Notwithstanding any prohibitions or restrictions
21 contained in this or any other Act, there is authorized to be
22 appropriated to the President, in addition to funds otherwise
23 available for such purposes, \$30,000,000 to remain available
24 until expended, for use by the President, under such terms
25 and conditions as he may determine, for emergency and re-

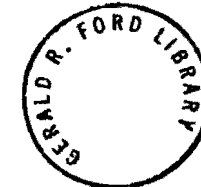
1 covery needs, including drought, famine, and disaster relief,
2 and rehabilitation and related assistance, for the drought-
3 stricken Sahelian nations of Africa.

4 "SEC. 639B. AFRICAN SAHEL DEVELOPMENT PRO-
5 GRAM.—The Congress supports the initiative of the United
6 States Government in undertaking consultations and plan-
7 ning with the countries concerned, with other nations provid-
8 ing assistance, with the United Nations, and with other con-
9 cerned international and regional organizations, toward the
10 development and support of a comprehensive long-term Afri-
11 can Sahel development program."

12 ADMINISTRATIVE PROVISIONS

13 SEC. 22. Chapter 2 of part III of the Foreign Assist-
14 ance Act of 1961, relating to administrative provisions, is
15 amended by adding at the end thereof the following new
16 sections:

17 "SEC. 640B. COORDINATION.—(a) The President shall
18 establish a system for coordination of United States policies
19 and programs which affect United States interests in the
20 development of low-income countries. To that end, the
21 President shall establish a Development Coordination Com-
22 mittee which shall advise him with respect to coordination
23 of United States policies and programs affecting the develop-
24 ment of the developing countries, including programs of bi-
25 lateral and multilateral development assistance. The Com-



1 mittee shall include the Administrator, Mutual Development
2 and Cooperation Agency, Chairman; and representatives of
3 the Departments of State, Treasury, Commerce, Agriculture,
4 and Labor, the Executive Office of the President, and other
5 executive departments and agencies, as the President shall
6 designate.

7 “(b) The President shall prescribe appropriate pro-
8 cedures to assure coordination among the various depart-
9 ments and agencies of the United States Government having
10 representatives in diplomatic missions abroad.

11 “(c) Programs authorized by this Act shall be under-
12 taken with the foreign policy guidance of the Secretary of
13 State.

14 “(d) The President shall report to the Congress during
15 the first quarter of each calendar year on United States
16 actions affecting the development of the low-income coun-
17 tries and on the impact of those undertakings upon the na-
18 tional income, employment, wages and working conditions
19 in the United States.

20 “SEC. 640C. SHIPPING DIFFERENTIAL.—For the pur-
21 pose of facilitating implementation of section 901 (b) of the
22 Merchant Marine Act, 1936 (49 Stat. 1985; 46 U.S.C.

1 1241 (b)), funds made available for the purposes of chapter
2 1 of part I or for purposes of part VI may be used to make
3 grants to recipients under this part to pay all or any portion
4 of such differential as is determined by the Secretary of
5 Commerce to exist between United States and foreign-flag
6 vessel charter or freight rates. Grants made under this sec-
7 tion shall be paid with United States-owned foreign cur-
8 rencies wherever feasible.”

9 MISCELLANEOUS PROVISIONS

10 SEC. 23. Chapter 3 of part III of the Foreign Assistance
11 Act of 1961, relating to miscellaneous provisions, is amended
12 by adding at the end thereof the following new sections:

13 “SEC. 659. ANNUAL NORTH ATLANTIC TREATY MILI-
14 TARY ORGANIZATION REPORT.—(a) The Secretary of De-
15 fense and the Secretary of State shall submit to the Speaker
16 of the House of Representatives and to the Committees on
17 Appropriations, Armed Services, and Foreign Relations of
18 the Senate, on or before January 15 of each year a report
19 of—

20 “(1) the direct, indirect, and unallocated costs to
21 the United States of participation in the North Atlantic
22 Treaty Organization (hereinafter in this section referred



1 to as the 'Organization') for the last fiscal year preced-
2 ing the fiscal year in which the report is submitted;

3 " (2) the estimated direct, indirect, and unallocated
4 costs to the United States of participation in the Orga-
5 nization for the fiscal year in which the report is sub-
6 mitted;

7 " (3) the amounts requested from Congress (or
8 estimated to be requested) for the direct, indirect, and
9 unallocated costs to the United States of participation in
10 the Organization for the first fiscal year following the
11 fiscal year in which the report is submitted;

12 " (4) the estimated impact of expenditures related
13 to United States participation in the Organization on the
14 United States balance of payments including a detailed
15 description of the offsets to such United States expendi-
16 tures.

17 For each such direct, indirect, and unallocated cost, the Acts
18 of Congress authorizing such cost and appropriating funds
19 for such cost shall be listed next to such cost in the report.

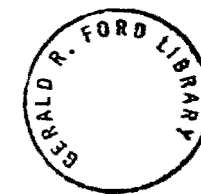
20 " (b) For the purposes of this section—

21 " (1) the term 'direct costs' includes funds the
22 United States contributes directly to any budget of the
23 Organization (including the infrastructure program);

1 " (2) the term 'indirect costs' includes funds the
2 United States spends to assign and maintain United
3 States civilian employees for the Organization, funds
4 spent for Government research and development attrib-
5 utable to the Organization, contributions to the Organiza-
6 tion sponsored organizations, and military assistance fur-
7 nished under part II of this Act, and sales of defense
8 articles or defense services under the Foreign Military
9 Sales Act, to member nations of the Organization; and

10 " (3) the term 'unallocated costs' includes (i) funds
11 the United States spends to maintain United States
12 Armed Forces committed exclusively or primarily for
13 the Organization in Europe, the United States, or on the
14 open seas, or to remove such Armed Forces from such
15 commitment, and (ii) funds the United States spends on
16 facilities constructed and maintained for such forces.

17 " (c) All information contained in any report trans-
18 mitted under this section shall be public information, except
19 information that the Secretary of Defense or the Secretary of
20 State designates in such report as information required to be
21 kept secret in the interest of the national defense or foreign
22 policy.



INDOCHINA POSTWAR RECONSTRUCTION

1 SEC. 24. The Foreign Assistance Act of 1961 is amended
2
3 by adding at the end thereof the following new part:

"PART V

"CHAPTER 1. POLICY

4
5 "SEC. 801. STATEMENT OF POLICY.—It is the purpose
6 of this part to (1) authorize immediate high-priority hu-
7 manitarian relief assistance to the people of South Vietnam,
8 Cambodia, and Laos, particularly to refugees, orphans,
9 widows, disabled persons, and other war victims, and (2)
10 to assist the people of those countries to return to a normal
11 peacetime existence in conformity with the Agreement on
12 Ending the War and Restoring the Peace in Vietnam, the
13 cease-fire agreement for Laos, and any cease-fire agreement
14 that may be reached in Cambodia. In this effort United
15 States bilateral assistance should focus on critical problems
16 in those sectors which affect the lives of the majority of the
17 people in Indochina: food, nutrition, health, population plan-
18 ning, education, and human resource development. United
19 States assistance should be carried out to the maximum ex-
20 tent possible through the private sector, particularly those
21 voluntary organizations which already have ties in that
22 region.
23

"CHAPTER 2.—GENERAL AUTHORITY AND
AUTHORIZATION

1 "SEC. 821. GENERAL AUTHORITY.—The President is
2 authorized to furnish, on such terms and conditions as he
3 may determine, assistance for relief and reconstruction of
4 South Vietnam, Cambodia, and Laos, including especially
5 humanitarian assistance to refugees, civilian war casualties,
6 and other persons disadvantaged by hostilities or conditions
7 related to those hostilities in South Vietnam, Cambodia, and
8 Laos. No assistance shall be furnished under this section to
9 South Vietnam unless the President receives assurances satis-
10 factory to him that no assistance furnished under this part,
11 and no local currencies generated as a result of assistance
12 furnished under this part, will be used for support of po-
13 lice, or prison construction and administration, within South
14 Vietnam.
15

16 "SEC. 822. AUTHORIZATION.—There are authorized to
17 be appropriated to the President to carry out the purposes of
18 this chapter, in addition to funds otherwise available for such
19 purposes, for the fiscal year 1974 not to exceed \$632,-
20 000,000, which amount is authorized to remain available
21 until expended.
22

23 "SEC. 823. CENTER FOR PLASTIC AND RECONSTRUC-



1 TIVE SURGERY IN SAIGON.—Of the funds appropriated pur-
 2 suant to section 822 for the fiscal year 1974, not less than
 3 \$712,000 shall be available solely for furnishing assistance
 4 to the Center for Plastic and Reconstructive Surgery in
 5 Saigon.

6 “SEC. 824. ASSISTANCE TO SOUTH VIETNAMESE CHIL-
 7 DREN.—(a) It is the sense of the Congress that inadequate
 8 provision has been made (1) for the establishment, ex-
 9 pansion, and improvement of day care centers, orphanages,
 10 hostels, school feeding programs, health and welfare pro-
 11 grams, and training related to these programs which are
 12 designed for the benefit of South Vietnamese children, disad-
 13 vantaged by hostilities in Vietnam or conditions related to
 14 those hostilities, and (2) for the adoption by United States
 15 citizens of South Vietnamese children who are orphaned or
 16 abandoned, or whose parents or sole surviving parent, as the
 17 case may be, has irrevocably relinquished all parental rights,
 18 particularly children fathered by United States citizens.

19 “(b) The President is, therefore, authorized to provide
 20 assistance, on terms and conditions he considers appropriate,
 21 for the purposes described in clauses (1) and (2) of sub-
 22 section (a) of this section. Of the funds appropriated pur-
 23 suant to section 822 for fiscal year 1974, \$5,000,000, or its
 24 equivalent in local currency, shall be available until expended
 25 solely to carry out this section. Not more than 10 percent of

1 the funds made available to carry out this section may be
 2 expended for the purposes referred to in clause (2) of sub-
 3 section (a). Assistance provided under this section shall be
 4 furnished, to the maximum extent practicable, under the
 5 auspices of and by international agencies or private voluntary
 6 agencies.

7 “CHAPTER 3.—CONSTRUCTION WITH OTHER LAWS

8 “SEC. 831. AUTHORITY.—All references to part I,
 9 whether heretofore or hereafter enacted, shall be deemed
 10 to be references also to this part unless otherwise specifically
 11 provided. The authorities available to administer part I of
 12 this Act shall be available to administer programs authorized
 13 in this part.”

14 UNITED STATES EXPORT DEVELOPMENT CREDIT FUND

15 SEC. 25. (a) The Foreign Assistance Act of 1961, as
 16 amended by section 24 of this Act, is amended by adding at
 17 the end thereof the following new part:

18 “PART VI

19 “SEC. 901. GENERAL AUTHORITY.—(a) In the interest
 20 of increasing United States exports to the lowest income
 21 countries, thereby contributing to high levels of employment
 22 and income in the United States and to the establishment
 23 and maintenance of long-range, growing export markets,
 24 while promoting development of such countries, the Presi-
 25 dent shall establish a fund, to be known as the ‘United States



1 Export Development Credit Fund', to be used by the Pres-
2 ident to carry out the authority contained in this part.

3 " (b) The President is authorized to provide extensions
4 of credit, upon reasonable assurances of repayment, for the
5 purpose of facilitating the sale to the lowest income countries
6 of United States goods and services which advance mutual
7 development. The provisions of section 201 (d) of this Act
8 shall apply to extensions of credit under this part. The au-
9 thority contained in this part shall be used to extend credit in
10 connection with the sale of goods and services which are of
11 developmental character, with due regard for the objectives
12 stated in section 102 (b) of this Act.

13 " (c) The receipts and disbursements of the Fund in the
14 discharge of its functions shall be treated for purposes of
15 the budget of the United States Government in the same
16 fashion as the receipts and disbursements of the Export-Im-
17 port Bank of the United States under section 2 (a) (2) of the
18 Export-Import Bank Act of 1945.

19 "SEC. 902. FINANCING.—(a) As may hereafter be
20 provided in annual appropriation Acts, the President is au-
21 thorized to borrow from whatever source he deems appro-
22 priate, during the period beginning on the date of enactment
23 of this part and ending on December 31, 1977, and to issue
24 and sell such obligations as he determines necessary to carry
25 out the purposes of this part. The aggregate amount of such

1 obligations outstanding at any one time shall not exceed one-
2 fourth of the amount specified in section 7 of the Export-Im-
3 port Bank Act of 1945 on July 1, 1973. The dates of is-
4 suance, the maximum rates of interest, and other terms and
5 conditions of the obligations issued under this subsection will
6 be determined by the Secretary of the Treasury with the ap-
7 proval of the President. Obligations issued under the au-
8 thority of this section shall be obligations of the Government
9 of the United States of America, and the full faith and credit
10 of the United States of America is hereby pledged to the full
11 payment of principal and interest thereon. For the purpose
12 of any purchase of the obligations issued under this part, the
13 Secretary of the Treasury is authorized to use as a public
14 debt transaction the proceeds from the sale of any securities
15 issued under the Second Liberty Bond Act, as now or here-
16 after in force, and purposes for which securities may be issued
17 under the Second Liberty Bond Act, as now or hereafter in
18 force, are extended to include any purchases of the obliga-
19 tions issued under this part. The Secretary of the Treasury
20 may, at any time, sell any of the obligations acquired by him
21 under this section. All redemptions, purchases, and sales by
22 the Secretary of such obligations shall be treated as public
23 debt transactions of the United States.

24 " (b) Except as otherwise provided in section 906, the
25 amounts borrowed under subsection (a) of this section shall



1 be paid into the Fund and used to carry out the purposes of
 2 this part. Any difference between the interest to be repaid
 3 on export credits made under this part and the interest paid
 4 by the Fund on obligations incurred under subsection (a)
 5 of this section shall be paid into the Fund out of receipts
 6 specified in section 203 of this Act.

7 “(c) Receipts from loans made pursuant to this part are
 8 authorized to be made available for the purposes of this part.
 9 Such receipts and other funds made available for the pur-
 10 poses of this part shall remain available until expended.

11 “SEC. 903. LENDING CEILING AND TERMINATION.—
 12 (a) The United States Export Development Credit Fund
 13 shall not have outstanding at any one time loans in an aggre-
 14 gate amount in excess of one-fourth of the amount specified
 15 in section 7 of the Export-Import Bank Act of 1945 on
 16 July 1, 1973.

17 “(b) The United States Export Development Credit
 18 Fund shall continue to exercise its functions in connection
 19 with and in furtherance of its objects and purposes until the
 20 close of business on December 31, 1977, but the provisions
 21 of this section shall not be construed as preventing the Fund
 22 from acquiring obligations prior to such date which mature
 23 subsequent to such date or from assuming prior to such date
 24 liability as acceptor of obligations which mature subsequent
 25 to such date, or from issuing either prior or subsequent to

1 such date, for purchase by the Secretary of the Treasury or
 2 any other purchasers, its obligations which mature subse-
 3 quent to such date or from continuing as an agency of the
 4 United States and exercising any of its functions subsequent
 5 to such date for purposes of orderly liquidation, including the
 6 administration of its assets and the collection of any obliga-
 7 tions held by the Fund.

8 “SEC. 904. REPORTS TO THE CONGRESS.—The Presi-
 9 dent shall transmit to the Congress semiannually a complete
 10 and detailed report of the operations of the United States
 11 Export Development Credit Fund. The report shall be as of
 12 the close of business on June 30 and December 31 of each
 13 year and shall be submitted not later than ninety days there-
 14 after.

15 “SEC. 905. ADMINISTRATION OF FUND.—(a) The
 16 President shall establish a committee to advise him on the
 17 exercise of the functions conferred upon him by this part. The
 18 committee shall include the Secretary of Commerce, the
 19 Secretary of the Treasury, the Secretary of State, the Presi-
 20 dent of the Export-Import Bank, and the Administrator of
 21 the Mutual Development and Cooperation Agency.

22 “(b) The authorities available to administer part I of
 23 this Act or any portion thereof, shall be available to ad-
 24 minister this part.

25 “SEC. 906. PROVISION FOR LOSSES.—Ten per centum



1 of the amount authorized to be borrowed under subsection
2 902 (a) shall be reserved and may be used to cover any
3 losses incurred on loans extended under this part. Receipts
4 specified in section 203 of this Act may also be paid into the
5 Fund for the purpose of compensating the Fund for any such
6 losses.

7 "SEC. 907. EXPORT-IMPORT BANK POWERS.—Nothing
8 in this part shall be construed as a limitation on the powers
9 of the Export-Import Bank of the United States.

10 "SEC. 908. PROHIBITION ON LOANS FOR DEFENSE AR-
11 TICLES OR SERVICES.—The authority contained in this part
12 shall not be used to extend credit in connection with the sale
13 of defense articles or defense services. This provision may
14 not be waived pursuant to section 614 of this Act or pursu-
15 ant to any other provision of this or any other Act.

16 "SEC. 909. DEFINITIONS.—As used in this part, 'lowest-
17 income countries' are those countries which need concessional
18 foreign exchange financing from the United States or other
19 international donors to finance goods and services on terms
20 they can reasonably afford, with particular emphasis on coun-
21 tries in which per capita national product is less than \$375
22 a year."

23 (b) (1) Section 624 (d) (5) of chapter 2 of part III of
24 the Foreign Assistance Act of 1961, relating to audits by the
25 Inspector General, Foreign Assistance, is amended by insert-

1 ing "The United States Export Development Credit Fund
2 under part VI of this Act," immediately before "and part IV
3 of the Foreign Assistance Act of 1969".

4 (2) Section 638 of chapter 2 of part III of the Foreign
5 Assistance Act of 1961, relating to assistance under other
6 legislation, is amended by inserting "; or under part VI of
7 this Act" immediately before the period at the end thereof.

8 MEANING OF REFERENCES

9 SEC. 26. All references to the Foreign Assistance Act
10 of 1961 and to the Agency for International Development
11 shall be deemed to be references also to the Mutual Develop-
12 ment and Cooperation Act and to the Mutual Development
13 and Cooperation Agency, respectively. All references in the
14 Mutual Development and Cooperation Act to "the agency
15 primarily responsible for administering part I" shall be
16 deemed references also to the Agency for International De-
17 velopment. All references to the Mutual Development and
18 Cooperation Act and to the Mutual Development and Co-
19 operation Agency shall, where appropriate, be deemed
20 references also to the Foreign Assistance Act of 1961 and
21 to the Agency for International Development, respectively.

22 FOREIGN MILITARY SALES

23 SEC. 27. The Foreign Military Sales Act is amended as
24 follows:



1 (a) (1) In section 3 of chapter 1, relating to eligibility,
2 strike out subsection (b).

3 (2) Add the following new subsection at the end of such
4 section 3:

5 “(b) No sophisticated weapons, including sophisticated
6 jet aircraft or spare parts and associated ground equipment
7 for such aircraft, shall be furnished under this or any other
8 Act to any foreign country on or after the date that the
9 President determines that such country has violated any
10 agreement it has made in accordance with paragraph (2) of
11 subsection (a) of this section or section 505 (a) of the Mu-
12 tual Development and Cooperation Act or any other provi-
13 sion of law requiring similar agreements. The prohibition
14 contained in the preceding sentence shall not apply on or
15 after the date that the President determines that such viola-
16 tion has been corrected and such agreement complied with.
17 Such country shall remain ineligible in accordance with this
18 subsection until such time as the President determines that
19 such violation has ceased, that the country concerned has
20 given assurances satisfactory to the President that such viola-
21 tion will not reoccur, and that, if such violation involved the
22 transfer of sophisticated weapons without the consent of the
23 President, such weapons have been returned to the country
24 concerned.”.

1 (b) In section 23 of chapter 2, relating to credit sales,
2 strike out “ten” and insert in lieu thereof “twenty”.

3 (c) In section 24 (a) of chapter 2, relating to guaran-
4 ties, strike out “doing business in the United States”.

5 (d) In section 24 (c) of chapter 2, relating to guaran-
6 ties:

7 (1) strike out “pursuant to section 31” and insert
8 in lieu thereof “to carry out this Act”; and

9 (2) insert “principal amount of” immediately be-
10 fore the words “contractual liability” wherever they
11 appear.

12 (e) In section 31 (a) of chapter 3, relating to authoriza-
13 tion, strike out “\$400,000,000 for the fiscal year 1972” and
14 insert in lieu thereof “\$450,000,000 for the fiscal year 1974”.

15 (f) In section 31 (b) of chapter 3, relating to authoriza-
16 tion, strike out “(excluding credits covered by guaranties
17 issued pursuant to section 24 (b)) and of the face amount of
18 guaranties issued pursuant to sections 24 (a) and (b) shall
19 not exceed \$550,000,000 for the fiscal year 1972, of which
20 amount not less than \$300,000,000 shall be available to
21 Israel only” and insert in lieu thereof “and of the principal
22 amount of loans guaranteed pursuant to section 24 (a) shall
23 not exceed \$760,000,000 for the fiscal year 1974, of which



1 amount not less than \$300,000,000 shall be available to
2 Israel only”.

3 (g) In section 33 (a) of chapter 3, relating to aggre-
4 gate regional ceilings:

5 (1) strike out “of cash sales pursuant to sections 21
6 and 22,”;

7 (2) strike out “(excluding credits covered by
8 guaranties issued pursuant to section 24 (b)), of the
9 face amount of contracts of guaranty issued pursuant to
10 sections 24 (a) and (b)” and insert in lieu thereof “of
11 the principal amount of loans guaranteed pursuant to
12 section 24 (a)”;

13 (3) strike out “\$100,000,000” and insert in lieu
14 thereof “\$150,000,000”.

15 (h) In section 33 (b) of chapter 3, relating to aggre-
16 gate regional ceilings:

17 (1) strike out “of cash sales pursuant to sections
18 21 and 22,”;

19 (2) strike out “(excluding credits covered by guar-
20 anties issued pursuant to section 24 (b)), of the face
21 amount of contracts of guaranty issued pursuant to sec-
22 tions 24 (a) and (b)” and insert in lieu thereof “of
23 the principal amount of loans guaranteed pursuant to
24 section 24 (a)”.

1 (i) In section 33 (c) of chapter 3, relating to aggre-
2 gate regional ceilings:

3 (1) strike out “expenditures” and insert in lieu
4 thereof “amounts of assistance, credits, guaranties, and
5 ship loans”;

6 (2) strike out “of cash sales pursuant to sections
7 21 and 22,”; and

8 (3) strike out “(excluding credits covered by
9 guaranties issued pursuant to section 24 (b)), of the
10 face amount of contracts of guaranty issued pursuant to
11 sections 24 (a) and (b)” and insert in lieu thereof “of
12 the principal amount of loans guaranteed pursuant to
13 section 24 (a)”.

14 (j) In section 36 of chapter 3, relating to reports on
15 commercial and governmental military exports, strike out
16 subsection (a) and redesignate subsections (b) and (c) as
17 subsections (a) and (b), respectively.

18 (k) In section 37 (b) of chapter 3, relating to fiscal pro-
19 visions, insert after “indebtedness” the following: “under sec-
20 tion 24 (b) (excluding such portion of the sales proceeds
21 as may be required at the time of disposition to be obligated
22 as a reserve for payment of claims under guaranties issued
23 pursuant to section 24 (b), which sums are hereby made
24 available for such obligations)”.



FISHERMEN'S PROTECTIVE ACT OF 1967

1 SEC. 28. Section 5 of the Fishermen's Protective Act
2 of 1967 is repealed.

REVISION OF SOCIAL PROGRESS TRUST FUND AGREEMENT

3 SEC. 29. (a) The President or his delegate shall seek,
4 as soon as possible, a revision of the Social Progress Trust
5 Fund Agreement (dated June 19, 1961) between the
6 United States and the Inter-American Development Bank.
7 Such revision should provide for the—

8 (1) periodic transfer of unencumbered capital re-
9 sources of such trust fund, and of any future repayments
10 or other accruals otherwise payable to such trust fund,
11 to—

12 (A) the Inter-American Foundation, to be
13 administered by the Foundation for purposes of part
14 IV of the Foreign Assistance Act of 1969 (22
15 U.S.C. 290f and following) ;

16 (B) the United States Department of State to
17 be administered by the Mutual Development and
18 Cooperation Agency for purposes of sections 1 and
19 2 of the Latin American Development Act; and or

20 (C) subject to the approval of the Department
21 of State, to the United States Treasury for general
22 uses of the Government; and or

23 (2) utilization of such unencumbered capital re-
24
25

1 sources, future repayments, and other accruals by the
2 Inter-American Development Bank for purposes of sec-
3 tions 1 and 2 of the Latin American Development Act
4 (22 U.S.C. 1942 and 1943) in such a way that the
5 resources received in the currencies of the more devel-
6 oped member countries are utilized to the extent possible
7 for the benefit of the lesser developed member countries.

8 (b) Any transfer of utilization under this section shall
9 be in such proportions as may be agreed to between the
10 United States and the Inter-American Development Bank.

11 (c) Any transfer under subparagraph (A) of subsection
12 (a) (1) shall be in the amounts, and in available currencies,
13 determined in consultation with the Inter-American Founda-
14 tion, to be required for its program purposes.

15 (d) The revision of the Social Progress Trust Fund
16 Agreement pursuant to this section shall provide that the
17 President or his designee shall specify, from time to time,
18 after consultation with the Inter-American Development
19 Bank, the particular currencies to be used in making the
20 transfer or utilization described in this section.

21 (e) Not later than January 1, 1974, the President shall
22 report to Congress on his action taken pursuant to this
23 section.



Union Calendar No. 182

93^d CONGRESS
1ST SESSION

H. R. 9360

[Report No. 93-388]

A BILL

To amend the Foreign Assistance Act of 1961,
and for other purposes.

By Mr. MORGAN

JULY 18, 1973

Referred to the Committee on Foreign Affairs

JULY 20, 1973

Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

LEGISLATION:

LABOR

Pensions (S. 1557; H.R. 6900)
(Employee Benefits Protection Act)

BACKGROUND:

Special Message 4/11/73



PROVISIONS:

Provides for the reform of the private pension system.

STATUS:

A. HOUSE: Erlenborn Introduced H.R. 6900, Adm. bill, on 4/12/73
Chairman Dent is holding informal sessions on his
bill, H.R. 2. It appears House is waiting for Senate
to make the first move.

B. SENATE: S. 1557 still pending in Labor Committee. Williams/
Javits bill, S. 4, now on Senate calendar. Senate
could consider S. 4 prior to August recess (Byrd
listed the bill as one to be taken up in July). This
measure is objectionable. Senate Finance Committee
also considering pension legislation.

OUTLOOK:

The President very likely will receive a measure he'll have to
veto this fall.

Erlenborn's new bill is H.R. 9232, attached.

93^d CONGRESS
1ST SESSION

H. R. 9232



IN THE HOUSE OF REPRESENTATIVES

JULY 12, 1973

Mr. ERLBORN (for himself, Mr. QUIE, Mr. HANSEN of Idaho, Mr. KEMP, Mr. SARASIN, Mr. HUBER, Mr. DELLENBACK, Mr. STEIGER of Wisconsin, and Mr. TOWELL of Nevada) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To revise the Welfare and Pension Plans Disclosure Act, and to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Multi-
5 protection of Employee Retirement Income and Trust Act".

6 FINDINGS AND DECLARATION OF POLICY

7 SEC. 2. (a) The Congress finds that the growth in size,
8 scope, and numbers of employee benefit plans in recent years

1 has been rapid and substantial; that the operational scope
 2 and economic impact of such plans is increasingly interstate;
 3 that the continued well-being and security of millions of
 4 employees and their dependents are directly affected by
 5 these plans; that they are affected with a national public
 6 interest; that they have become an important factor affecting
 7 the stability of employment and the successful development
 8 of industrial relations; that they have become an important
 9 factor in commerce because of the interstate character of
 10 their activities, and of the activities of their participants, and
 11 the employers, employee organizations, and other entities
 12 by which they are established or maintained; that a large
 13 volume of the activities carried on by such plans are affected
 14 by means of the mails and instrumentalities of interstate
 15 commerce; that owing to the lack of employee information
 16 and adequate safeguards concerning their operation, it is
 17 desirable in the interests of employees and their beneficiaries,
 18 and to provide for the general welfare and the free flow of
 19 commerce, that disclosure be made and safeguards be pro-
 20 vided with respect to the establishment, operation, and
 21 administration of such plans; that they substantially affect
 22 the revenues of the United States because they are afforded
 23 preferential Federal tax treatment; that despite the enor-
 24 mous growth in such plans many employees with long years
 25 of employment are losing anticipated retirement benefits

1 owing to the lack of vesting provisions in such plans; that
 2 owing to the inadequacy of current minimum standards,
 3 the soundness and stability of plans with respect to adequate
 4 funds to pay promised benefits may be endangered; and
 5 that it is therefore desirable in the interests of employees
 6 and their beneficiaries, for the protection of the revenue of
 7 the United States, and to provide for the free flow of com-
 8 merce, that minimum standards be provided assuring the
 9 equitable character of such plans and their financial sound-
 10 ness.

11 (b) It is hereby declared to be the policy of this Act
 12 to protect interstate commerce and the interests of partici-
 13 pants in employee benefit plans and their beneficiaries, by
 14 requiring the disclosure and reporting to participants and
 15 beneficiaries of financial and other information with respect
 16 thereto, by establishing standards of fiduciary conduct, re-
 17 sponsibility, and obligation upon all persons who exercise
 18 any powers of control, management, or disposition with
 19 respect to employee benefit funds or have authority or
 20 responsibility to do so, or have authority or responsibility
 21 in the administration of employee benefit plans, and by
 22 providing for appropriate remedies, sanctions, and ready
 23 access to the Federal courts.

24 (c) It is hereby further declared to be the policy of
 25 this Act to protect interstate commerce, the Federal taxing



1 power, and the interests of participants in private pension
 2 plans and their beneficiaries by improving the equitable
 3 character and the soundness of such plans by requiring them
 4 to adopt reasonable vesting standards, and to meet mini-
 5 mum standards of funding.

6 DEFINITIONS

7 SEC. 3. For purposes of this Act:

8 (1) The term "employee welfare benefit plan" means
 9 any plan, fund, or program which is communicated or its
 10 benefits described in writing to the employees, and which
 11 was heretofore or is hereafter established or maintained by
 12 an employer or by an employee organization, or by both,
 13 for the purpose of (A) providing for its participants or their
 14 beneficiaries, through the purchase of insurance or otherwise,
 15 medical, surgical, or hospital care benefits, or benefits in
 16 the event of sickness, accident, disability, death or unemploy-
 17 ment, or vacation benefits, apprenticeship or other training
 18 programs, or day care centers, scholarship funds, or prepaid
 19 legal services, or (B) in the case of a fund subject to the
 20 restrictions of section 302 (c) of the Labor Management
 21 Relations Act, 1947, providing any other benefit which may
 22 be permitted by section 302 (c) (5), 302 (c) (6), or 302
 23 (c) (7) of that Act.

24 (2) The term "employee pension benefit plan" or
 25 "pension plan" means any plan, fund, or program which is

1 communicated or its benefits described in writing to the em-
 2 ployees, and which was heretofore or is hereafter established
 3 or maintained by an employer or by an employee organiza-
 4 tion, or by both, for the purpose of providing for its partici-
 5 pants or their beneficiaries, by the purchase of insurance or
 6 annuity contracts or otherwise, retirement benefits, and in-
 7 cludes any deferred profit-sharing plan which provides bene-
 8 fits at or after retirement.

9 (3) The term "employee benefit plan" or "plan" means
 10 an employee welfare benefit plan or an employee pension
 11 benefit plan or a plan providing both welfare and pension
 12 benefits.

13 (4) The term "registered plan" means a pension plan
 14 with respect to which a certificate of registration is in effect
 15 under section 401 of this Act.

16 (5) The term "individual account plan" means an em-
 17 ployee pension benefit plan which provides an individual
 18 account for each participant and where the benefits payable at
 19 or after retirement are based solely upon the amount con-
 20 tributed to the participant's account and any accumulated in-
 21 vestment gains or losses thereon.

22 (6) The term "profit-sharing plan" or "profit-sharing-
 23 retirement plan" means a plan established and maintained by
 24 an employer to provide for the participation in the profits of
 25 the employer by the employees in accordance with a definite



1 predetermined formula for allocating the contributions made
 2 to the plan among the participants and for distributing the
 3 funds accumulated under the plan upon retirement or death.
 4 Such plan may include provisions permitting the withdrawal
 5 or distribution of the funds accumulated upon contingencies
 6 other than, and in addition to, retirement and death.

7 (7) The term "stock bonus plan" means a plan estab-
 8 lished and maintained by an employer to provide benefits
 9 similar to those of a profit-sharing plan, except that the
 10 contributions by the employer are not necessarily depend-
 11 ent upon profits and the benefits are distributable in stock
 12 of the employer company.

13 (8) The term "thrift or savings plan" means a bona
 14 fide thrift or savings plan which qualifies under regulation
 15 prescribed under section 7 (e) (3) (b) of the Fair Labor
 16 Standards Act of 1938.

17 (9) The term "employee organization" means any
 18 labor union or any organization of any kind, or any agency
 19 or employee representation committee, association, group,
 20 or plan, in which employees participate and which exists for
 21 the purpose in whole or in part, of dealing with employ-
 22 ers concerning an employee benefit plan, or other matters
 23 incidental to employment relationships; or any employees'
 24 beneficiary association organized for the purpose, in whole
 25 or in part, of establishing such a plan.

1 (10) The term "employer" means any person acting
 2 directly as an employer or indirectly in the interest of an
 3 employer in relation to an employee benefit plan, and shall
 4 include any State or political subdivision of a State and in-
 5 cludes a group or association of employers acting for an
 6 employer in such capacity.

7 (11) The term "employee" means any individual em-
 8 ployed by an employer.

9 (12) The term "participant" means any employee or
 10 former employee of an employer or any member or former
 11 member of an employee organization who is or may become
 12 eligible to receive a benefit of any type from an employee
 13 benefit plan which covers employees of such employer or
 14 members of such organization, or whose beneficiaries may be
 15 eligible to receive any such benefit.

16 (13) The term "beneficiary" means a person designated
 17 by a participant or by the terms of an employee benefit plan
 18 who is or may become entitled to a benefit thereunder.

19 (14) The term "person" means an individual, partner-
 20 ship, corporation, mutual company, joint-stock company,
 21 trust, unincorporated organization, association, or employee
 22 organization.

23 (15) The term "State" includes any State of the United
 24 States, the District of Columbia, Puerto Rico, the Virgin
 25 Islands, American Samoa, Guam, Wake Island, and the



1 Canal Zone. The term "United States" when used in the
2 geographic sense means the States and the Outer Continental
3 Shelf lands defined in the Outer Continental Shelf Lands
4 Act (43 U.S.C. 1331-1343).

5 (16) The term "commerce" means trade, traffic, com-
6 merce, transportation, or communication between any State
7 and any place outside of such State.

8 (17) The term "industry or activity affecting com-
9 merce" means any activity, business, or industry in com-
10 merce or in which a labor dispute would hinder or obstruct
11 commerce or the free flow of commerce and includes any
12 activity or industry "affecting commerce" within the mean-
13 ing of the Labor Management Relations Act, 1947, or the
14 Railway Labor Act.

15 (18) The term "Secretary" means the Secretary of
16 Labor.

17 (19) The term "party in interest" means any adminis-
18 trator, officer, trustee, custodian, counsel, or employee of any
19 employee benefit plan, or a person providing benefit plan
20 services to any such plan, or an employer any of whose em-
21 ployees are covered by such a plan or any person controlling,
22 controlled by, or under common control with, such employer
23 or officer or employee or agent of such employer or such per-
24 son, or an employee organization having members covered by
25 such plan, or an officer or employee or agent of such an

1 employee organization having members covered by such plan,
2 or a relative or partner of, or joint venturer with, any of the
3 above described persons.

4 (20) The term "relative" means a spouse, ancestor,
5 child, grandchild, brother, sister, son-in-law, daughter-in-law,
6 father-in-law, mother-in-law, brother-in-law, or sister-in-law.

7 (21) The term "administrator" means—

8 (A) the person specifically so designated by the
9 terms of the plan, collective bargaining agreement, trust
10 agreement, contract, or other instrument, under which
11 the plan is operated;

12 (B) in the absence of such designation, (i) the
13 employer in the case of an employee benefit plan estab-
14 lished or maintained by a single employer, (ii) the
15 employee organization in the case of a plan established
16 or maintained by an employee organization, or (iii)
17 the association, committee, joint board of trustees, or
18 other similar group of representatives of the parties who
19 established or maintain the plan, in the case of a plan
20 established or maintained by two or more employers or
21 jointly by one or more employers and one or more
22 employee organizations, or

23 (C) any person other than one named in subpara-
24 graph (A) or (B) who has the authority to amend the
25 terms of the plan or the authority to compel action under



1 the terms of the plan on the part of any person named
2 in subparagraph (A) or (B).

3 (22) The term "qualified actuary" means an actuary
4 who is a member of the American Academy of Actuaries or
5 who meets qualifications as the Secretary may establish by
6 regulation.

7 (23) The term "multiemployer pension plan" means a
8 collectively bargained pension plan to which a substantial
9 number of unaffiliated employers are required to contribute
10 and which covers a substantial portion of the industry in
11 terms of employees or a substantial number of employees in
12 the industry in a particular geographic area.

13 (24) The term "unaffiliated employers" means em-
14 ployers other than those under common ownership or con-
15 trol, or having the relationship of parent-subsidiary, or
16 directly or indirectly controlling or controlled by another
17 employer.

18 (25) The term "fiscal year of the plan" means the
19 calendar, policy, or fiscal year on which the records of the
20 plan are kept.

21 (26) The term "separate account" means an account
22 established or maintained by an insurance company under
23 which income, gains, and losses, whether or not realized,
24 from assets allocated to such account, are, in accordance with
25 the applicable contract, credited to or charged against such

1 account without regard to other income, gains, or losses of
2 the insurance company.

3 (27) The term "adequate consideration" when used in
4 section 111 means (A) in the case of a security for which
5 there is a generally recognized market, either (i) the price
6 of the security prevailing on a national securities exchange
7 which is registered with the Securities and Exchange Com-
8 mission, or (ii) if the security is not traded on such a national
9 securities exchange, a price not less favorable to the plan
10 than the offering price for the security as established by the
11 current bid and asked prices quoted by persons independent
12 of the issuer and of any party in interest; and (B) in the
13 case of an asset other than a security for which there is a
14 generally recognized market, the fair market value of the
15 asset as determined, in good faith by the trustee or ad-
16 ministrator.

17 (28) The term "security" has the same meaning as
18 such term has under section 2(1) of the Securities Act of
19 1933 (15 U.S.C. 77b(1)).

20 (29) The term "fiduciary" means any person who ex-
21 ercises any power of control, management, or disposition or
22 renders investment advice for a fee or other compensation
23 direct or indirect, with respect to any moneys or other
24 property of an employee benefit plan, or has any authority
25 or responsibility to do so, or who has any authority or



1 responsibility in the administration of an employee benefit
2 plan.

3 (30) The term "current value" means fair market value
4 where available and otherwise the fair value as determined
5 in good faith by the trustee or administrator, assuming an
6 orderly liquidation as of the statement date.

7 (31) The term "present value" with respect to an asset
8 means either cost, adjusted for subsequent price fluctuations,
9 or market value, adjusted to reflect anticipated events; and
10 with respect to a liability, it means the value adjusted to
11 reflect anticipated events. Such adjustments shall conform
12 to such rules and regulations as the Secretary may provide.

13 (32) The term "nonforfeitable pension benefit" or "non-
14 forfeitable benefit right" means a legal claim obtained by a
15 participant or a beneficiary to that part of an immediate or
16 deferred pension benefit, which arises from a participant's
17 service and is no longer contingent on continued service, or
18 continuation of the plan, or any other obligation to the em-
19 ployer, sponsoring organization, or other party in interest.
20 Such term shall not include benefits payable only if the plan
21 terminates.

22 (33) The term "accrued portion of the regular retire-
23 ment benefit" means the amount of benefit determined under
24 section 206 of this Act.

25 (34) The term "regular retirement benefit" for a par-

1 ticipant means only a benefit which, under the terms of the
2 plan, commences and is payable in unreduced form at the
3 earliest age at which the participant has met the age require-
4 ments, or service requirements, or both, for retirement. Reg-
5 ular retirement benefits exclude benefits payable only upon
6 plan termination or upon proof of disability.

7 (35) "Unfunded accrued liability" means the excess of
8 the accrued liability, under an actuarial cost method which
9 so provides, over the present value of the assets of a pension
10 plan.

11 (36) The term "advance funding actuarial cost method"
12 or "actuarial cost method" means a widely used and well
13 recognized actuarial technique used by qualified actuaries
14 for establishing the amount and incidence of the annual
15 actuarial cost of pension plan benefits and expenses. Accept-
16 able actuarial cost methods shall include the accrued benefit
17 cost method (unit credit method), the entry age normal
18 cost method, the individual level premium cost method, the
19 aggregate cost method, the attained age normal cost method,
20 and the frozen initial liability cost method. The terminal fund-
21 ing cost method and the current funding (pay-as-you-go)
22 cost method are not acceptable actuarial cost methods. The
23 Secretary shall issue regulations to further define acceptable
24 actuarial cost methods.

25 (37) The term "actuarial loss" means the positive



1 difference between the actual and expected unfunded accrued
 2 liability for a pension plan, under an actuarial cost method
 3 which provides for an accrued liability, as a result of devia-
 4 tions between actual prior experience and the experience
 5 expected using the set of actuarial assumptions concerning
 6 future events. Such losses may result from unexpected un-
 7 favorable investment experience and from the use of errone-
 8 ous data. The Secretary shall issue regulations, where neces-
 9 sary, to further define actuarial loss under other acceptable
 10 actuarial cost methods.

11 (38) The term "actuarial gain" means the negative dif-
 12 ference between the actual and expected unfunded accrued
 13 liability for a pension plan, under an actuarial cost method
 14 which provides for an accrued liability, as a result of devia-
 15 tions between actual prior experience and the experience
 16 expected using the set of actuarial assumptions concerning
 17 future events. Such gains may result from unexpected favor-
 18 able investment experience and from the correction of er-
 19 roneous data. The Secretary shall issue regulations, where
 20 necessary, to further define actuarial gain under other ac-
 21 ceptable actuarial cost methods.

22 (39) The term "present value of an annuity certain due"
 23 means the single sum required to pay \$1 at the beginning of
 24 each year for N years assuming interest is earned at the rate
 25 i per annum. Algebraically, the present value of an annuity

1 certain due for N years at an interest rate of i per annum
 2 equals:

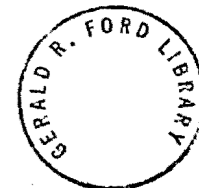
$$3 \quad 1 + \left(\frac{1}{1+i}\right) + \left(\frac{1}{1+i}\right)^2 + \left(\frac{1}{1+i}\right)^3 + \dots + \left(\frac{1}{1+i}\right)^{N-1}$$

4 (40) The term "normal service cost" or "normal cost"
 5 means the annual cost of future pension benefits and ad-
 6 ministrative expenses assigned, under an actuarial cost meth-
 7 od, to years subsequent to a particular valuation date of a
 8 pension plan.

9 (41) The term "accrued liability", under an actuarial
 10 cost method which so provides, means the excess of the
 11 present value, as of a particular valuation date of a pension
 12 plan, of the projected future benefit costs and administra-
 13 tive expenses for all plan participants and beneficiaries over
 14 the present value of future contributions for the normal cost
 15 for all applicable plan participants and beneficiaries.

16 (42) The term "funding" shall mean payment or trans-
 17 fer of assets to a plan, and shall also include payment to an
 18 insurance carrier pursuant to an agreement with such carrier.

19 (43) If any money or other property of an employee
 20 benefit plan are invested in shares of an investment company
 21 registered under the Investment Company Act of 1940,
 22 such investment shall not by itself cause such investment
 23 company or such investment company's investment adviser
 24 or principal underwriter to be deemed to be a "fiduciary"
 25 or a "party in interest" as those terms are defined in this



1 Act, without a further showing of discretionary responsi-
 2 bility for the plan's investment decisions, except insofar as
 3 such investment company or its investment adviser or prin-
 4 cipal underwriter acts in connection with an employee bene-
 5 fit plan covering employees of the investment company, the
 6 investment adviser, or its principal underwriter. Nothing
 7 contained in this paragraph shall limit the duties imposed on
 8 such investment company, investment adviser, or principal
 9 underwriter by any other law.

10 (44) The term "regular retirement age" for a partici-
 11 pant means the earliest age at which regular retirement
 12 benefits would have become payable without reduction had
 13 the participant continued in active service until that age.

14 TITLE I—FIDUCIARY RESPONSIBILITY AND

15 DISCLOSURE

16 COVERAGE

17 SEC. 101. (a) Except as provided in subsection (b),
 18 this title shall apply to any employee benefit plan if it is
 19 established or maintained (1) by any employer engaged in
 20 commerce or in any industry or activity affecting commerce
 21 or (2) by any employee organization in which employees
 22 engaged in commerce or in any industry or activity affecting
 23 commerce participate or (3) by both.

24 (b) This title shall not apply to an employee benefit
 25 plan if—

1 (1) such plan is administered by the Federal Gov-
 2 ernment or by an agency or instrumentality of the Fed-
 3 eral Government;

4 (2) such plan was established and is maintained
 5 solely for the purpose of complying with applicable
 6 workmen's compensation laws, unemployment compen-
 7 sation laws, and disability insurance laws, or any of
 8 them;

9 (3) such plan covers not more than twenty-five
 10 participants, except that participants and beneficiaries
 11 of such a plan shall be entitled to maintain an action
 12 to recover benefits or to clarify their rights to future
 13 benefits as provided in section 106 (e) (1) (B) ;

14 (4) such plan is established and maintained outside
 15 the United States primarily for the benefit of persons
 16 who are not citizens of the United States; or

17 (5) such plan is unfunded and is established or
 18 maintained by an employer primarily for the purpose
 19 of providing deferred compensation for a select group
 20 of management employees, and is declared by the em-
 21 ployer as not intended to meet the requirements of section
 22 401 (a) of the Internal Revenue Code of 1954.

23 DUTY OF DISCLOSURE AND REPORTING

24 SEC. 102. (a) The administrator of an employee benefit
 25 plan shall cause to be published in accordance with section



1 105 to each participant or beneficiary covered thereunder
 2 (1) a description of the plan as described in section 103 (b)
 3 and (2) an annual financial report as described in sections
 4 104 (b) (2) and 104 (e) (2) (G). Such description and
 5 such report shall contain information in such form and detail
 6 as necessary to fully and fairly disclose all pertinent facts.

7 (b) The Secretary shall require the filing of special
 8 terminal reports on behalf of an employee benefit plan which
 9 is winding up its affairs. Such reports shall be required to be
 10 filed regardless of the number of participants remaining in
 11 the plan and shall be on such forms and filed in such manner
 12 as the Secretary may by regulation prescribe.

13 DESCRIPTION OF THE PLAN

14 SEC. 103. (a) A description of any employee benefit
 15 plan shall be furnished to the Secretary, participants, and
 16 beneficiaries within two hundred and seventy days after the
 17 establishment of such plan or within two hundred and seventy
 18 days after such plan becomes subject to the title, whichever
 19 is later. Descriptions (reflecting all amendments to the plan)
 20 shall thereafter be furnished to the Secretary, participants,
 21 and beneficiaries as required by section 105.

22 (b) The description of the plan shall be comprehensive
 23 and shall be written in a manner calculated to be under-
 24 stood by the average plan participant and shall include
 25 the name and type of administration of the plan; the name

1 and address of the administrator; names, titles, and addresses
 2 of any trustee or trustees (if they are persons different from
 3 the administrator); a description of any relevant collective-
 4 bargaining agreement in which the plan is mentioned; a
 5 description and schedule of the benefits available to the par-
 6 ticipant under the plan and circumstances which may result
 7 in disqualification or ineligibility; a description of the pro-
 8 visions providing for nonforfeitable pension benefits; the
 9 procedures to be followed in presenting claims for benefits
 10 under the plan and the remedies available under the plan
 11 for the redress of claims which are denied in whole or in
 12 part; the source of the financing of the plan and the identity
 13 of any organization through which benefits are provided;
 14 whether the records of the plan are kept on a calendar year
 15 basis, or on a policy or other fiscal year basis, and if on the
 16 latter basis, the date of the end of such policy or fiscal year;
 17 and such other plan information as may be necessary, to
 18 fully and fairly disclose the rights and duties of plan partici-
 19 pants, including such information as the Secretary may re-
 20 quire by regulation. All amendments to the plan shall be in-
 21 cluded in the description on and after the effective date of
 22 such amendments.

23 ANNUAL REPORTS

24 SEC. 104. (a) (1) (A) Subject to subparagraph (B),
 25 an annual report shall be published with respect to any em-



1 ployee benefit plan to which this title applies. Such report
 2 shall be published as required under section 105, within
 3 two hundred and seventy days after the end of the calendar,
 4 policy, or fiscal year on which the records of the plan are
 5 kept (hereafter in this Act referred to as "fiscal year of the
 6 plan").

7 (B) Subparagraph (A) shall not apply to a plan unless
 8 it covers one hundred or more participants, except that the
 9 Secretary may require the administrator of any plan other-
 10 wise covered by the Act to publish such report under sub-
 11 paragraph (A) when necessary to carry out the purposes of
 12 the Act.

13 (2) If some or all of the benefits under the plan are
 14 provided by an insurance carrier or other organization, such
 15 carrier or organization shall certify to the administrator of
 16 such plan, within two hundred and forty days after the
 17 end of each calendar, policy, or other fiscal year, as the case
 18 may be, such information necessary to enable such adminis-
 19 trator to comply with the requirements of this Act.

20 (3) (A) Except as provided in subparagraph (B), the
 21 administrator of an employee benefit plan shall engage, on
 22 behalf of all plan participants, an independent qualified pub-
 23 lic accountant who shall conduct such an examination of the
 24 books and records of the plan as may be necessary to en-
 25 able him to form an opinion as to whether the financial

1 statements required to be included in the annual report by
 2 subsection (b) of this section are presented fairly in con-
 3 formity with generally accepted accounting principles ap-
 4 plied on a basis consistent with the preceding year. Such
 5 examination shall be conducted in the form of an audit in
 6 accordance with generally acceptable auditing standards,
 7 and shall involve such tests of the books and records of the
 8 plan as are considered necessary by the auditor. The opinion
 9 by the independent qualified public accountant shall be made
 10 a part of the annual report.

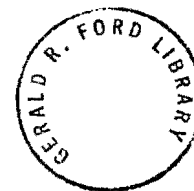
11 (B) The opinion required by subparagraph (A) need
 12 not be expressed as to any statements prepared by a bank
 13 or similar institution or insurance carrier as required by
 14 subsection 104 (b) (7) of this section if such statements
 15 are certified by the bank, similar institution, or insurance
 16 carrier as accurate and are made a part of the annual report.

17 (C) For purposes of subparagraph (A) of this para-
 18 graph, section 105 (a) (3), and section 114 (a), the term
 19 "qualified public accountant" means—

20 (i) a person who is a certified public accountant,
 21 certified by a regulatory authority of a State,

22 (ii) a person who is a licensed public accountant,
 23 licensed on or before December 31, 1973, by a regu-
 24 latory authority of a State, or

25 (iii) with respect to audits performed before Jan-



1 uary 1, 1976, any other person who meets, in the
 2 opinion of the Secretary, standards of education and
 3 experience which are representative of the highest pre-
 4 scribed by the licensing authorities of the several States
 5 which provide for the continuing licensing of public
 6 accountants and which are prescribed by the Secretary
 7 in appropriate regulations;

8 except that if the Secretary deems it necessary in the public
 9 interest, he may prescribe by regulation higher standards
 10 than those required for the practice of public accountancy
 11 by the regulatory authorities of the States, and a person
 12 shall be considered a qualified public accountant for purposes
 13 of subparagraph (A), section 105 (a) (3), and section 114
 14 (a) only if he meets such standards.

15 (D) For any plan where the sponsoring employer is any
 16 State or political subdivision of a State the term "independent
 17 qualified public accountant" shall include, for purposes of this
 18 section, any qualified public accountant employed by such
 19 State or political subdivision who is not subject to supervision
 20 or control by the officer or agency of such State which admin-
 21 isters the fund, or of any officer or agency of the State or
 22 political subdivision who is subject to supervision or control
 23 by the officer or agency which administers the plan.

24 (b) A report under this section respecting a plan shall
 25 include the following information:

1 (1) The number of employees covered by the plan;
 2 the name and address of each fiduciary, the name of
 3 each person who received compensation from the fund
 4 during the preceding year for services rendered to the
 5 plan or its participants, the amount of such compensa-
 6 tion, the nature of his service to the plan or its partici-
 7 pants, his relationship to the employer of the employees
 8 covered by the plan, or the employee organization, and
 9 any other office, position, or employment he holds with
 10 any party in interest; and an explanation of the reason
 11 for any change in appointment of trustee, qualified pub-
 12 lic accountant, insurance carrier, qualified actuary, ad-
 13 ministrator or custodian.

14 (2) A financial statement of the plan, containing—
 15 (A) a statement of the assets and liabilities of
 16 the fund aggregated by categories and valued at
 17 their current value, as well as the same data, dis-
 18 played in comparative form for the end of the pre-
 19 vious fiscal year of the plan.

20 (B) a statement of receipts and disbursements
 21 during the preceding twelve-month period aggre-
 22 gated by general sources and applications.

23 (3) A schedule of all assets held for investment pur-
 24 poses aggregated and identified by issuer, borrower or
 25 lessor or similar party to the transaction, maturity date,



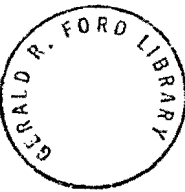
1 rate of interest, collateral, par or maturity value, cost,
2 and current value.

3 (4) A schedule of each transaction involving a per-
4 son known to be party in interest, the identity of such
5 party in interest and his relationship to the plan, em-
6 ployer, employee organization or other person; the pur-
7 chase or selling price in case of a sale or purchase, the
8 rental in case of a lease, or the interest rate and maturity
9 date in case of a loan; expenses incurred in connection
10 with the transaction; a description of each asset to which
11 the transaction relates; the cost of the asset; the current
12 value of the asset; and the net gain (or loss) on each
13 transaction.

14 (5) A schedule of all loans made from the fund
15 which were in default as of the close of the plan's fiscal
16 year or were classified during the year as uncollectable,
17 and the following information with respect to each loan
18 on such schedule: the original principal amount of the
19 loan, the amount of principal and interest received dur-
20 ing the reporting year, the unpaid balance, the identity
21 and address of the obligor, a detailed description of the
22 loan (including date of making and maturity, interest
23 rate, the type and value of collateral and other material
24 terms), the amount of principal and interest overdue (if
25 any) and an explanation thereof.

1 (6) A list of all leases which were in default or were
2 classified during the year as uncollectable; and the fol-
3 lowing information with respect to each lease on such
4 schedule: the type of property leased (and, in the case
5 of fixed assets such as land, buildings, leasehold, and so
6 forth, the location of the property), the identity of the
7 lessor or lessee from or to whom the plan is leasing, the
8 relationship of such lessors and lessees, if any, to the plan,
9 the employer, employee organization, or any other party
10 in interest, the terms of the lease regarding rent,
11 taxes, insurance, repairs, expenses, and renewal options;
12 the date the leased property was purchased and its
13 cost, the date the property was leased and its approxi-
14 mate value at such date, the gross rental receipts dur-
15 ing the reporting period, expenses paid for the leased
16 property during the reporting period, the net receipts
17 from the lease, the amounts in arrears, and a statement
18 as to what steps have been taken to collect amounts due
19 or otherwise remedy the default.

20 (7) If some or all of the assets of a plan or plans
21 are held in a common or collective trust maintained by
22 a bank or similar institution or in a separate account
23 maintained by an insurance carrier or a separate trust
24 maintained by a bank as trustee, the report shall include
25 the most recent statement of assets and liabilities of such



1 common or collective trust, and in the case of a separate
 2 account or a separate trust, such other information as is
 3 required under paragraphs (2), (3), (5) and (6) of
 4 this subsection. In such case the bank or similar institu-
 5 tion or insurance carrier shall certify to the administrator
 6 of such plan or plans, within two hundred and forty
 7 days after the end of each fiscal year of the plan the
 8 information necessary to enable the plan administrator to
 9 comply with the requirements of this title.

10 (c) If the only assets from which claims against an
 11 employee benefit plan may be paid are the general assets of
 12 the employer or the employee organization, the report shall
 13 include (for each of the past five years) the benefits paid
 14 and the average number of employees eligible for partici-
 15 pation, and a statement, if applicable, that the only assets
 16 from which claims against the plan may be paid are the
 17 general assets of the employer.

18 (d) If some or all of the benefits under the plan are
 19 provided by an insurance carrier or other similar organiza-
 20 tion such report shall include with respect to such plan (in
 21 addition to the information required by subsection (b)) the
 22 following:

23 (1) The premium rate or subscription charge and
 24 the total premium or subscription charges paid to each

1 such carrier or organization and the approximate number
 2 of persons covered by each class of such benefits.

3 (2) The total amount of premiums received, the ap-
 4 proximate number of persons covered by each class of
 5 benefits, and the total claims paid by such carrier or other
 6 organization; dividends or retroactive rate adjustments,
 7 commissions, and administrative service or other fees or
 8 other specific acquisition costs, paid by such carrier
 9 or other organization; any amounts held to provide bene-
 10 fits after retirement; the remainder of such premiums;
 11 and the names and addresses of the brokers, agents, or
 12 other persons to whom commissions or fees were paid,
 13 the amount paid to each, and for what purpose. If any
 14 such carrier or other organization does not maintain sep-
 15 arate experience records covering the specific groups it
 16 serves, the report shall include in lieu of the information
 17 required by the foregoing provisions of this paragraph

18 (A) a statement as to the basis of its premium rate or
 19 subscription charge, the total amount of premiums or
 20 subscription charges received from the plan, and a copy
 21 of the financial report of the carrier or other organiza-
 22 tion, and (B), if such carrier or organization incurs spe-
 23 cific costs in connection with the acquisition or retention
 24 of any particular plan or plans, a detailed statement of
 25 such costs.



1 (e) (1) (A) Except as provided in subparagraph (B),
 2 the annual report shall include the information set forth in
 3 subparagraph (2), prepared by a qualified actuary retained
 4 by the administrator on behalf of the plan participants. The
 5 annual report shall include an opinion by the actuary that all
 6 actuarial calculations and supporting statements required
 7 pursuant to this subsection are made in conformity with
 8 sound principles established by precedent or common usage
 9 by qualified actuaries within the actuarial profession.

10 (B) The information required under this subsection
 11 need not be furnished with respect to:

12 (i) any individual account plan,

13 (ii) any plan benefits which have been purchased
 14 from and guaranteed by a State-regulated insurance
 15 company.

16 (2) The information prepared by the actuary shall
 17 include:

18 (A) a complete copy of the report on the actuarial
 19 valuation of the plan applicable to the reporting year,
 20 which shall include a presentation of the total actuarial
 21 liabilities, applicable assets, actuarial contribution levels,
 22 and the actuarial assumptions used in these computa-
 23 tions;

24 (B) the actuarial cost method and funding vehicle;

1 (C) the number of participants, both retired and
 2 nonretired, covered by the fund;

3 (D) the current value of the assets accumulated
 4 in the fund;

5 (E) the present value of the assets of the plan used
 6 by the actuary in any computation of the amount of con-
 7 tributions to the plan required under section 302 (b) (2)
 8 and a statement explaining the basis of such asset
 9 valuation;

10 (F) the present value of all of the plan's liabilities
 11 for nonforfeitable pension benefits, and the actuarial as-
 12 sumptions used in these computations;

13 (G) the ratio of the current value of assets set forth
 14 in paragraph (D) to the present value of the liabilities
 15 described in paragraph (F) ;

16 (H) a statement explaining the reasons for any dif-
 17 ferences between the actuarial assumptions set forth
 18 under paragraph (A) and those set forth under para-
 19 graph (F) ;

20 (I) such information as required to be filed under
 21 section 302 (e) and section 303; and

22 (J) such other information as may be necessary
 23 to fully and fairly disclose the position of the fund.



PUBLICATION AND DISCLOSURE

1 PUBLICATION AND DISCLOSURE
 2 SEC. 105. (a) (1) The administrator of any employee
 3 benefit plan subject to this title shall file with the Secretary a
 4 copy of the plan description as provided in section 103 (a)
 5 and thereafter at least once every five years, except that if
 6 there is any material modification in the terms of the plan,
 7 such description shall be furnished not later than two hundred
 8 and seventy days after the change takes effect. The admin-
 9 istrator of every plan subject to section 104 shall file with the
 10 Secretary each annual report of the plan. The Secretary shall
 11 make copies of such descriptions and annual reports available
 12 for inspection in the public document room of the Depart-
 13 ment of Labor.

14 (2) The Secretary may reject any filing under this
 15 section or section 303 (a) —

16 (A) after notice, hearing, and a determination on
 17 the record by the Secretary that such filing is incom-
 18 plete for purposes of this title; or

19 (B) if he finds, after notice and opportunity for
 20 presentation of views, that there is any material quali-
 21 fication by an accountant or actuary contained in an
 22 opinion submitted pursuant to section 104 (a) (3) (A)
 23 or opinion submitted pursuant to section 104 (e).

24 (3) If the Secretary rejects a filing of a report under
 25 paragraph (2), if a revised report satisfactory to the Secre-

1 tary is not submitted within 45 days after the Secretary
 2 makes this determination under paragraph (2) to reject the
 3 filing, and if the Secretary deems it in the best interest of the
 4 participants, he may—

5 (A) retain an independent qualified public account-
 6 ant (as defined in section 104 (a) (3) (C)) on behalf
 7 of the participants to perform an audit,

8 (B) retain a qualified actuary on behalf of the
 9 plan participants to make an actuarial report, or

10 (C) bring a civil action for such legal or equitable
 11 relief as may be appropriate to account for or safeguard
 12 the assets of the plan.

13 The Administrator shall permit such accountant or audi-
 14 tor to inspect whatever books and records of the plan are nec-
 15 essary for such audit. The plan shall be liable to the Secretary
 16 for the expenses for such audit or report; and the Secretary
 17 may bring an action against the plan in any court of compe-
 18 tent jurisdiction to recover such expenses.

19 (b) Publication of the plan descriptions and annual
 20 reports required by this title shall be made to participants
 21 and beneficiaries of the particular plan as follows:

22 (1) The administrator shall furnish to each plan
 23 participant or his beneficiaries a copy of the plan de-
 24 scription (including all amendments or modifications
 25 thereto). Such description shall be furnished—



1 (A) to a plan participant within thirty days
2 after he commences covered employment, and

3 (B) to all plan participants at least once every
4 five years, except that, if there is any material
5 modification in the terms of the plan, such descrip-
6 tion shall be furnished not later than two hundred
7 and seventy days after the change takes effect.

8 (2) The administrator shall make copies of the
9 latest annual report and the bargaining agreement, trust
10 agreement, contract, or other instrument under which
11 the plan was established and is operated available for
12 examination by any plan participant or beneficiary in the
13 principal office of the administrator and in such other
14 places as may be necessary to fully and fairly disclose all
15 pertinent facts to all participants.

16 (3) At time of filing the plan's annual report with
17 the Secretary, the administrator shall furnish to each
18 plan participant, or his beneficiaries, a copy of the state-
19 ments and schedules described in paragraphs (A) and
20 (B) of section 104 (b) (2) and section 104 (e) (2) (G)
21 and such other material as is necessary to fairly summar-
22 ize the latest annual report.

23 (4) The administrator shall, upon reasonable
24 written request of any participant or beneficiary, furnish
25 a complete copy of the latest annual report, the bargain-

1 ing agreement, trust agreement, contract, or other in-
2 struments under which the plan is established and oper-
3 ated. The administrator may make a reasonable charge to
4 cover the cost of furnishing such complete copies.

5 (c) The administrator of an employee pension benefit
6 plan shall, upon reasonable written request of any participant
7 or beneficiary, furnish a statement indicating (1) whether or
8 not such person has a nonforfeitable right to receive a benefit
9 or the earliest date on which benefits will become nonfor-
10 feitable, and (2) the amount of the benefits, if any, which
11 have become nonforfeitable or an estimate of the amount
12 of benefits which will have accrued at such date.

13 (d) A participant or beneficiary may not require the
14 administrator of a plan to furnish information required by
15 subsection (b) (4) or information required by subsection (c)
16 more than twice in any fiscal year of the plan.

17 (e) (1) Upon the termination of service under a
18 pension plan of a participant having a right to a
19 nonforfeitable pension benefit payable at a later date,
20 the plan administrator shall furnish to the participant or
21 his surviving beneficiary a statement setting forth his rights,
22 privileges, and obligations under the plan. The administrator
23 shall retain a copy of such statement until such time as the
24 participant or his surviving beneficiary no longer has non-
25 forfeitable rights in the plan. The statement shall be in such



1 form, be furnished and filed in such manner, and shall con-
 2 tain such information, including but not limited to the nature
 3 and amount of benefits to which he is entitled, the name and
 4 address of the entity responsible for payment, the date when
 5 payment shall begin and the procedure for filing his claim,
 6 as the Secretary may by regulation prescribe. The adminis-
 7 trator shall, upon termination of employment of a participant
 8 entitled to nonforfeitable benefits prior to commencement
 9 of benefit payments, report to the Secretary of Health,
 10 Education, and Welfare the Social Security account num-
 11 ber of any such participant together with the unique file
 12 number assigned to the plan by the Secretary of Labor.
 13 The Secretary of Labor shall maintain and make available
 14 to the Secretary of Health, Education, and Welfare the
 15 Register of Retirement Benefit Plans containing the unique
 16 file number for each plan, the up-to-date name and address
 17 of the entity responsible for payment of benefits to terminated
 18 participants entitled to nonforfeitable benefits, and such other
 19 identifying information as the Secretary of Labor may by
 20 regulation deem necessary. The plan administrator shall notify
 21 the Secretary of Labor immediately upon any change in ad-
 22 dress or other circumstances as set forth by the Secretary
 23 which would require an updating of the Register of Retire-
 24 ment Benefit Plans. Any person violating this paragraph
 25 shall be subject to the penalties set out in section 106 (a).

1 (2) If information has been reported under paragraph
 2 (1) with respect to the pension benefits under a pension
 3 plan of a participant or his beneficiaries, then whenever such
 4 participant applies for benefits under title II of the Social
 5 Security Act, or a beneficiary (under such plan) of such
 6 participant applies for benefits under such title on the basis
 7 of such participant's wages and self-employment income,
 8 the Secretary of Health, Education, and Welfare shall include
 9 the information in such report in his response to such appli-
 10 cation. Such information shall also be supplied on the written
 11 request of a participant or beneficiary. The Secretary of
 12 Labor shall reimburse the Secretary of Health, Education,
 13 and Welfare for use by the latter of personnel and facilities
 14 in the performance of his functions under this subsection.

15 ENFORCEMENT

16 SEC. 106. (a) Any person who intentionally violates
 17 any provision of section 102 (b), 103, 104, 105, or 110
 18 of this title, subsection (c) (2) of this section, or any regu-
 19 lation under this title shall be fined not more than \$1,000, or
 20 imprisoned not more than six months, or both. Any person
 21 who intentionally violates any provision of section 108 of this
 22 title shall be fined not more than \$5,000 or imprisoned not
 23 more than two years, or both. Any person who intentionally
 24 violates any provision of section 111 (b) (2) or 113 (d) (3)



1 shall be fined not more than \$10,000, or imprisoned not
2 more than five years, or both.

3 (b) Any plan administrator who fails or refuses to com-
4 ply with a request as provided in sections 105 (b) (4) and
5 105 (c) within 60 days (unless such failure or refusal results
6 from matters reasonably beyond the control of the administra-
7 tor) by mailing the material requested to the last known ad-
8 dress of the requesting participant or beneficiary may in the
9 court's discretion be personally liable to such participant or
10 beneficiary in the amount of up to \$50 a day from the date of
11 such failure or refusal, and the court may in its discretion
12 order such other relief as it deems proper.

13 (c) (1) The Secretary shall have power in order to de-
14 termine whether any person has violated or is about to vio-
15 late any provision of this title, to make an investigation and
16 in connection therewith he may require the filing of support-
17 ing schedules of the financial information required to be fur-
18 nished under section 103 or 104 of this title and may enter
19 such places, inspect such records and accounts, and question
20 such persons as he may deem necessary to enable him to
21 determine the facts relative to such investigation. The Sec-
22 retary may report to interested persons or officials concern-
23 ing the facts required to be shown in any report required by
24 this title and concerning the reasons for failure or refusal to

1 file such a report or any other matter which he deems to be
2 appropriate as a result of such an investigation.

3 (2) It shall be unlawful for any person to fail to permit
4 entry and inspection in accordance with paragraph (1) of
5 this subsection.

6 (d) For the purposes of any investigation provided
7 for in this title, the provisions of sections 9 and 10 (relating
8 to the attendance of witnesses and the production of books,
9 records, and documents) of the Federal Trade Commission
10 Act (15 U.S.C. 49, 50), are hereby made applicable to the
11 jurisdiction, powers, and duties of the Secretary or any offi-
12 cers designated by him.

13 (e) Civil actions under this title may be brought—

14 (1) by a participant or beneficiary—

15 (A) for the relief provided for in subsection

16 (b) of this section, or

17 (B) to recover benefits due him under the
18 terms of his plan or to clarify his rights to future
19 benefits under the terms of the plan;

20 (2) by the Secretary, or by a participant, bene-
21 ficiary or fiduciary for appropriate relief under section
22 111 (d) ; or

23 (3) by the Secretary, a participant, beneficiary,



1 or fiduciary to enjoin any act or practice which violates
2 any provision of this title.

3 (f) (1) An employee benefit plan may sue or be sued
4 as an entity. Service of summons, subpoena, or other legal
5 process of a court upon trustee or administrator of an em-
6 ployee benefit plan in his capacity as such shall constitute
7 service upon the employee benefit plan.

8 (2) Any money judgment against an employee benefit
9 plan shall be enforceable only against a plan as an entity
10 and shall not be enforceable against any other person,
11 unless liability against such person is established in his
12 individual capacity under this title.

13 (g) (1) Civil actions under this title brought by a
14 participant or beneficiary may be brought in any court of
15 competent jurisdiction, State or Federal.

16 (2) Where such an action is brought in a district court
17 of the United States, it may be brought in the district where
18 the plan is administered, where the breach took place, or
19 where a defendant resides or may be found, and process
20 may be served in any other district where a defendant
21 resides or may be found.

22 (3) Notwithstanding any other law, the Secretary shall
23 have the right to remove an action from a State court to a
24 district court of the United States, if the action is one seek-
25 ing relief of a kind the Secretary is authorized to sue for

1 herein. Any such removal shall be prior to the trial of the
2 action and shall be to a district court where the Secretary
3 could have initiated such an action.

4 (h) The district courts of the United States shall have
5 jurisdiction, without respect to the amount in controversy,
6 to grant the relief provided for in subsections (e) (2) and
7 (3) of this section in any action brought by the Secretary.
8 In any action brought under subsection (e) by a participant
9 or beneficiary, the jurisdiction of the district court shall be
10 subject to the requirements contained in section 1331 of
11 title 28, United States Code.

12 (i) (1) In any action by a participant or beneficiary,
13 the court in its discretion may allow a reasonable attorney's
14 fee and costs of action to either party.

15 (2) Where such an action is brought by a participant
16 or beneficiary for the relief provided in subsection (e) (2)
17 of this section, it shall be brought as a class action if (A)
18 the law of the jurisdiction provides for class actions, and, (B)
19 the court is satisfied that the requirements for a class action
20 reasonably can be met.

21 (3) A copy of the complaint in any action by a
22 participant or beneficiary shall be served upon the Secretary
23 by certified mail who shall have the right, in his discretion,
24 to intervene in the action.

25 (j) In order to avoid unnecessary expense and duplica-



1 tion of functions among Government agencies, the Secretary
 2 shall make such arrangements or agreements for cooperation
 3 or mutual assistance in the performance of his functions under
 4 this title and the functions of any such agency as he may find
 5 to be practicable and consistent with law. The Secretary may
 6 utilize the facilities or services of any department, agency, or
 7 establishment of the United States or of any State or political
 8 subdivision of a State, including the services of any of its
 9 employees, with the lawful consent of such department,
 10 agency, or establishment; and each department, agency, or
 11 establishment of the United States shall cooperate with the
 12 Secretary and, to the extent permitted by law, shall provide
 13 such information and facilities as he may request for his as-
 14 sistance in the performance of his functions under this title.
 15 However, the Secretary shall not delegate any of his respon-
 16 sibilities under this title to anyone not an officer or employee
 17 of the Department of Labor except as directed under this
 18 title. The Secretary shall immediately forward to the Attor-
 19 ney General or his representative any information coming to
 20 his attention in the course of the administration of this Act
 21 which may warrant consideration for criminal prosecution
 22 under the provisions of this title or other Federal law.

23 REPORTS MADE PUBLIC INFORMATION

24 SEC. 107. The contents of the descriptions and reports
 25 filed with the Secretary pursuant to this title shall be public

1 information, and the Secretary, where to do so would pro-
 2 tect the interests of participants or beneficiaries of a plan,
 3 may publish any such information and data. The Secretary
 4 may use the information and data for statistical and research
 5 purposes, and compile and publish such studies, analyses,
 6 reports, and surveys based thereon as he may deem ap-
 7 propriate.

8 RETENTION OF RECORDS

9 SEC. 108. Every person required to file any description
 10 or report (or who would be required to file but for section
 11 104 (a) (1) (B)) or to certify any information therefor under
 12 this Act shall maintain records on the matters of which dis-
 13 closure is required which will provide in sufficient detail the
 14 necessary basic information and data from which the docu-
 15 ments thus required may be verified, explained, or clarified,
 16 and checked for accuracy and completeness, and shall in-
 17 clude vouchers, worksheets, receipts, and applicable resolu-
 18 tions, and shall keep such records available for examination
 19 for a period of not less than six years after the filing of the
 20 documents based on the information which they contain.

21 RELIANCE ON ADMINISTRATIVE INTERPRETATIONS

22 SEC. 109. In any criminal action or proceeding under
 23 section 106 based on any act or omission in alleged viola-
 24 tion of sections 102 through 110 of this Act, no person
 25 shall be subject to any liability or punishment for or on



1 account of the failure of such person to (1) comply with
 2 sections 102 through 110 of this title if he pleads and proves
 3 that the act or omission complained of was in good faith, in
 4 conformity with, and in reliance on any regulation or written
 5 ruling of the Secretary, or (2) publish and file any informa-
 6 tion required by any provision of this title if he pleads and
 7 proves that he published and filed such information in good
 8 faith, and in conformity with any regulation or written ruling
 9 of the Secretary issued under this title regarding the filing
 10 of such reports. Such a defense, if established, shall be a bar
 11 to the action or proceeding, notwithstanding that (A) after
 12 such act or omission, such interpretation or opinion is modi-
 13 fied or rescinded or is determined by judicial authority to be
 14 invalid or of no legal effect, or (B) after publishing or filing
 15 the description and annual reports, such publication or filing
 16 is determined by judicial authority not to be in conformity
 17 with the requirements of this title.

18 BONDING

19 SEC. 110. (a) Every fiduciary of an employee benefit
 20 plan and every person who handles funds or other property
 21 of such plan shall be bonded as provided in this section;
 22 except that, where such plan is one under which the only
 23 assets from which benefits are paid are the general assets of a
 24 union or of an employer, the administrator, officers, and
 25 employees of such plan shall be exempt from the bonding

1 requirements of this section. The amount of such bond shall
 2 be fixed at the beginning of each fiscal year of the plan. Such
 3 amount shall be not less than 10 per centum of the amount
 4 of funds handled, determined as provided in this section,
 5 except that any such bond shall be in at least the amount of
 6 \$1,000 and no such bond shall be required in an amount in
 7 excess of \$500,000; except that the Secretary, after due no-
 8 tice and opportunity for hearing to all interested parties, and
 9 after consideration of the record, may prescribe an amount in
 10 excess of \$500,000, which in no event shall exceed 10 per
 11 centum of the funds handled. For purposes of fixing the
 12 amount of such bond, the amount of funds handled shall be
 13 determined by the funds handled by the person, group, or
 14 class to be covered by such bond and by their predecessor or
 15 predecessors, if any, during the preceding reporting year, or
 16 if the plan has no preceding reporting year, the amount of
 17 funds to be handled during the current reporting year by such
 18 person, group, or class, estimated as provided in regulations
 19 of the Secretary. Such bond shall provide protection to the
 20 plan against loss by reason of acts of fraud or dishonesty on
 21 the part of such administrator, officer, or employee, directly
 22 or through connivance with others. Any bond shall have as
 23 surety thereon a corporate surety company which is an ac-
 24 ceptable surety on Federal bonds under authority granted by
 25 the Secretary of the Treasury pursuant to the Act of July 30,



1 1947 (6 U.S.C. 6-13). Any bond shall be in a form
2 or of a type approved by the Secretary, including individual
3 bonds or schedule or blanket forms of bonds which cover a
4 group or class.

5 (b) It shall be unlawful for any administrator, officer,
6 or employee to whom subsection (a) applies, to receive,
7 handle, disburse, or otherwise exercise custody or control
8 of any of the funds or other property of any employee
9 benefit plan, without being bonded as required by subsec-
10 tion (a) and it shall be unlawful for any administrator,
11 officer, or employee of such plan, or any other person having
12 authority to direct the performance of such functions, to
13 permit such functions, or any of them, to be performed
14 by any such person, with respect to whom the requirements
15 of subsection (a) have not been met.

16 (c) It shall be unlawful for any person to procure
17 any bond required by subsection (a) from any surety or
18 other company or through any agent or broker in whose
19 business operations such plan or any party in interest in
20 such plan has any control or significant financial interest,
21 direct or indirect.

22 (d) Nothing in any provision of law other than under
23 this Act shall require any person, required to be bonded as
24 provided in subsection (a) because he handles funds or other
25 property of an employee benefit plan, to be bonded insofar

1 as the handling by such person of the funds or other property
2 of such plan is concerned.

3 (e) The Secretary shall from time to time issue such
4 regulations as may be necessary to carry out the provisions
5 of this section. When, in the opinion of the Secretary, the
6 administrator of a plan offers adequate evidence of the
7 financial responsibility of the plan, or that other bonding
8 requirements would provide adequate protection of the
9 beneficiaries and participants, he may exempt such plan
10 from the requirements of this section.

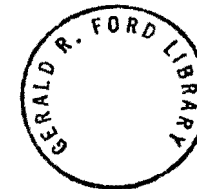
11 FIDUCIARY RESPONSIBILITY

12 SEC. 111. (a) (1) Except as provided in section 113
13 or in paragraph (2) of this subsection—

14 (A) every employee benefit plan shall be estab-
15 lished and maintained pursuant to a written plan, which
16 shall set forth the purpose or purposes for which such
17 plan is established and the detailed basis on which pay-
18 ments are to be made into and out of such plan, and the
19 assets of such plan shall be held in trust for the par-
20 ticipants and their beneficiaries; and

21 (B) the assets of such plan shall be held for the
22 exclusive purposes of (i) providing benefits to partici-
23 pants in the plan and their beneficiaries and (ii) de-
24 fraying reasonable expenses of administering the plan.

25 (2) A contribution which is conditioned upon approval



1 by the Secretary of the Treasury or his delegate of the de-
 2 duction of the contribution under section 401 of the Internal
 3 Revenue Code of 1954, in a case in which the deduction
 4 is not approved, may be returned to the employer within
 5 one year after the payment of the contribution.

6 (b) (1) A fiduciary shall discharge his duties with re-
 7 spect to a plan solely in the interest of the participants and
 8 beneficiaries and—

9 (A) for the exclusive purpose of:

10 (i) providing benefits to participants and their
 11 beneficiaries and

12 (ii) defraying reasonable expenses of adminis-
 13 tering the plan;

14 (B) with the care, skill, prudence, and diligence
 15 under the circumstances then prevailing that a prudent
 16 man acting in a like capacity and familiar with such mat-
 17 ters would use in the conduct of an enterprise of a like
 18 character and with like aims;

19 (C) by diversifying the investments so as to mini-
 20 mize the risk of large losses unless under the circum-
 21 stances it is prudent not to do so; except that the re-
 22 quirement of diversification in this subparagraph shall
 23 not apply to profit-sharing, stock bonus, or thrift and
 24 savings plans providing benefits at or after retirement
 25 which explicitly provide that some or all of the plan

1 funds may be invested in securities of such employer,
 2 or a corporation controlling, controlled by, or under
 3 common control with, such employer. Profit-sharing,
 4 stock bonus, or thrift and savings plans, which are in
 5 existence on the date of enactment and which invest
 6 in such securities without explicit provision in the plan,
 7 shall remain exempt from the diversification rule of
 8 this subparagraph until the expiration of one year from
 9 the effective date of this title; and

10 (D) in accordance with the documents and instru-
 11 ments governing the fund insofar as is consistent with
 12 this Act.

13 (2) Except as permitted under subsection (a) (1) of
 14 this section, a fiduciary with respect to a plan shall not—

15 (A) deal with the assets of the plan for his own
 16 account,

17 (B) in his individual or any other capacity act in
 18 any transaction involving the plan on behalf of a party
 19 whose interests are adverse to the interests of the plan
 20 or the interest of its participants or beneficiaries,

21 (C) receive any consideration for his own personal
 22 account from any party dealing with such fund in con-
 23 nection with a transaction involving the fund,

24 (D) permit the transfer of any property of the fund



1 to or its use by any person known to be a party in
2 interest for less than adequate consideration, or

3 (E) permit the acquisition of any property from
4 or services by any person known to be a party in
5 interest for more than adequate consideration.

6 (c) Nothing in this section shall be construed to pro-
7 hibit any fiduciary from—

8 (1) receiving any benefit to which he may be
9 entitled as a participant or beneficiary in the plan under
10 which the fund was established, so long as the benefit is
11 computed and paid on a basis which is consistent with
12 the terms of the plan as applied to all other participants;

13 (2) receiving any reasonable compensation for serv-
14 ices rendered, or for the reimbursement of expenses prop-
15 erly and actually incurred, in the performance of his
16 duties with the fund; except that no person so serving
17 who already receive full-time pay from an employer or
18 an association of employers, whose employees are partic-
19 ipants in the plan under which the fund was established,
20 or from an employee organization whose members are
21 participants in such plan shall receive compensation
22 from such fund, except for reimbursement of expenses
23 properly and actually incurred and not otherwise reim-
24 bursed; or

25 (3) serving as a fiduciary in addition to being an

1 officer, employee, agent, or other representative of a
2 party in interest.

3 (d) Any person who is a fiduciary with respect to a
4 plan who breaches any of the responsibilities, obligations, or
5 duties imposed upon fiduciaries by this title shall be person-
6 ally liable to make good to such plan any losses to the fund
7 resulting from each breach, and to restore to such plan any
8 profits of such fiduciary which have been made through use
9 of assets of the fund by the fiduciary and shall be subject to
10 such other equitable or remedial relief as the court may
11 deem appropriate, including removal of such fiduciary. A
12 fiduciary may also be removed for a violation of section 112
13 of this title.

14 (e) (1) When the assets of a plan are held by two or
15 more trustees—

16 (A) each shall use reasonable care to prevent a
17 cotrustee from committing a breach, notwithstanding
18 language to the contrary in the trust agreement; and

19 (B) they shall jointly manage and control the
20 trust, except that nothing in this subparagraph (B) shall
21 preclude any agreement authorized by the trust instru-
22 ment allocating specific responsibilities, obligations, or
23 duties among trustees, in which event such a trustee to
24 whom certain responsibilities, obligations, or duties



1 have not been allocated shall not be liable either individ-
 2 ually or as a trustee for any loss resulting to the fund
 3 arising from the acts or omissions to act on the part of
 4 another trustee to whom such responsibilities, obliga-
 5 tions, or duties have been allocated, unless the trustee to
 6 whom the responsibilities, obligations, or duties were not
 7 allocated participated knowingly in the activities con-
 8 stituting a breach of the specific responsibilities, obliga-
 9 tions, or duties allocated to any other trustee.

10 (2) For purposes of paragraph (1), the term "trustee"
 11 means a person who is designated in a plan or a trust instru-
 12 ment of a plan as trustee, who has accepted the designation,
 13 and who has discretion or control respecting the assets or
 14 administration of the trust.

15 (f) No fiduciary shall be liable with respect to a breach
 16 of fiduciary duty under this section if such breach was com-
 17 mitted before he became a fiduciary or after he ceased to be a
 18 fiduciary.

19 (g) Except as provided in subsection (e) (1) (B) of
 20 this section, any provision in an agreement or instrument
 21 which purports to relieve a fiduciary from responsibility or
 22 liability for any responsibility, obligation, or duty under this
 23 title shall be void as against public policy.

24 (h) No action may be commenced under subsection (d)
 25 with respect to a fiduciary's breach of any responsibility, duty,

1 or obligation, or with respect to a violation of section 112,
 2 after the earlier of—

3 (1) six years after the date of the breach or viola-
 4 tion, or

5 (2) three years after the earliest date (A) on
 6 which the plaintiff had actual knowledge of the breach
 7 or violation, or (B) on which a report from which he
 8 could reasonably be expected to have obtained knowl-
 9 edge of such breach or violation was filed with the Sec-
 10 retary under this title.

11 PROHIBITION AGAINST CERTAIN PERSONS HOLDING

12 OFFICE

13 SEC. 112. (a) No person who has been convicted of,
 14 or has been imprisoned as a result of his conviction of, rob-
 15 bery, bribery, extortion, embezzlement, fraud, grand larceny,
 16 any crime described in section 9 (a) (1) of the Investment
 17 Company Act of 1940 (15 U.S.C. 80a-9 (a) (1)), or a
 18 violation of any provision of this Act, or a violation of section
 19 302 of the Labor Management Relations Act, 1947 (29
 20 U.S.C. 186), or a violation of chapter 63 of title 18, United
 21 States Code, or a violation of section 874, 1027, 1503, 1505,
 22 1506, 1510, 1951, or 1954 of title 18, United States Code,
 23 or a violation of the Labor-Management Reporting and Dis-
 24 closure Act of 1959 (29 U.S.C. 401), or conspiracy to
 25 commit any such crimes or attempt to commit any such



1 crimes, or a crime in which any of the foregoing crimes is
2 an element, shall serve or be permitted to serve—

3 (1) as an administrator, officer, trustee, custodian,
4 counsel, agent, or employee of any employee welfare
5 or pension benefit plan, or

6 (2) as a consultant to any employee welfare or
7 pension benefit plan,

8 during or for five years after such conviction or after the
9 end of such imprisonment, whichever is the later, unless
10 prior to the end of such five-year period, in the case of a
11 person so convicted or imprisoned, (A) his citizenship
12 rights, having been revoked as a result of such conviction,
13 have been fully restored, or (B) the Board of Parole of
14 the United States Department of Justice determines that
15 such person's service in any capacity referred to in clause
16 (1) or (2) would not be contrary to the purposes of this
17 Act. Prior to making any such determination the Board
18 shall hold an administrative hearing and shall give notice
19 of such proceeding by certified mail to the State, county,
20 and Federal prosecuting officials in the jurisdiction or juris-
21 dictions in which such person was convicted. The Board's
22 determination in any such proceeding shall be final. No
23 person shall knowingly permit any other person to serve
24 in any capacity referred to in clause (1) or (2) in violation

1 of this subsection. Notwithstanding the preceding provi-
2 sions of this subsection, no corporation or partnership will
3 be precluded from acting as an administrator, trustee, cus-
4 todian, counsel, agent, or employee of any employee benefit
5 plan or as a consultant to any employee, welfare, or pension
6 benefit plan without a notice, hearing, and determination
7 by the Secretary that such service would be inconsistent
8 with the intention of this section.

9 (b) Any person who intentionally violates this section
10 shall be fined not more than \$10,000 or imprisoned for not
11 more than one year, or both.

12 (c) For the purposes of this section:

13 (1) A person shall be deemed to have been "con-
14 victed" and under the disability of "conviction" from
15 the date of the judgment of the trial court or the date of
16 the final sustaining of such judgment on appeal, which-
17 ever is the later event; and

18 (2) The term "consultant" means any person who,
19 for compensation, advises or represents an employee
20 benefit plan or who provides other assistance to such
21 plan, concerning the establishment and operation of such
22 plan.

23 (d) This section shall not apply to a conviction for a
24 crime committed before the date of enactment of this Act.



PENSION PLAN TERMINATION

1 SEC. 113. (a) Upon the termination of a pension plan
2
3 (other than an individual account plan), the net assets of
4 the plan shall be distributed as provided in this section.

5 (b) Subject to subsections (c) and (e), the net assets
6 of the plan shall be applied in accordance with the follow-
7 ing priorities:

8 (1) First, to refund to each participant in the plan
9 the amount of contributions made by him, less the
10 amount of any benefits received by him under the plan
11 prior to termination,

12 (2) Second, to pay to each participant (or his
13 beneficiaries) in the plan who (A) has been receiving
14 benefits under the plan or (B) on the date of such
15 termination, has reached the earliest age on which he
16 could, under the terms of the plan, elect to receive re-
17 tirement benefits (other than on account of disability)
18 under the plan, the present value of his nonforfeitable
19 benefits, reduced (but not below zero) by the amount
20 of contributions distributed under paragraph (1),

21 (3) Third, to pay to each participant in the plan
22 other than a participant described in paragraph (2)
23 who had acquired nonforfeitable benefits under the plan
24 prior to termination of the plan, the present value of
25 such nonforfeitable benefits reduced (but not below zero)

1 by the amount of contributions distributed under para-
2 graph (1),

3 (4) Fourth, to pay to any participant in the plan
4 to the extent of the accrued portion of his regular
5 retirement benefit is not payable under paragraphs
6 (2) and (3), the present value of such portion reduced
7 (but not below zero) by the amount of contributions
8 distributed under paragraph (1).

9 (c) If the net assets of a plan are insufficient to meet
10 all the liabilities for the participants described in subsection
11 (b) and the level of benefits under the plan has been in-
12 creased within the five-year period preceding termination
13 by reason of a plan amendment affecting the benefit sched-
14 ule, then the net assets shall be distributed as follows (except
15 as otherwise provided in regulations of the Secretary in cases
16 (A) where a change in the benefit schedule during such
17 period resulted in a decrease in benefits for any class of
18 participant, or (B) where the amount of the present value
19 of the benefits of any class of participant cannot be deter-
20 mined under this subsection):

21 (1) After satisfying the first priority class in sub-
22 section (a), any remaining assets shall be distributed
23 to the participants from the second through the fourth
24 priority classes using the earliest benefit formula in
25 effect during the past five years (but using vesting and



1 eligibility provisions in effect on date of plan termina-
2 tion).

3 (2) Any remaining net assets shall be distributed
4 to each participant in the second through the fourth
5 priority classes using the increment (over such earliest
6 benefit formula) of the second earliest benefit formula in
7 effect during the past five years (but using vesting and
8 eligibility provisions in effect on date of plan termina-
9 tion).

10 (3) Any remaining net assets shall be distributed
11 as above using each successive increment of each suc-
12 cessive benefit formula in effect in such period (but using
13 vesting and eligibility provisions in effect on date of plan
14 termination) until all net assets have been distributed.

15 (d) (1) Any assets remaining after the satisfaction of
16 the liabilities described in subsection (b) which are attrib-
17 utable (under regulations of the Secretary) to accumulated
18 investment earnings on employee contributions shall be
19 ratably distributed to the employee contributors according
20 to their rate of contribution.

21 (2) Any assets remaining after satisfaction of liabilities
22 described in subsection (b) and paragraph (1) of this sub-
23 section shall be used to satisfy any such liabilities (other
24 than those described in subsection (b) and paragraph (1))

1 as the plan may set forth as being payable only if the plan
2 terminates.

3 (3) Any assets remaining after the satisfaction of all
4 the liabilities described in subsection (b) and paragraphs
5 (1) and (2) of this subsection may, upon application to the
6 Secretary and after notice, hearing, and a finding that the
7 purpose of this subsection has been complied with be dis-
8 tributed as provided in the plan. If the plan has no provision
9 for such distribution, such assets shall be distributed pro
10 rata to each person otherwise receiving a distribution under
11 this section.

12 (e) (1) The aggregate reductions which are made in
13 amounts distributed to a participant under subsections
14 (b) (2), (3), and (4) or under subsection (c) and which
15 are attributable to contributions returned under subsection
16 (b) (1) may not exceed the aggregate contributions re-
17 turned to such participant under subsection (b) (1).

18 (2) In the case of a plan to which only participants con-
19 tribute, subsection (b) shall be applied by reversing the pri-
20 orities set forth in paragraphs (1) and (2) of such subsec-
21 tion and by deducting amounts received under paragraph
22 (2) from amounts otherwise due under paragraph (1).

23 (f) For purposes of this section, the term "net assets"
24 means the assets of a plan less (1) reasonable administrative



1 expenses of termination, and (2) assets of the plan which
 2 are irrevocably allocated to accounts of individual partici-
 3 pants in accordance with a plan provision which has been in
 4 effect for at least 2 years prior to plan termination.

5 ADVISORY COUNCIL

6 SEC. 114. (a) There is hereby established an Advisory
 7 Council on Employee Welfare and Pension Benefit Plans
 8 (hereinafter referred to as the "Council") which shall con-
 9 sist of fifteen members to be appointed in the following man-
 10 ner: One from the insurance field, one from the corporate
 11 trust field, one qualified public accountant (as defined in
 12 section 104 (a) (3) (C) of this title), one actuary qualified to
 13 offer the certification required under section 104 (e) of
 14 this title, three from management, three from labor, and two
 15 from other interested groups, all appointed by the Secretary
 16 from among persons recommended by organizations in the
 17 respective groups; and three representatives of the general
 18 public appointed by the Secretary.

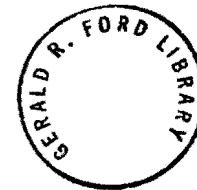
19 (b) It shall be the duty of the Council to advise the
 20 Secretary with respect to the carrying out of his functions
 21 under this Act, and to submit to the Secretary recommenda-
 22 tions with respect thereto. The Council shall meet at least
 23 twice each year and at such other times as the Secretary
 24 requests. At the beginning of each regular session of the
 25 Congress, the Secretary shall transmit to the Senate and

1 House of Representatives each recommendation which he
 2 has received from the Council during the preceding calendar
 3 year and a report covering his activities under the title for
 4 the preceding fiscal year, including full information as to the
 5 number of plans and their size, the results of any studies
 6 he may have made of such plans and the title's operation and
 7 such other information and data as he may deem desirable in
 8 connection with employee welfare and pension benefit plans.

9 (c) The Secretary shall furnish to the Council an execu-
 10 tive secretary and such secretarial, clerical, and other services
 11 as are deemed necessary to the conduct of its business. The
 12 Secretary may call upon other agencies of the Government
 13 for statistical data, reports, and other information which will
 14 assist the Council in the performance of its duties.

15 (d) (1) Members of the Council shall each be entitled
 16 to receive the daily equivalent of the annual rate of basic pay
 17 in effect for grade GS-18 of the General Schedule for each
 18 day (including traveltime) during which they are engaged
 19 in the actual performance of duties vested in the Council.

20 (2) While away from their homes or regular places of
 21 business in the performance of services for the Council, mem-
 22 bers of the Council shall be allowed travel expenses, includ-
 23 ing per diem in lieu of subsistence, in the same manner as
 24 persons employed intermittently in the Government service



1 are allowed expenses under section 5703 (b) of title 5 of
2 the United States Code.

3 EFFECT ON OTHER LAWS

4 SEC. 115. (a) It is hereby declared to be the express
5 intent of Congress that, except for actions authorized by
6 section 106 (e) (1) (B) of this Act and except as provided
7 in subsection (b) or (c), the provisions of this title shall
8 supersede any and all laws of the States and of political
9 subdivisions thereof insofar as they may now or hereafter
10 relate to the reporting and disclosure responsibilities of
11 persons acting on behalf of employee benefit plans.

12 (b) Nothing in this title shall be construed—

13 (1) to exempt or relieve any employee benefit
14 plan not subject to this Act from any law of any State;

15 (2) to exempt or relieve any person from any law
16 of any State which regulates insurance, banking, or
17 securities or to prohibit a State from requiring that there
18 be filed with a State agency copies of reports required
19 by this Act to be filed with the Secretary (or which
20 would be required to be so filed but for section 104
21 (a) (2) (B)); or

22 (3) to alter, amend, modify, invalidate, impair, or
23 supersede any other law of the United States (other
24 than the Welfare and Pension Plans Disclosure Act)
25 or any rule or regulation issued under any such law.

1 (c) No State may relieve any trustee or other fiduciary
2 of any obligation under this title. This title shall not relieve
3 any trustee or other fiduciary of any fiduciary obligation
4 under State law except to the extent that carrying out such
5 obligation would be prohibited by this title.

6 REPEAL AND EFFECTIVE DATE

7 SEC. 116. (a) The Welfare and Pension Plans Disclo-
8 sure Act is repealed; except that such Act shall continue to
9 apply to any conduct which occurred before the effective date
10 of this Act.

11 (b) Except as provided in subsection (c), this Act
12 (including the repeal made by subsection (a)) shall take
13 effect six months after the date of enactment of this Act.

14 (c) The provisions of this Act authorizing the Secretary
15 to promulgate regulations shall take effect on the date of this
16 Act.

17 (d) In order to provide for an orderly disposition of
18 any investments held on the date of enactment of this Act,
19 the retention of which would be prohibited by section 111 (b)
20 (1) (C), and in order to protect the interest of the fund and
21 its participants and its beneficiaries, a fiduciary may in his
22 discretion effect the disposition of such investment within
23 three years after the date of enactment of this Act or within
24 such additional time as the Secretary may by rule or regula-



1 tion allow, and such action shall be deemed to be in compli-
2 ance with section 111 (b) (1) (C).

3 TITLE II—VESTING AND ELIGIBILITY

4 REQUIREMENTS

5 COVERAGE

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

8 (1) if it is established or maintained by an em-
9 ployer engaged in commerce or in any industry or
10 activity affecting commerce or by such employer to-
11 gether with any employee organization representing
12 employees engaged in commerce or in any industry or
13 activity affecting commerce, or by any employee or-
14 ganization representing employees engaged in commerce
15 or in any industry or activity affecting commerce;

16 (2) if such plan is established or maintained by any
17 employer or by any employer together with any em-
18 ployee organization or by any employee organization
19 representing employees engaged in commerce or in any
20 industry or activity affecting commerce and if, in the
21 course of its activities, such plan directly or indirectly,
22 uses any means or instruments of transportation or
23 communication in interstate commerce or the mails.

24 (b) This title shall not apply to any employee pension
25 benefit plan if—

1 (1) such plan is administered by the Federal Gov-
2 ernment or by an agency or instrumentality of the Fed-
3 eral Government;

4 (2) such plan is established or maintained for the
5 benefit of self-employed individuals or owner-employees
6 (as defined in section 401 (c) (3) of the Internal Rev-
7 enue Code of 1954) ;

8 (3) such plan covers not more than twenty-five
9 participants;

10 (4) such plan is established or maintained outside
11 the United States primarily for the benefit of employees
12 who are not citizens of the United States and the situs of
13 the employee benefit plan fund established or maintained
14 pursuant to such plan is maintained outside the United
15 States;

16 (5) such plan is unfunded and is established or
17 maintained by an employer primarily for the purpose
18 of providing deferred compensation for a select group
19 of management employees, and is declared by the em-
20 ployer as not intended to meet the requirements of section
21 401 (a) of the Internal Revenue Code of 1954.

22 ELIGIBILITY REQUIREMENTS

23 SEC. 202. No pension plan subject to this title shall re-
24 quire as a condition for eligibility to participate in such plan
25 a period of employment longer than one year or attainment of



1 an age greater than age twenty-five, whichever occurs later:
 2 *Provided, however,* That in the case of any plan which
 3 either provides for immediate vesting of 100 per centum of
 4 the accrued portion of the regular retirement benefit
 5 of participants or provides for crediting for benefit purposes
 6 all service rendered by a plan participant prior to plan partici-
 7 pation, such plan may require as a condition for eligibility
 8 to participate in the plan, a period of employment no longer
 9 than three years or attainment of an age greater than twenty-
 10 five, whichever occurs later. Any pension plan subject to this
 11 title which was in effect on or before the date of enactment
 12 of this Act may retain its eligibility requirements until such
 13 plan is amended to alter the benefits payable to participants
 14 or beneficiaries or three years after the date of enactment of
 15 this Act, whichever occurs first. Thereafter, such pension plan
 16 shall comply with the eligibility requirements applicable to
 17 pension plans adopted after the date of enactment of this
 18 Act.

19 NONFORFEITABLE BENEFITS

20 SEC. 203. (a) Every pension plan subject to this title shall
 21 chose to provide nonforfeitable pension benefits in accordance
 22 with the ten-year service rule set forth in paragraph (1),
 23 the graded fifteen-year service rule set forth in paragraph
 24 (2), or the rule of 50 as set forth in paragraph (3).

1 (1) TEN-YEAR SERVICE RULE.—Every plan shall
 2 provide that the rights of a plan participant to receive
 3 benefits are nonforfeitable after a specified period of
 4 covered service equal to ten years, as to the entire ac-
 5 crued portion of the regular retirement benefit.

6 (2) GRADED FIFTEEN-YEAR SERVICE RULE.—
 7 Every plan shall provide that a plan participant
 8 who has been in covered service under the plan for a pe-
 9 riod of eight years is entitled to a nonforfeitable benefit
 10 right equal to 30 per centum of the entire accrued por-
 11 tion of the regular retirement benefit, and such entitle-
 12 ment shall increase by 10 per centum per year there-
 13 after of covered service until the completion of fifteen
 14 years of covered service after which such participant
 15 shall be entitled to a nonforfeitable benefit right equal
 16 to 100 per centum of the entire accrued portion of the
 17 regular retirement benefit.

18 (3) RULE OF 50.—Every plan shall provide that
 19 a plan participant is entitled to a nonforfeitable benefit
 20 right equal to 50 per centum of the entire accrued
 21 portion of the regular retirement benefit at the first
 22 time at which the sum of his age and years of covered
 23 service in the plan equals or exceeds 50, and such
 24 entitlement in the remaining percentage of his entire



1 accrued benefit shall increase not less rapidly than
2 ratably over the next succeeding five years of covered
3 service.

4 (b) Notwithstanding the provisions set forth in para-
5 graphs (1), (2), and (3) of subsection (a), if the plan is
6 a class year plan, then such plan shall provide that the par-
7 ticipant shall acquire a nonforfeitable right to 100 per centum
8 of the employer's contribution on his behalf with respect to
9 any given year, not later than the end of the fifth year fol-
10 lowing the year for which such contribution was made. For
11 the purposes of this paragraph, the term "class year plan"
12 means a profit-sharing-retirement plan which provides that
13 each annual contribution made by the employer on behalf
14 of a participant is nonforfeitable.

15 (c) (1) In computing the period of covered service under
16 the plan, an employee's entire service with the employer
17 contributing to or maintaining the plan shall be considered,
18 except as the plan may otherwise provide in accordance
19 with paragraph (2) of this subsection.

20 (2) A pension plan may provide that—

21 (A) service by a participant prior to the age of
22 twenty-five may be ignored unless such participant or
23 an employer has contributed to the plan with respect
24 to such service;

25 (B) in the event a participant has attained a non-

1 forfeitable right equal to 100 per centum of the accrued
2 portion of the regular retirement benefit as provided by
3 the plan with respect to such service, or to the full
4 amount of such interest in an individual account plan, and
5 such participant has been separated permanently from
6 coverage under the plan and subsequently returns to
7 coverage under the same plan, such participant may be
8 treated as a new participant for purposes of the vesting
9 requirements set forth in this section without regard to
10 his prior service;

11 (C) service during which the employee declined to
12 contribute to a plan requiring employee contributions
13 may be ignored; and

14 (D) service with a predecessor of the employer
15 contributing to or maintaining the plan (except where
16 the plan of the predecessor has been continued in effect
17 by the successor employer) may be ignored; and

18 (E) service broken by periods of suspension of
19 employment may be ignored, provided that the rules
20 governing such breaks in service are not unreasonable
21 or arbitrary as determined under regulation of the Sec-
22 retary.

23 (3) The Secretary shall prescribe standards, consistent
24 with the purposes of this Act, governing the conditions, in-
25 cluding the maximum number of working hours, days,



1 weeks, or months, which shall be considered in computing
 2 a year of covered service under the plan, or a break in service
 3 for purposes of this Act. In no case shall a participant's time
 4 worked in any period in which he is credited for a period of
 5 service for the purposes of this section, be credited to any
 6 other period of time unless the plan so provides.

7 (d) The benefits provided under the terms of a pension
 8 plan shall not be capable of assignment or alienation and
 9 shall not confer upon an employee, personal representative,
 10 or dependent, or any other person, any right or interest in
 11 such benefits, capable of being assigned or otherwise alien-
 12 ated; except that where a plan fails to make appropriate
 13 provisions therefor, the Secretary shall, by regulation, pro-
 14 vide for the final disposition of plan benefits or interests when
 15 beneficiaries cannot be located or ascertained within a reason-
 16 able time.

17 (e) Nothing contained in this title shall be construed to
 18 disallow any plan provision adopted pursuant to regulations
 19 of the Secretary of the Treasury or his delegate under section
 20 401 (a) (4) to preclude discrimination in the event of early
 21 termination of a plan.

22 (f) (1) No pension plan subject to this title to which
 23 participants contribute may provide for forfeiture of
 24 any employee's contributions, unless such employee agrees
 25 in writing to such forfeiture and such agreement is not a

1 condition of participation in, or to receive full benefits under,
 2 such plan.

3 (2) No pension plan subject to this title to which par-
 4 ticipants contribute shall provide for forfeiture of the accrued
 5 portion of the regular retirement benefit to the extent that
 6 such portion becomes nonforfeitable and is attributable to em-
 7 ployer contributions, solely because of withdrawal by such
 8 participant of amounts attributable to his own contributions.

9 (g) A pension plan subject to paragraph (1), (2) or
 10 (3) of subsection (a) may at any time exercise the option to
 11 change its plan provisions to conform to either of the other
 12 two paragraphs; but such a change shall in no instance delay
 13 or reduce the present or future nonforfeitable benefits under
 14 the previous option for any person who, at the time of the
 15 change, was a participant.

16 (h) A pension plan subject to this title shall not be pro-
 17 hibited from permitting one or more lump sum distributions
 18 of the present value of nonforfeitable pension benefits to a
 19 participant after his termination or retirement; except that
 20 no such lump sum distribution to a participant may exceed
 21 the amount of the distribution he would receive in accordance
 22 with section 113 if the plan terminated on a date (designated
 23 by the administrator) during the fiscal year of the plan
 24 during which the lump sum distribution is made. The present
 25 value of nonforfeitable benefits shall be calculated by a qual-



1 ified actuary using only the same assumed rate of interest
2 and mortality as is used in section 302 (a) (2) (B) (i) and
3 (ii) and in accordance with such other rules and regulations
4 as the Secretary may deem necessary.

5 (i) Notwithstanding any other provision of this title, a
6 pension plan may allow for vesting of benefits after a lesser
7 period and in a greater amount than is required by this
8 section.

9 (j) (1) A pension plan may provide for a social security
10 offset only if under the terms of the plan the amount of such
11 offset cannot increase—

12 (A) after the date this subsection first applies to
13 such plan, in the case of an offset against a benefit of a
14 participant who is receiving benefits under such plan
15 on such date,

16 (B) after the date of termination of a participant
17 who terminates with a nonforfeitable right to a deferred
18 benefit, or

19 (C) after the offset is first applied to reduce his
20 benefit, in the case of a participant who is entitled to an
21 immediate benefit upon termination.

22 (2) The term "social security offset" means a plan
23 provision which provides that pension benefits to which a
24 participant would otherwise be entitled are reduced in whole

1 or part on account of benefits received by the participant
2 under the Social Security Act.

3 (3) Notwithstanding section 207, this subsection shall
4 first apply to a plan at the time that the first plan amend-
5 ment after the date of enactment of this Act takes effect.

6 DEFERRED APPLICABILITY OF VESTING STANDARDS

7 SEC. 204. (a) Where, upon application to the Secretary
8 by the plan administrator and such notice to affected or in-
9 terested parties as may be required under regulations of the
10 Secretary, the Secretary may defer, in whole or in part, appli-
11 cability of the requirements of this title for a period not to
12 exceed five years from the effective date of this title, upon a
13 showing that compliance with the requirements of this title
14 on the part of a plan in existence on the date of enactment
15 of this Act would result in increasing the costs of the em-
16 ployer or employers contributing to the plan to such an extent
17 that substantial economic injury would be caused to such
18 employer or employers and to the interests of the participants
19 or beneficiaries in the plan.

20 (b) For purposes of subsection (a), the term "sub-
21 stantial economic injury" includes, but is not limited to, a
22 showing that (1) a substantial risk to the capability of
23 voluntarily continuing the plan exists, (2) the plan will
24 be unable to discharge its existing contractual obligations for
25 benefits, (3) a substantial curtailment of pension levels or



1 the levels of employees' compensation would result, or (4)
 2 there will be an adverse effect on the levels of employment
 3 with respect to the work force employed by the employer
 4 or employers contributing to the plan.

5 DISTRIBUTION OF NONFORFEITABLE BENEFITS TO

6 TERMINATING PARTICIPANTS

7 SEC. 205. (a) Except as otherwise provided in this
 8 section, nonforfeitable benefits accrued by terminating par-
 9 ticipants may be distributed in the manner set forth in the
 10 plan.

11 (b) Distribution of nonforfeitable benefits to partici-
 12 pants terminating at or before age 65 shall commence, as
 13 the participant or his beneficiary may elect, no later than the
 14 earliest age at which such benefits would have become pay-
 15 able without reduction had the participant continued in active
 16 service until that age. The plan shall provide that such age be
 17 not greater than age 65. Subject to subsection (c), the plan
 18 may provide that such age shall be not less than age 60.

19 (c) Any plan which contains a provision whereby any
 20 participant may elect to receive the payment of retirement
 21 benefits (1) earlier than at the age at which such benefits
 22 would have become payable without reduction, and (2) in
 23 an amount at the earlier age equal to the accrued benefits
 24 at that age discounted using an actuarial discount factor, or
 25 any reduction factor approximating such actuarial discount

1 factor, shall extend the coverage of such provision to include
 2 all terminated participants with nonforfeitable benefits.

3 (d) Distribution of nonforfeitable benefits to participants
 4 terminating after age 65 shall commence, as the participant
 5 or his beneficiary may elect, at any time at or after such
 6 termination.

7 (e) Any plan which contains a provision permitting
 8 voluntary election by any participant of an annuity form of
 9 retirement benefit payment from among a choice of such
 10 forms shall extend the coverage of such provision to include
 11 all terminated participants with nonforfeitable benefits.

12 DETERMINATION OF ACCRUED PORTION OF REGULAR
 13 RETIREMENT BENEFIT

14 SEC. 206. (a) The term "accrued portion of the regular
 15 retirement benefit" at any time means that amount of
 16 benefit which, irrespective of whether the right to such
 17 benefit is nonforfeitable, is equal to—

18 (1) in the case of an individual account plan or that
 19 part of a pension plan which is an individual account
 20 plan, the balance of the account or accounts for a par-
 21 ticipant;

22 (2) in the case of a pension plan providing defined
 23 regular retirement benefits to which the participant
 24 would be entitled under the plan had he remained in ac-
 25 tive service to regular retirement age, the projected



1 regular retirement benefit multiplied by a fraction, not
2 exceeding 100 per centum, the numerator of which is
3 given in subparagraph (A) and the denominator of
4 which is given in subparagraph (B) :

5 (A) The total number of months of service
6 credited to the participant under the plan.

7 (B) The total number of months of service
8 which would have been credited to the partici-
9 pant had he continued in active service until the
10 regular retirement age, except that such number
11 of months shall not exceed the lesser of four
12 hundred and twenty or the maximum number
13 of months of creditable service permitted in the
14 plan. In the case of a pension plan providing a
15 defined benefit without relation to the years of
16 service of a participant and equal to a fixed
17 dollar amount or a fixed percentage of compen-
18 sation, such number of months shall not be less
19 than one hundred and eighty.

20 (3) in the case of any other pension plan, that por-
21 tion of the projected regular retirement benefit as the
22 Secretary may by rule or regulation provide.

23 (b) For purposes of this section, the projected regular
24 retirement benefit shall be computed using:

25 (1) in the case of a pension plan providing regular

1 retirement benefits based on compensation, the assump-
2 tion that the participant continued to earn until regular
3 retirement age at the same rate of compensation based
4 upon his compensation during the twelve preceding
5 months or, if shorter, the actual preceding period of
6 service; and

7 (2) in the case of a pension plan providing regular
8 retirement benefits based on a fixed dollar benefit unit
9 for each period of credited service, the assumption that
10 the participant continues to be credited until regular
11 retirement age the same fixed dollar benefit unit based
12 on the value of such unit at the time of benefit
13 determination;

14 (3) in the case of a pension plan providing regular
15 retirement benefits which take into account all or a por-
16 tion of the participant's actual Social Security benefits
17 to be received at the regular retirement age, the assump-
18 tion that such Social Security benefit will be the same as
19 such benefits computed under the social security law
20 effective at the time of benefit determination and using
21 compensation as computed under subparagraph (1);
22 and

23 (4) in the case of a pension plan providing regular
24 retirement benefits based on a percentage of compensa-
25 tion in excess of social security covered compensation or



1 a fixed level of compensation, the assumption that such
2 social security covered compensation or fixed level of
3 compensation remains the same until regular retirement
4 age.

5 (c) In the case of a unit benefit-type pension plan,
6 the lowest rate of unit benefit credited, irrespective of com-
7 pensation, shall not be less than 75 per centum of the high-
8 est rate of unit benefit credited.

9 (d) For purposes of section 203 (f), the accrued por-
10 tion of the regular retirement benefit attributable to employer
11 contributions for a pension plan to which employees con-
12 tribute shall be the difference, but not less than zero, between
13 the accrued portion of the regular retirement benefit as de-
14 fined in paragraphs (1), (2), and (3) of subsection (a)
15 less the value of the accumulated contributions made by the
16 participant. For purposes of this subsection, the term "value
17 of accumulated contributions" means the total of all manda-
18 tory contributions made by the employee together with inter-
19 est, if any, credited thereon under the plan, except where
20 the accrued portion of the regular retirement benefit is de-
21 fined as an annual benefit, in which case the value of ac-
22 cumulated contributions shall be converted to an annual
23 benefit using an appropriate conversion factor. The appro-
24 priate conversion factor shall be calculated by a qualified
25 actuary using only the same assumed rate of interest and

1 mortality as is used in section 302 (a) (2) (B) (i) and (ii)
2 and in accordance with such other rules and regulations as
3 the Secretary may deem necessary.

4 EFFECTIVE DATE

5 SEC. 207. The provisions of this title shall become effec-
6 tive two years after enactment of this Act. With respect to
7 a pension plan created or operated under a collective-bar-
8 gaining agreement in existence as of the date of enactment
9 of this title but due to expire after the effective date of this
10 title, the provisions of this title shall apply after the expiration
11 date of such collective-bargaining agreement but in no event
12 later than thirty months after the effective date of this title.

13 TITLE III—FUNDING

14 COVERAGE

15 SEC. 301. (a) Except as provided in subsection (b),
16 this title shall apply to any employee pension benefit plan—

17 (1) if it is established or maintained by an em-
18 ployer engaged in commerce or in any industry or
19 activity affecting commerce or by such employer
20 together with any employee organization representing
21 employees engaged in commerce or in any industry or
22 activity affecting commerce, or by any employee orga-
23 nization representing employees engaged in commerce
24 or in any industry or activity affecting commerce, or

25 (2) if such plan is established or maintained by



1 any employer or by any employer together with any
2 employee organization or by any employee organization
3 representing employees engaged in commerce or in any
4 industry or activity affecting commerce and if, in the
5 course of its activities, such plan, directly or indirectly,
6 uses any means or instruments of transportation or
7 communication in interstate commerce or the mails.

8 (b) This title shall not apply to any employee pension
9 benefit plan if—

10 (1) such plan is administered by the Federal Gov-
11 ernment or by an agency or instrumentality of the Fed-
12 eral Government;

13 (2) such plan is established or maintained for the
14 benefit of self-employed individuals or owner-employees
15 (as defined in section 401 (c) (3) of the Internal Reve-
16 nue Code of 1954) ;

17 (3) such plan covers not more than twenty-five
18 participants;

19 (4) such plan is established or maintained outside
20 the United States primarily for the benefit of employees
21 who are not citizens of the United States and the situs
22 of the employee benefit plan fund established or main-
23 tained pursuant to such plan is maintained outside the
24 United States;

25 (5) such plan is unfunded and is established or

1 maintained by an employer primarily for the purpose of
2 providing deferred compensation for a select group of
3 management employees and is declared by the employer
4 as not intended to meet the requirements of section 401
5 (a) of the Internal Revenue Code; or
6 (6) such plan is an individual account plan.

7 **MINIMUM FUNDING STANDARD**

8 **SEC. 302.** (a) The minimum contribution to any pen-
9 sion plan for each plan year beginning after the effective
10 date of this title shall, unless a waiver is granted
11 pursuant to section 304 of this title, be equal to the excess
12 (if any) of (i) the sum of the minimum standard contribu-
13 tions for each plan year beginning after the effective date of
14 this title, over (ii) the total of the amounts contributed to or
15 under the plan for each of the preceding plan years beginning
16 after the effective date of this title. The minimum standard
17 contribution for any year is the larger of the amount de-
18 termined under paragraph (1) or (2) for that year, but
19 not more than the amount determined under paragraph
20 (3) for that year.

21 (1) **NORMAL COST PLUS 40-YEAR AUTHORIZA-**
22 **TION.**—The sum of—

23 (A) all normal service costs; and

24 (B) where the plan has an unfunded accrued
25 liability, computed under the actuarial cost method



1 used to determine normal service costs, special pay-
 2 ments consisting of no less than such unfunded
 3 accrued liability divided by the present value of
 4 an annuity certain due using an interest rate equal
 5 to the interest rate used in calculating the accrued
 6 liability and using a period of years not exceeding—

7 (i) in the case of an unfunded accrued
 8 liability existing on the effective date of this
 9 title, including any increase in accrued liability
 10 as a result of the provisions of this Act, in any
 11 plan established on or prior to the effective date
 12 of this title, forty years from such date;

13 (ii) in the case of an unfunded accrued
 14 liability resulting from the establishment of a
 15 pension plan or amendment thereto or from
 16 the change of any actuarial assumption or of the
 17 advance funding actuarial cost method on or
 18 after the effective date of this title, forty years
 19 from the date of such establishment or amend-
 20 ment or change;

21 (iii) in the case of an unfunded accrued
 22 liability which exists in any year and to which
 23 clauses (i) and (ii) do not apply, the average
 24 remaining working life of the active participants

1 covered by the plan determined as of the date
 2 such unfunded accrued liability is determined.

3 (2) PERCENTAGE OF VESTED BENEFITS.—The
 4 excess, if any, of the amount determined under
 5 subparagraph (A) of this paragraph over the
 6 amount determined under subparagraph (B); such
 7 excess divided by the present value of an annuity
 8 certain due using an interest rate equal to the interest
 9 rate used in calculating the actuarial liabilities in sub-
 10 section (a) (1) of this section and using a period of
 11 years not exceeding 20:

12 (A) The present value of all of the nonforfeit-
 13 able benefits in the plan.

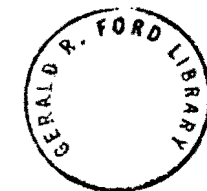
14 (B) The present value of the assets computed
 15 by a qualified actuary.

16 The term “present value” as used in subparagraph (A)
 17 means the discounted value of the accrued nonforfeitable
 18 benefits using only—

19 (i) an assumed rate of interest not larger than
 20 the interest rate used in calculating the actuarial
 21 liabilities in subsection (a) (1) of this section, and

22 (ii) appropriate mortality assumptions.

23 The computation under this paragraph shall be made
 24 with respect to each fiscal year of the plan.



(3) MAXIMUM REQUIRED CONTRIBUTIONS.—

The minimum funding standard determined under the preceding paragraphs shall not exceed the excess, if any, of the accrued liability under the entry age normal or accrued benefit actuarial cost method (including the normal cost for the year) for all benefits payable or which may be payable under the terms of the plan prior to plan termination over the present value of the assets in the plan.

(b) Notwithstanding subsection (a) of this section, the minimum contribution to any multiemployer pension plan for each plan year shall, unless a waiver is granted pursuant to section 304 of this title, be equal to the excess (if any) of (i) the sum of the minimum standard multiemployer contributions for each plan year beginning after the effective date of this title, over (ii) the total of the amounts contributed to or under the plan for each of the preceding plan years beginning after the effective date of this title. The minimum standard multiemployer contribution for each of the first ten plan years after the effective date of this title is the amount determined under paragraph (1) of this subsection, but not more than the amount provided in paragraph (2). The minimum standard multiemployer contribution for any year thereafter is the larger of the amount determined under subsection (a) (1) or (2) for

that year, but not more than the amount determined under subsection (a) (3) for that year.

(1) NORMAL COST PLUS PERCENTAGE OF UNFUNDED ACCRUED LIABILITY.—The sum of:

(A) all normal service costs; and

(B) where the plan has an unfunded accrued liability, computed under the actuarial cost method used to determine normal service costs, special payments consisting of not less than—

(i) for each of the first five plan years following the effective date of this title, such unfunded accrued liability for such year times the interest rate used in calculating the accrued liability, and

(ii) for each of the sixth through the tenth plan years following the effective date of this title, such unfunded accrued liability calculated for such year divided by the present value of an annuity certain due using an interest rate equal to the interest rate used in calculating the accrued liability and using a period of years not exceeding 40.

(2) MAXIMUM REQUIRED CONTRIBUTION.—The minimum funding standard determined under the preceding paragraph shall not exceed the excess, if any, of



1 the accrued liability under the entry age normal or ac-
 2 crued benefit actuarial cost method (including the normal
 3 cost for the year) for all benefits payable or which may
 4 be payable under the terms of the plan prior to plan
 5 termination over the present value of the assets in
 6 the plan.

7 (c) Notwithstanding subsections (a) and (b) of this
 8 section, the minimum contribution for each plan year to a
 9 pension plan established by any State or political subdivision
 10 of a State for its employees shall, unless a waiver is granted
 11 pursuant to section 304 of this title, be equal to the excess
 12 (if any) of (i) the sum of the minimum standard public
 13 system contributions for each plan year after the effective
 14 date of this title, over (ii) the total of the amounts con-
 15 tributed to or under the plan for each of the preceding plan
 16 years beginning after the effective date of this title. The
 17 minimum standard public system contribution for any year
 18 is the amount determined under paragraph (1) for that
 19 year, but not more than the amount determined under
 20 paragraph (2) for that year.

21 (1) NORMAL COST PLUS MODIFIED PERCENTAGE
 22 OF UNFUNDED ACCRUED LIABILITY.—The sum of—

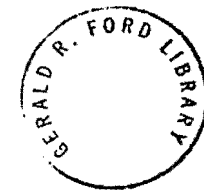
23 (A) all normal service costs; and

24 (B) where the plan has an unfunded accrued
 25 liability, computed under the actuarial cost method

1 used to determine normal service costs, special pay-
 2 ments consisting of not less than such unfunded
 3 accrued liability for each year divided by the pres-
 4 ent value of an annuity certain due using an
 5 interest rate equal to the interest rate used in
 6 calculating the accrued liability and using a period
 7 of years not exceeding 40, all times a percentage
 8 equal to not less than 50 per centum for the first
 9 plan year beginning on or after the effective date of
 10 this title, and such per centum shall increase not less
 11 than ratably over the next succeeding 10 plan
 12 years until and after which such time such per
 13 centum shall equal 100 per centum; and

14 (2) MAXIMUM REQUIRED CONTRIBUTION.—The
 15 minimum funding standard determined under the pre-
 16 ceding paragraph shall not exceed the excess, if any, of
 17 the accrued liability under the entry age normal or ac-
 18 crued benefit actuarial cost method (including the normal
 19 cost for the year) for all benefits payable or which
 20 may be payable under the terms of the plan prior to plan
 21 termination over the present value of the assets in
 22 the plan.

23 (d) If a plan uses an advance funding actuarial cost
 24 method which automatically spreads the unfunded present
 25 value of the projected future benefit and administrative



1 costs and actuarial gains and losses under the plan over the
 2 future expected working lifetime of the participants, in the
 3 aggregate or individually, as a level amount or level per-
 4 centage of compensation, then the amount determined under
 5 such method may be substituted for the amount determined
 6 under subsection (a) (1), (b) (1), or (c) (1) in deter-
 7 mining the minimum contribution required by subsection
 8 (a), (b), or (c).

9 (e) The actuarial assumptions used in calculating the
 10 actuarial liabilities under subsection (a), or (b), or (c),
 11 or (d) of this section shall be adequate and appropriate, and
 12 consistent with sound principles established by precedent or
 13 common usage by qualified actuaries within the actuarial
 14 profession. Sound principles of actuarial practice shall in-
 15 clude the requirement that a qualified actuary include a
 16 statement, as part of the opinion required under section 104

17 (e) and section 303 of this Act, that such actuarial assump-
 18 tions are reasonably related to the actual experience of
 19 the plan and to reasonable expectations. The set
 20 of actuarial assumptions used may contain different as-
 21 sumptions for different classes of risk or different groups.

22 (f) Nothing in this section shall prevent a pension
 23 plan from changing actuarial assumptions or actuarial cost
 24 methods, but no change which (but for this subsection)
 25 would result in lower contributions, may reduce any con-

1 tribution or future contribution required by this section
 2 arising from actuarial losses at or prior to the time of such
 3 change as calculated using the actuarial assumptions and
 4 actuarial cost method in effect prior to such change.

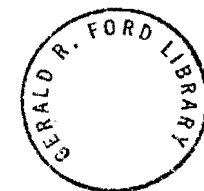
5 (g) Where the provisions of subsection (a) or (b)
 6 or (d) of this section would require a contribution to a pen-
 7 sion plan in an amount exceeding the allowable limits for a tax
 8 deduction for such contribution under section 404 of the In-
 9 ternal Revenue Code of 1954 for any plan year during which
 10 such payments must be made, the plan shall contribute such
 11 excess or portion thereof in the next succeeding plan year or
 12 years to the extent a tax deduction is allowable for such excess
 13 amount.

14 FUNDING STATUS REPORTS

15 SEC. 303. (a) The administrator of the plan shall file
 16 with the Secretary, as part of the annual report required
 17 under section 104 (e) or (if no such report is required)
 18 within two hundred and seventy days after the close of the
 19 fiscal year of the plan, a statement containing the following
 20 information:

21 (1) The number of years the plan has been in
 22 effect, the date of the plan year, and the date of the
 23 actuarial valuation applicable to the plan year for which
 24 the report is filed.

25 (2) The date and amount of the contribution (or



1 contributions) made by the plan for the plan year for
2 which the report is filed and contributions for prior plan
3 years not previously reported; and

4 (3) The following information applicable to the
5 plan year for which the report is filed: the amount of
6 the minimum contribution, the normal costs, accrued
7 liabilities, present value of accrued nonforfeitable bene-
8 fits; value of assets; an identification of benefits not in-
9 cluded in the calculations; and a statement of the other
10 facts and actuarial assumptions used in the calculation
11 of the minimum contribution required under section 302
12 and a justification for any change in actuarial assump-
13 tions or cost methods.

14 (4) An opinion by a qualified actuary that the
15 actuarial assumptions and cost methods referred to in
16 paragraph (3) meet the requirements of section
17 302 (e).

18 (5) Such information as is required under section
19 305 of this title.

20 (6) Such other information determined by the Sec-
21 retary by regulation to be necessary for adequate dis-
22 closure of the plan's funding status.

23 (b) Information described in subsection (a) (3) and
24 (a) (4) other than information consisting of the amount of
25 the minimum contribution need not be reported with respect

1 to that part of a pension plan which is funded by the pur-
2 chase of individual insurance contracts which—

3 (1) require level annual premium payments to be
4 paid extending not beyond the retirement age for each
5 individual participant in the plan, and commencing with
6 the participant's entry into the plan (or, in the case of
7 an increase in benefits, commencing at the time such
8 increase becomes effective), and

9 (2) benefits provided by the plan are equal to the
10 benefits provided under each contract, and are guaran-
11 teed by the insurance carrier to the extent premiums
12 have been paid.

13 (c) The Secretary may exempt any plan, in whole or in
14 part, from the requirement that reports be filed under this
15 section where the Secretary finds such filing to be un-
16 necessary.

17 ENFORCEMENT OF FUNDING REQUIREMENTS; VARIANCES

18 SEC. 304. (a) Subject to subsections (b) and (c) of
19 this section, if a plan administrator applies for a variance
20 from section 302, and if the Secretary determines that the
21 application for variance contains valid reason to believe
22 that the required payment under section 302 for a fiscal
23 year of the plan cannot be made by the employer or the
24 other contributing parties, the Secretary may waive part or
25 all of the minimum contribution otherwise required under



1 section 302 to be paid in that fiscal year, and prescribe an
 2 additional period of not more than five years for the amorti-
 3 zation of the funding deficiency occurring in that fiscal
 4 year, during which period the funding deficiency shall be
 5 removed by no less than equal annual amounts. The mini-
 6 mum required contributions during such period under sec-
 7 tion 302 shall be appropriately adjusted in accordance with
 8 regulations of the Secretary. The number of waivers granted
 9 pursuant to this subsection shall not exceed five waivers in
 10 any ten-year period.

11 (b) Whenever an application is made to the Secretary
 12 under subsection (a) by the plan administrator for a vari-
 13 ance or when the Secretary determines that the contributions
 14 to a pension plan do not meet the requirements of sec-
 15 tion 302, the Secretary shall require by order, after such
 16 notice to affected or interested parties as the Secretary may
 17 require under regulations and after an opportunity for hear-
 18 ing, that the administrator take such steps as the Secretary
 19 shall find necessary to guarantee that the rights of each par-
 20 ticipant to nonforfeitable benefits accrued to the date of such
 21 failure to make appropriate contributions, to the extent then
 22 funded, are secure. The plan's liabilities shall not be increased
 23 by an amendment until the plan has met all minimum fund-
 24 ing requirements under section 302.

25 (c) If in any fiscal year a plan fails to make the required

1 contribution under section 302 (plus any amounts necessary
 2 to amortize a deficiency for a prior fiscal year for which a
 3 waiver has been granted under subsection (a)), and if a
 4 waiver has not been granted under subsection (a) for such
 5 year, the Secretary may by order, after adequate notice to
 6 affected and interested parties and opportunity for hearing,
 7 that the administrator take such steps as the Secretary shall
 8 find necessary to suspend further accumulation of liabilities,
 9 and may—

10 (1) order the merger or consolidation of the de-
 11 ficiently funded plan with such other plan or plans of the
 12 contributing employer or employers in a manner that
 13 will result in future compliance with the funding require-
 14 ments of section 302 without adversely affecting the
 15 interests of participants and beneficiaries in all plans
 16 which may be involved; and

17 (2) whenever he finds it necessary to protect the
 18 interests of participants, require by order that the plan
 19 terminate and wind up its affairs.

20 MERGER REQUIREMENTS

21 SEC. 305. (a) No pension plan to which this title
 22 applies may merge or consolidate with, or transfer its assets
 23 to, any other pension plan unless a qualified actuary (1)
 24 determines that each participant in each plan would receive a
 25 termination benefit after the merger, consolidation, or transfer



1 which is equal to or greater than the termination benefit he
2 would receive before the merger, consolidation, or transfer,
3 and (2) includes such determination and his reasons therefor
4 in the next succeeding report under section 303.

5 (b) The term "termination benefit" means as of any
6 date, the amount a participant would receive under section
7 113 if the plan were terminated on such date.

8 EFFECTIVE DATE

9 SEC. 306. The provisions of this title shall become effec-
10 tive two years after enactment of this Act. With respect to
11 a pension plan created or operated under a collective-bargain-
12 ing agreement in existence as of the date of enactment of this
13 title but due to expire after the effective date of this title, the
14 provisions of this title shall apply after the expiration date of
15 such collective-bargaining agreement but in no event later
16 than thirty months after the effective date of this title.

17 TITLE IV—REGISTRATION, ENFORCEMENT, AND

18 MISCELLANEOUS PROVISIONS

19 REGISTRATION OF PLANS

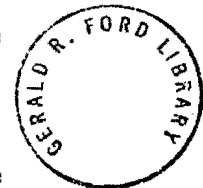
20 SEC. 401. (a) Every administrator of a pension plan
21 to which title II or III apply shall file with the Secre-
22 tary an application for registration of such plan. Such ap-
23 plication shall be in such form and shall be accompanied by
24 such documents as shall be prescribed by regulation of the
25 Secretary. After qualification under subsection (c), the ad-

1 administrator of such plan shall comply with such require-
2 ments as may be prescribed by the Secretary to maintain the
3 plan's qualification under this title.

4 (b) In the case of plans established on or after the
5 effective date of title II and III, the filing required by sub-
6 section (a) shall be made within six months after such plan
7 is established. In the case of plans established prior to the
8 effective date of this title II and III, such filing shall be
9 made after the effective date of regulations promulgated by
10 the Secretary to implement this section but in no event later
11 than six months after the effective date of title II and III
12 of this Act.

13 (c) Upon the filing required by subsection (a), the
14 Secretary shall determine whether such plan is qualified for
15 registration under this title, and if the Secretary finds it
16 qualified, he shall issue a certificate of registration with re-
17 spect to such plan.

18 (d) If at any time the Secretary determines that a plan
19 required to qualify under this title is not qualified or is no
20 longer qualified for registration under this title, he shall notify
21 the administrator, setting forth the deficiency or deficiencies
22 in the plan or in its administration or operations which is the
23 basis for the notification given, and he shall further provide
24 the administrator, the employer of the employees covered



1 by the plan (if not the administrator), and the employee
 2 organization representing such employees, if any, a reason-
 3 able time within which to remove such deficiency or de-
 4 ficiencies. If the Secretary thereafter determines that the
 5 deficiency or deficiencies have been removed, he shall issue
 6 or continue in effect the certificate, as the case may be. If
 7 he determines that the deficiency or deficiencies have not
 8 been removed, he shall enter an order denying or canceling
 9 the certificate of registration, and take such further action
 10 as may be appropriate under the enforcement and other pro-
 11 visions of this Act.

12 (e) A pension plan shall be qualified for registration
 13 under this section if it conforms to, and is administered in
 14 accordance with titles II and III.

15 (f) The Secretary may, by regulations, provide for the
 16 filing of a single report satisfying the reporting and registra-
 17 tion requirements of this Act.

18 (g) Where a pension plan filed for registration under
 19 this title is amended subsequent to such filing, the adminis-
 20 trator shall (pursuant to regulations promulgated by the
 21 Secretary) file with the Secretary a copy of the amendment
 22 and such additional information and reports as the Secretary
 23 by regulation may require, to determine that there is con-
 24 tinued compliance under titles II and III of this Act.

1 ENFORCEMENT OF REGISTRATION

2 SEC. 402. Whenever the Secretary—

3 (1) determines, in the case of a pension plan re-
 4 quired to be registered under section 401, that no appli-
 5 cation for registration has been filed in accordance with
 6 section 401, or

7 (2) issues an order under section 401 denying or
 8 canceling the certificate of registration of a pension
 9 plan, or

10 (3) determines, in the case of a pension plan sub-
 11 ject to title III, that there has been a failure to make
 12 required contributions to the plan in accordance with the
 13 provisions of this Act or to pay required assessments
 14 or to pay such other fees or moneys as may be required
 15 under this Act,

16 the Secretary may petition any district court of the United
 17 States having jurisdiction of the parties, or the United States
 18 District Court for the District of Columbia, for an order
 19 requiring the employer or other person responsible for the
 20 administration of such plan to comply with the require-
 21 ments of this Act as will qualify such plan for registration
 22 or compel or recover the payment of required contributions,
 23 assessments, premiums, fees, or other moneys.



VARIATION APPEAL BOARD

1 SEC. 403. There is hereby established a Variation Ap-
 2 peal Board which shall hear and determine appeals from de-
 3 cisions denying grants of variations under sections 204 and
 4 304, in accordance with procedures promulgated by
 5 the Secretary pursuant to regulation. Such Board shall in-
 6 clude the Secretary of Labor or his designee, the Sec-
 7 retary of Commerce or his designee, and a person
 8 jointly selected by the Secretaries of Labor and Commerce
 9 from outside the Federal Government who is, by reason of
 10 training or experience, or both, familiar with and competent
 11 to deal with, problems involving employees' pension plans.
 12 The Secretary of Labor or his designate shall serve as pre-
 13 siding officer on such Board. Such non-Federal Government
 14 member of the Board shall be compensated at a rate fixed
 15 by the Secretary but not in excess of the maximum rate of
 16 pay for grade GS-18 as provided under section 5332 of title
 17 5 of the United States Code for each day he is engaged in
 18 the work of the Board and, while serving away from his
 19 home or regular place of business, may be allowed travel
 20 expenses, including per diem in lieu of subsistence, as
 21 authorized by section 5703 of title 5, United States Code,
 22 for persons in the Government employed intermittently.
 23

INVESTIGATIONS

1 SEC. 404. (a) The Secretary, in his discretion, may
 2 investigate any facts, conditions, practices, or matters which
 3 he may deem necessary or appropriate to determine whether
 4 any person has violated or is about to violate any provisions
 5 of title II or III, or this title, or any rule, regulation, varia-
 6 tion, or order under any such title, or to aid in the enforce-
 7 ment of the provisions of title II or III, or this title, in the
 8 prescribing of rules, regulations, variations, or orders there-
 9 under, or in obtaining information with respect to studies
 10 undertaken pursuant to section 406. The Secretary shall
 11 publish and make available to any interested person or
 12 official, information concerning any matter which may be
 13 the subject of investigation, and shall prepare a report of
 14 any investigation undertaken by him. Such report shall
 15 contain a record of any facts, conditions, practices, or other
 16 matters discovered during the course of his investigation
 17 and shall be published within one year of commencement
 18 of such investigation.
 19
 20 (b) For the purpose of any investigation provided for
 21 in (a), the provisions of sections 9 and 10 (relating to the
 22 attendance of witnesses and the production of books, papers,
 23 and documents) of the Federal Trade Commission Act of



1 September 16, 1914, as amended (15 U.S.C. 49, 50), are
 2 hereby made applicable to the jurisdiction, powers, and
 3 duties of the Secretary or any officers designated by him.

4 CIVIL ENFORCEMENT

5 SEC. 405. (a) Whenever it shall appear to the Secre-
 6 tary that any person is engaged or about to engage in any
 7 acts or practices that constitute or will constitute a viola-
 8 tion of any provision of title II or III, or this title, or of any
 9 regulation, variation, or order issued thereunder, he may in
 10 his discretion, bring an action in the proper district court of
 11 the United States or United States court of any place sub-
 12 ject to the jurisdiction of the United States, to enjoin such
 13 acts or practices, or to require the employer or other person
 14 responsible for the administration of such plan to comply with
 15 the requirements of this Act as will qualify such plan for
 16 registration or compel or recover the payment of required
 17 contributions, assessments, premiums, fees, or other moneys.
 18 Upon a proper showing a permanent or temporary injunc-
 19 tion or restraining order shall be granted.

20 (b) (1) Civil actions may be brought by a participant or
 21 beneficiary in any court of competent jurisdiction, State or
 22 Federal, to recover benefits due him by reason of title II or
 23 to clarify his rights to future benefits under such title.

24 (2) Where such an action is brought in a district court
 25 of the United States, it may be brought in the district where

1 the plan is administered, where the breach took place, or
 2 where a defendant resides or may be found, and process
 3 may be served in any other district where a defendant
 4 resides or may be found.

5 (3) Notwithstanding any other law, the Secretary shall
 6 have the right to remove an action from a State court to a
 7 district court of the United States, if the action is one seek-
 8 ing relief of a kind the Secretary is authorized to sue for
 9 herein. Any such removal shall be prior to the trial of the
 10 action and shall be to a district court where the Secretary
 11 could have initiated such an action.

12 (4) In any action brought under this subsection by a
 13 participant or beneficiary, the jurisdiction of the district
 14 court shall be subject to the requirements contained in sec-
 15 tion 1331 of title 28, United States Code.

16 (5) In any action by a participant or beneficiary,
 17 the court in its discretion may allow a reasonable attorney's
 18 fee and costs of action to either party.

19 (6) A copy of the complaint in any action under this
 20 subsection by a participant or beneficiary shall be served
 21 upon the Secretary by certified mail who shall have the
 22 right, in his discretion, to intervene in the action.

23 (c) The United States district courts and the United
 24 States courts of any place subject to the jurisdiction of the
 25 United States shall have exclusive jurisdiction with respect to



1 violations of title II or III, or this title, or regulations, varia-
 2 tions or orders issued under any such title, and of all suits in
 3 equity and actions at law brought to enforce any liability or
 4 duty created by, or to enjoin any violation of, title II, III, or
 5 IV or regulations, variations or orders thereunder, and to
 6 provide such other relief as may be appropriate.

7 STUDIES

8 SEC. 406. The Secretary is authorized and directed to
 9 undertake research studies relating to pension plans, includ-
 10 ing but not limited to (1) the effects of this Act upon the
 11 provisions and costs of pension plans, (2) the role of private
 12 pensions in meeting the economic security needs of the
 13 nation, and (3) the operation of public and private pension
 14 plans including types and levels of benefits, degree of reci-
 15 procity or portability, and financial characteristics and prac-
 16 tices, and methods of encouraging the growth of the private
 17 pension system.

18 ANNUAL REPORT OF SECRETARY

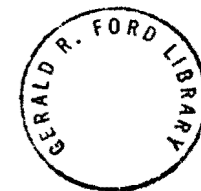
19 SEC. 407. The Secretary shall submit annually a report
 20 to the Congress covering his administration of this Act for
 21 the preceding year and including such information, data,
 22 research findings, and recommendations for further legisla-
 23 tion in connection with the matters covered by this Act as
 24 he may find advisable.

RULES AND REGULATIONS

1
 2 SEC. 408. The Secretary shall prescribe such rules and
 3 regulations as he finds necessary or appropriate to carry out
 4 the provisions of title II or III, or this title. Among other
 5 things, such rules and regulations may define actuarial, ac-
 6 counting, technical, and trade terms used in such provisions;
 7 and may prescribe the detail to be included in any reports
 8 required to be made under such provisions; and may pro-
 9 vide for the keeping of books and records, and for the in-
 10 spection of such books and records.

11 OTHER AGENCIES AND DEPARTMENTS

12 SEC. 409. In order to avoid unnecessary expense and
 13 duplication of functions among Government agencies, the
 14 Secretary may make such arrangements or agreements for
 15 cooperation or mutual assistance in the performance of his
 16 functions under title II or III or this title and the func-
 17 tions of any such agency as he may find to be prac-
 18 ticable and consistent with law. The Secretary may utilize,
 19 on a reimbursable basis, the facilities or services of any de-
 20 partment, agency, or establishment of the United States or of
 21 any State or political subdivision of a State, including the
 22 services of any of its employees, with the lawful consent of
 23 such department, agency, or establishment; and each depart-
 24 ment, agency, or establishment of the United States is au-



1 thORIZED and directed to cooperate with the Secretary and, to
 2 the extent permitted by law, to provide such information and
 3 facilities as he may request for his assistance in the perform-
 4 ance of his functions under title II or III, or this title.
 5 The Attorney General or his representative shall receive
 6 from the Secretary for appropriate action such evidence
 7 developed in the performance of his functions under title
 8 II or III, or this title, as may be found to warrant considera-
 9 tion for criminal prosecution under the provisions of this Act
 10 or other Federal law.

11 ADMINISTRATION

12 SEC. 410. (a) The provisions of chapters 5 and 7 of
 13 title 5, United States Code (relating to administrative pro-
 14 cedure) shall be applicable to this Act.

15 (b) No employee of the Department of Labor shall
 16 administer or enforce this Act with respect to any employee
 17 organization of which he is a member or employer organiza-
 18 tion in which he has an interest.

19 APPROPRIATIONS

20 SEC. 411. There is hereby authorized to be appropriated
 21 such sums as may be necessary to enable the Secretary to
 22 carry out his functions and duties under this Act.

23 INTERFERENCE WITH RIGHTS PROTECTED UNDER ACT

24 SEC. 412. It shall be unlawful for any person to dis-
 25 charge, fine, suspend, expel, discipline, or discriminate against

1 a participant or beneficiary for exercising any right to which
 2 he is entitled under the provisions of the plan or this Act,
 3 or for the purpose of interfering with the attainment of any
 4 right to which such participant may become entitled under
 5 the plan, or this Act. The provisions of sections 404 and
 6 405 shall be applicable in the enforcement of this section.

7 COERCIVE INTERFERENCE

8 SEC. 413. It shall be unlawful for any person through the
 9 use of fraud, force, or violence, or threat of the use of force or
 10 violence, to restrain, coerce, intimidate, or attempt to restrain,
 11 coerce, or intimidate any participant or beneficiary for the
 12 purpose of interfering with or preventing the exercise of any
 13 right to which he is or may become entitled under the
 14 plan, or this Act. Any person who willfully violates this
 15 section shall be fined \$10,000 or imprisoned for not more
 16 than one year, or both.

17 EFFECT OF OTHER LAWS

18 SEC. 414. It is hereby declared to be the express in-
 19 tent of Congress that the provisions of titles II and III,
 20 and this title, shall supersede any and all laws of the States
 21 and of political subdivisions thereof insofar as they may
 22 now or hereafter relate to the vesting, eligibility, and
 23 funding responsibilities of persons acting on behalf of em-
 24 ployee pension benefit plans; except that nothing in titles
 25 II and III and this title shall be construed—





1 (1) to exempt or relieve any employee pension
2 benefit plan not subject to titles II and III from any
3 law of any State;

4 (2) to exempt or relieve any person from any law
5 of any State which regulates insurance, banking, or
6 securities or to prohibit a State from requiring that
7 there be filed with a State agency copies of reports
8 required by such titles to be filed with the Secretary; or

9 (3) to alter, amend, modify, invalidate, impair, or
10 supersede any other law of the United States or any
11 rule or regulations issued under any such law.

12 **SEPARABILITY PROVISIONS**

13 **SEC. 415.** If any provision of this Act, or the application
14 of such provision to any person or circumstances, shall be
15 held invalid, the remainder of this Act or the application of
16 such provision to persons or circumstances other than those
17 as to which it is held invalid, shall not be affected thereby.

18 **EFFECTIVE DATE**

19 **SEC. 416.** The provisions of this title shall become effec-
20 tive upon the date of enactment of this Act.

93^D CONGRESS
1ST SESSION

H. R. 9232

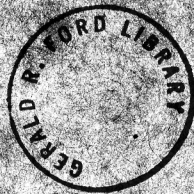
A BILL

To revise the Welfare and Pension Plans Disclosure Act, and to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, and for other purposes.

By Mr. ERLBORN, Mr. QUIE, Mr. HANSEN of Idaho, Mr. KEMP, Mr. SARASIN, Mr. HUBER, Mr. DELLENBACK, Mr. STEIGER of Wisconsin, and Mr. TOWELL of Nevada

JULY 12, 1973

Referred to the Committee on Education and Labor



2 weeks Adam with
more in Sept

Halpfield likes AEC
Energy R&D Adam
his idea

Opt out before end session
may have problem on Corps Engineers
Idea be on spot of this block it