

# H. R. 9888

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## IN THE HOUSE OF REPRESENTATIVES

August 3, 1973

Mr. HUNGATE introduced the following bill: which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1954 to permit certain retroactive changes in qualified pension plans and change certain provisions concerning qualification of pension plans.

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 401 (b) of the Internal Revenue Code of  
4 1954 (relating to certain retroactive changes in plan) is  
5 amended to read as follows:

6        “(b) CERTAIN RETROACTIVE CHANGES IN PLAN.—  
7 A stock bonus, pension, profit-sharing, or annuity plan shall  
8 be considered as satisfying the requirements of subsection  
9 (a) for the period beginning with the date on which it  
10 was put into effect, or for the period beginning with the

1 date on which there was put into effect any amendment  
2 which caused the plan to fail to satisfy such requirements,  
3 and ending with the 15th day of the 15th month following  
4 the close of the taxable year of the employer in which the  
5 plan or such amendment, whichever is applicable, was put  
6 into effect, or ending with such later date as the Secretary or  
7 his delegate may designate, if all provisions of the plan  
8 which are necessary to satisfy such requirements are in effect  
9 by the end of such period and have been made effective for  
10 all purposes for the whole of such period.”

11 (b) The last sentence of section 1379 (a) of such Code  
12 (relating to certain additional requirements in case of plans  
13 of certain small business corporations) is amended to read  
14 as follows: “A plan shall be considered as satisfying the re-  
15 quirements of this subsection for the period beginning with  
16 the first day of a taxable year and ending with the 15th day  
17 of the 15th month following the close of the taxable year,  
18 or such later date as the Secretary or his delegate may  
19 designate, if all the provisions of the plan which are necessary  
20 to satisfy this requirement are in effect by the end of such  
21 period and have been made effective for all purposes for the  
22 whole of such period.”

23 SEC. 2. (a) Section 401 (a) (3) (A) of the Internal  
24 Revenue Code of 1954 (relating to certain requirements for

1 qualification of pension, etc., plans) is amended to read as  
2 follows:

3           “(A) 70 percent or more of all the employees,  
4           or 80 percent or more of all the employees who are  
5           eligible to benefit under the plan if 70 percent  
6           or more of all the employees are eligible to benefit  
7           under the plan, excluding in each case employees  
8           covered by a collective-bargaining agreement which  
9           does not provide that such employees are to be  
10          included, employees who have been employed not  
11          more than a minimum period prescribed by the plan,  
12          not exceeding 5 years, employees whose customary  
13          employment is for not more than 20 hours in any  
14          one week, and employees whose customary em-  
15          ployment is for not more than 5 months in any  
16          calendar year, or”.

17          (b) Section 401 (a) (5) of such Code (relating to cer-  
18          tain requirements for qualification of pension, etc., plans)  
19          is amended by inserting after the second sentence thereof  
20          the following new sentence: “The determination of whether  
21          a plan is discriminatory within the meaning of paragraph  
22          (3) (B) or (4) shall be made without taking into account  
23          any employees who are included in a unit of employees cov-  
24          ered by a collective-bargaining agreement which does not  
25          provide that such employees are to be included in the plan.”.

1       SEC. 3. The amendments made by this Act shall apply  
2 with respect to plans (or amendments to plans) put in  
3 effect after December 31, 1971.

93<sup>d</sup> CONGRESS  
1<sup>st</sup> Session

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By Mr. MURKOVIC

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