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FOR IMMEDIATE RELEASE SEPTEMBER 2, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

PRESS CONFERENCE
OF
RICHARD F. SCHUBERT, UNDER SECRETARY OF LABOR;
STEPHAN GARDNER, DEPUTY SECRETARY OF TREASURY;
PAUL FASSER, ASSISTANT SECRETARY OF LABOR FOR LABOR MANAGEMENT;
DONALD ALEXANDER, COMMISSIONER OF INTERNAL REVENUE SERVICE;
AND
WILLIAM KILBERG, SOLICITOR, DEPARTMENT OF LABOR

12:21 P.M. EDT

MR. TER HORST: Before I go into a regular briefing, I know you want to have a briefing on the bill signing and the importance of the Pension Reform Act which the President signed in the Rose Garden. You were all there, obviously, so you know how that scene went.

Secretary Brennan planned to be out here but he has an appointment with the President, as you know from the schedule, and that conflicted with the delay and the ceremony in the garden, so he is in seeing the President now.

So handling the briefing this morning on the bill will be Under Secretary of Labor, Richard Schubert; Under Secretary of the Treasury, Stephan Gardner; Paul Fasser, who is Assistant Secretary of Labor for Labor Management Relations; and Donald Alexander, the Commissioner of the Internal Revenue Service.

You have the Presidential statement, I believe, and a fact sheet.

So, Mr. Schubert.

MR. SCHUBERT: Thank you.

The Employee Retirement Income Security Act of 1974 is a significant new building block in the social structure of this nation.

It represents the concern of Congress and the Executive Branch for the future security of workers and their families -- for those rights which are earned by the skill and expertise which make this country run.

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It has been a great concern to government, and to all American citizens, that some workers devote years to their jobs, to their careers and to their employers, only to find the expected rewards of work in their old age denied them when their employment is terminated.

Now that pension reform has become a reality, these workers can reach their later years with much greater assurance that they will not face economic hardship and despair.

About 35 million persons and nearly 2 million private pension and welfare plans will be affected by the provisions of this new law.

It requires of those who administer private pension and welfare plans the following:

First, that the monies contributed to pension plans be in hand to pay benefits when they are due;

Second, that a person who works for a certain minimum amount of time be assured of collecting the pension benefits earned during that period when the person reaches retirement age -- regardless of where he or she is.

Third, that funds of employee benefit plans be handled in a prudent manner and exclusively in the interest of the workers and their families;

Fourth, that workers covered by these plans have quick and easy access to the information they need about their benefits, the operations of their plans, and that their rights to benefits and information be enforceable under Federal law in Federal courts.

And finally, through an insurance corporation established within the Department of Labor, certain covered workers' pension benefits are now guaranteed up to a maximum amount in the event the pension plan is terminated.

The private pension and welfare system in this country is remarkably large and complex. By 1980, it is anticipated that the system will have assets of $250 billion, by far the largest single body of private funds in the world. We look to this law to improve the security and guarantees of this system and we do intend to see to it that the many provisions of the law will set forth, in plain language, the rules of the game for all to understand.

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In this spirit, private industry and workers can strengthen their partnership so that it pays fair dividends to each.

This strengthening is possible because of the efforts of many concerned Americans who worked diligently to produce a law which would be fair to both workers and their employers, and which would leave flexibility for an even better private employee benefit plan system in the future.

I wish to commend the cooperative efforts of the interagency task force and of the staffs of several committees and many individual Members of the Congress which went into the development of this legislation. We want especially to single out for commendation the employees of the U.S. Department of Labor whose tireless and dedicated efforts over several years have to such a large extent been responsible for this achievement.

The Employee Retirement Income Security Act is a symbol of how we must continue working together if we are to gain the prosperity that each of us seeks.

Now, as indicated at the outset, I have a team of people who are assisting me in this briefing today and I think each one notes some special passing reference.

As indicated, Stephan Gardner, who is the Deputy Secretary of Treasury, is with us; and Donald Alexander, the Director of IRS; Paul Fasser of Labor-Management Relations within the Department of Labor; Bill Kilberg, who is your solicitor; and two of the lawyers from the Department of Labor who have lived with this bill from its very inception and who probably have contributed more from a legal standpoint than any other two attorneys working on this bill in the Executive Branch.

Now, gentlemen, it is a pleasure to be with you and try to answer some of your questions.

Q Mr. Schubert, is there anything in this legislation that covers in an ex post facto way people who have lost their pension rights in the past?

MR. SCHUBERT: The only thing in the bill that provides for retroactive application relates to plans that have terminated between July 1, 1974 and the enactment date. And those plans, in a very special way, are covered by the Pension Benefit Guaranty Corporation title of the bill.

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Other than that, it is prospective in application and in fact in your briefing materials you will find indication of when the various titles and provisions of those titles take effect.

Q How soon will the Guaranty Corporation be in business?

MR. SCHUBERT: It will be in business tomorrow morning. In fact, technically it was in business as of the time that the President signed the bill.

Let me give a word of background in that regard, and also extend our great appreciation to a number of people who have made this all possible.

We anticipated, frankly, as we followed the progress of the early part of the legislation through Congress, that this corporation whose prime responsibility it is to ensure benefits,would take effect or become effective perhaps as much as a year after enactment date.

It was about three or so months ago that we realized that we would have a corporation effective on enactment date and in fact some indication that it would be effective retroactively. And we put together a group of teams with a nucleus from the Labor Department, but very strong assistance from IRS and Commerce and OMB, and they have been literally working night and day so that we would be prepared tomorrow morning with people detailed from various operations within the Government to begin the process that is the Pension Benefit Guaranty Corporation.

We did not have the authority to hire any permanent employees. We will be doing that and putting them in the organizational boxes that we have created.

Q Has a director been chosen?

MR. SCHUBERT: No, a director has not been chosen. The structure of the corporation is this: There is a three-man board of directors. The Secretary of Labor is the statutory designated chairman of the board, the Secretary of Treasury and the Secretary of Commerce are the other two directors of the corporation.

Our organizational sense provides for an executive director to be the operational head, the working head reporting to the chairman and the board of directors. We are in the process of searching for the ideal candidate for that job.

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Q How much money in premiums does the corporation expect to collect in the first year of operation?

MR. SCHUBERT: The corporation's premium structure is oriented to a very simple formula -- $1 per head for single employer plans, and 50 cents per head, as I recall, for multi-employer plans.

It is anticipated that the corporation will be self-financing.

At the outset, however, obviously there is the need for capital to run the corporation and the corporation has the authority to borrow up to $100 million from the Treasury Department in a line of credit type operation. We will be getting premium notices out.

I am not sure whether any calculation has been done, gentlemen, on how much we expect in the first year in premiums. Any idea on that?

About $23 million, it is suggested.

Q $1 per hour and 50 cents per hour?

MR. SCHUBERT: No; $1 per head for employees per year for employees covered under single employer plans, and 50 cents per employee for all employees covered under multi-employer plans.

Q Does the Department have any idea what their expanded operations are going to cost in terms of administrative expenses? I understand you are going to need supplemental appropriations.

MR. SCHUBERT: We are working on a supplemental now.

Let me make a couple of things clear in this regard. There are five or six large or major components in this legislation. Participation, vesting, and funding are the primary responsibility of the Department of Treasury.

The reporting and disclosure and fiduciary are the Department of Labor, within house, as it were, within the Department of Labor and then the Pension Benefits Guaranty Corporation is to be housed within the Department, and will be serviced in many ways by the Department of Labor.

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We are in the process of developing a pension supplemental for the Department of Labor functions with regard to the Pension Benefit Corporation. We have developed an initial projection with regard to staff needs for the first year. Very frankly, we need more experience before we can harden up some of those figures.

Q You spoke of a flexibility for an even better private employee benefit system in the future. What provisions might be added in subsequent years by Congress?

MR. SCHUBERT: I think clearly one of the intents of this legislation is not to restrict or constrict employers and collective bargaining agents from developing better forms of vesting, higher forms of benefit levels, greater degrees of protection.

I know that that was one of the considerations in the mind of the Congressional drafters and in our minds as we provided technical assistance to them.

I should note one other thing. There is also conscious concern expressed in the legislation not to inhibit the creation of new plans in the future.

This bill does not necessitate the creation of pension coverage where it currently does not exist. At the same time, there was a clear concern that we not do anything to inhibit that development in the private sector.

Q Mr. Schubert, have you made any kind of an estimate as to how many plans will be disbanned as a result of this legislation?

MR. SCHUBERT: If by disbanned you mean how many plans will be terminated, the only experience we have to base our operational projections on is a study made by the Department of Treasury and the Department of Labor, I believe based on '72 experience, and it is being updated into '73 experience.

Based on that data, I believe we anticipated something like 720 -- 1,200 terminations perhaps in the first year of operation, 700 under the law with a projection that some portion -- and it is very difficult to project this -- but some portion would not have sufficient assets within the plan to take care of vested liability, and consequently would be looking to the corporation and its premium funds for assistance in meeting the obligation.

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Q How many workers would this represent?

MR. SCHUBERT: I believe the corporation -- it is projected the corporation would cover something like 23 million workers.

Q But of the 1,200 plans that would terminate the first year, how many workers do you think would have been covered by those?

MR. SCHUBERT: Mr. Rose says in '72 that the number of plans that terminated reflected about 20,000 employees.

Q Why did they terminate?

MR. SCHUBERT: They would have terminated for a whole variety of reasons, including some financial difficulties or conclusion that the money, the amount of liquid cash and liquid assets identified for the corporation might be utilized in some other fashion by the employer plan that created the trust fund.

Now the significant thing about this legislation is that it no longer will be possible for plans to be terminated, thereby leaving workers who have great expectations and expectancies in the lurch, because henceforth there will have to be sufficient assets to protect the vested liabilities that have been incurred in this pension legislation.

Q You used two numbers, 1200 plans, and then you say 700 under the law. Which would be the correct number that the insurance corporation would be handling?

MR. SCHUBERT: I have to pass to the experts. The fact is not all pension plans are covered by the Pension Benefit Guaranty Corporation. I believe it is defined benefit plans.

Henry or Steve, do you want to address yourself to that a minute, please?

MR. ROSE: The 1200 is the estimate of the number of terminations during 1972, and that is our anticipation for this year. And the 700 is the approximate number that will have insufficient funds to cover the vested liabilities.

Q Mr. Rose, would there be an additional group of funds, pension groups, that would not choose to continue because of this type of legislation?

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MR. ROSE: That is possible but we have no way of knowing that.

Q Mr. Schubert, can you tell us anything about the legislative history of this? Why did it take seven years to get it out? When did the Administration begin to back it?

MR. SCHUBERT: As I recall, the Administration's first proposal with regard to this was back in 1970 and there has been since then a great deal of legislative activity.

I would just suggest in general terms that, as indicated by the President when he picked up this massive piece of legislation, this is a fantastically complex area.

As I recall, there were 300 or 400 pages in both the House version and the Senate version which had to be measured together, and I should note what I thought was an extraordinarily able job done by Congressional staff working under some very severe time strictures and restraints to get this out as timely as possible, and I thought they did a fantastic job in handling extremely complex areas.

That does not mean that we have foreseen, or that they have foreseen, or anyone has, all of the complications that will be discovered and wrestled with in the administration of the legislation.

I think, very frankly, that the Administration's decision to make this a priority matter a couple of years ago had a very significant impact on the success that was finally achieved this morning.

Q Mr. Schubert, you used the figure of 23 million people who would be covered eventually by the benefits of the corporation.

MR. SCHUBERT: By the Termination Insurance Corporation. Yes, there are 35 million who are impacted in one fashion or another by this legislation.

Q But the 23 million are workers and the 35 million are workers plus dependents and beneficiaries?

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MR. SCHUBERT: No, they are both workers. 35 million is the scope of coverage or impact area, you might say, of the total legislation, the pension bill that has been signed into law. Approximately 23 million, as we see it, would be covered by those provisions of the bill that set up the corporations, the Termination Insurance Corporation.

Q What do you mean by "impacted"? I am afraid I don't follow you.

MR. SCHUBERT: Well, you see there are a number of areas set forth in the bill -- funding, vesting, participation, reporting and disclosure, fiduciary and termination insurance. There are 35 million who will be covered in one fashion or another by one of those areas in the bill.

In other words, let's assume that someone in a welfare plan, not a pension plan -- and welfare plans are not covered by the Termination Insurance Corporation -- but someone in a welfare plan believes that his fiduciary has acted improperly with regard to the management of the assets that person would have a claim under the law, could come to the Department of Labor for assistance.

If we concluded that indeed there was a judicable claim, we would go into court. We could seek to set aside any improper transactions. We could go after the fiduciary to recover any money that had been lost through his failure to live up to the so-called prudent man standards established under the legislation.

Q Could you give us separate coverage figures for pension plans without welfare included? I know you use the figure 35 million. Sometimes I say 30 million and sometimes I say 40 million, and I just wonder.

Q And I have seen 27-1/2 plus 5.

MR. SCHUBERT: That sounds like some kind of a numbers game or something.

Let's start with the number of people in pension plans as opposed to welfare plans, about 30 million, and that is the distinction between 35 and 30 that is set forth in our fact papers, or fact sheets. 23 covered by the Termination Insurance Corporation and its coverage.

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Q You mean there are 7 million people in pension plans that are not covered by the termination insurance?

MR. SCHUBERT: Yes.

Q Why would that be?

MR. SCHUBERT: As I understand it, they are not part of a so-called defined benefits plan.

Henry, do you want to address yourself to that, please?

MR. ROSE: The only pension plans that are covered by the termination insurance plan are those that have defined, fixed benefits at retirement age, you see. Profit sharing plans, stock bonus plans, fixed contribution plans would not be covered.

Q And then there are 5 million in welfare plans that are covered?

MR. ROSE: There are many more than 5 million, but there is a great deal of overlapping between the coverage of welfare plans and those of pension plans.

Q In other words, if I belong to a pension plan that promises me a certain amount which I pay -- because you are talking about fixed contributions I am paying into, right?

MR. ROSE: It could be fixed contributions from your employer also but not promising you any particular amount of money at retirement.

Q When I retire?

MR. ROSE: That is right.

Q If they go out of business, I have had it?

MR. ROSE: You will have whatever is in that fund. If you are lucky, you will not be covered by the Termination Insurance Corporation.

Q But if they go broke?

MR. ROSE: You will have what is in the plan.

Q Will there be a sufficient amount of money in the fund to pay off?

MR. ROSE: You will have what is in the fund.

Q It is not insurance?

MR. ROSE: No, it is not insurance.

MR. KILBERG: The only thing they owe under that type of plan is what is in the fund for you. So you will get what is in the fund for you. If they have invested it wisely and luckily, and the fund contributed on your behalf has built up to a very large extent, and the plan is terminated, you will get that large amount.

If they have been unlucky in their investments, or if they have done a poor managerial job, you will get a lesser amount than you expected.

Now there are some new provisions in this bill, fiduciary standards, that Dick has already mentioned, which are going to help you in safeguarding your rights, but your rights are not insured.

Q May I ask a question for clarification?

MR. SCHUBERT: Yes, please.

Q The reason I brought up the dollar per hour --

MR. SCHUBERT: Not hour; per head, per employee.

Q Let me explain why I brought it up. I spoke with the President of the International Workers' Union, Mr. Fosco.

MR. SCHUBERT: International Labor Union, Mr. Peter Fosco.

Q Yes; that is right, and he explained that the worker contributes a dollar per hour, and of the 40 hours a week, they contribute $40 a week, $160 a month, they get $100 back per month. Now, is that correct?

MR. SCHUBERT: That may well be the arrangements that are established in a particular plan to which he has referred. But the premiums that will be imposed by the corporation on the employers and the plans around the country are based on the number of employees in a certain time frame that they have had. And it is $1 per head except for multi-employer plans and there it is 50 cents per head.

Q Do you expect any legal problems with the legal insurance part of the Act, with the American Bar Association or the American Trial Lawyers Association?

MR. SCHUBERT: Yes. That matter has come up very recently and Bill Kilberg has given some consideration to it.

MR. KILBERG: There was a story in yesterday's paper about it. Section 415 of the statute clearly pre-empts State laws with regard to prepaid legal insurance programs. That means that State insurance departments will not be able to regulate those prepaid legal insurance programs. They will be regulated by this statute.

Insofar as State Bar Associations wish to take punitive action against attorneys who participate in so-called closed legal insurance systems, there is some legislative history on that matter.

There was a colloquy in the Senate but we have not had an opportunity to review that legislative history and any similar legislative history which might have come out in the House. And so we cannot comment at this point on the authority of State Bar Associations to take that kind of action.

But State insurance departments clearly would be pre-empted.

Q Mr. Schubert, there has been a great deal said about this being the largest collection of private capital in existence right now. Are there any plans to include any of the managers of this money in the summit, the inflation summit coming up? Does anyone know, perhaps Mr. Gardner?

MR. SCHUBERT: That is a determination that is to be made by the Secretary of Treasury given the fact that banking and finance, that portion of these high-level conferences, is within his jurisdiction.

So, I think you have to pursue that with him.

Steve, I don't know whether you have any comments you want to make about that.

MR. GARDNER: There will be considerable participation by people involved in the investment of pension funds at the various conferences on inflation.

Q Can you give us any individuals in particular?

MR. GARDNER: The list I don't have at the moment, but there will be one. There were many recommendations to include people with that expertise and they inevitably will be at the conference.

Q Mr. Schubert, how many workers who were not vested under previous situations would be automatically vested under this legislation?

MR. SCHUBERT: I reaclly don't know of any wasy to determine that unless you made a great, in-depth survey. What we do perceive is that the vesting varied a great deal from employer to employer.

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In some cases it was well-funded vesting. In other cases the funding was very shaky. And this bill establishes vesting procedures and it establishes pay-as-you-go funding procedures currently, and also establishes formulae for picking up past service credits.

Q But those people are not now automatically, Either they abolish the pension plan and replace it with one that fits the criteria, or they are automatically vested?

MR. SCHUBERT: I think that is simplistic.

Don, do you want to address yourself to the vesting question?

MR. ALEXANDER: First, I would like to ask Ira Cohen whether he has any figures at all on the numbers questions that were put to us.

Q No.

MR. ALEXANDER: Secondly, as far as vesting is concerned, there are three alternatives provided under the bill and the alternatives do not call for full and immediate vesting.

Now, the alternatives provided do call in a number of situations for faster vesting than is now provided by some plans. The alternatives, however, are designed to make it possible for particular corporations to adapt their plans to one of the three offered in a way so as to do two things, one is keep the plan going where the corporation won't be required to terminate the plan. And people shouldn't terminate plans by reason of the enactment of this bill. Instead, this bill should encourage the creation of new plans.

And the other side of the coin is to give people assurance after they have worked for a period of years, that they will have built up some vested rights, that their expectations won't be defeated by bank funding or vesting that is overly delayed.

MR. TER HORST: Gentlemen, thank you very much for coming out and being so cooperative.

If you have any more questions from the technical experts on this bill, I am sure you could call their respective departments and they will be more than happy to answer your questions.

THE PRESS: Thank you.

END (AT 12:40 P.M. EDT)