conclusion allowance for ministers and lay employees of the church, and to amend sections 403(b)(2) B, 415(c)(4), 415(d) (1), 415(e)(1), and 415(e)(2) and to add a new section 415(e)(8) to extend the special elections for section 403(b) annuity contracts to employees of churches, conventions, or associations of churches, and church employees and to permit deduction of the additional cost of the plan to the plan's insurance company. The additional contribution amount in lieu of such elections: to the Committee on Finance.

Legislation Regarding Church Pension Plans and Related Reform of ERISA

Mr. TALMADGE. Mr. President, with my colleagues Senators Bentsen and Boren, I am reintroducing legislation to amend the definition of "church plan" found at section 414(e) of the Internal Revenue Code and section 3(3) of the Employee Retirement Income Security Act of 1974, which I introduced in the 94th Congress. All of the major church denominations in this country--Protestant, Catholic, and Jewish--are of one accord in this matter. They need and desire relief.

When we enacted ERISA in 1974, we established the date beyond which a church plan could no longer provide retirement and welfare benefits for employees of church agencies. We also forbade church plans to provide any new annuity coverage after 1974. Moreover, as I will explain later, the church plan definition is so narrow that it almost completely fails to consider the way our church plans have for decades operated. At this moment our church agencies are justifiably concerned that their plans do not meet the church plan requirements and are, therefore, subject to ERISA. In 1974, we did not recognize the unique character and needs of our church plans. The church plans in this country have historically covered both ministers and lay employees of churches and church agencies. These plans are some of the oldest retirement plans in the country. Several date back to the 1700's. The average age of a church plan is at least 40 years old. ERISA, however, requires the churches to divide their plans into two so that one will cover church employees and the other, agency employees. It is no small task to break up a plan that has been in existence for decades, even centuries.

The estimated legal, actuarial, and accounting costs of the initial division of church plans and the additional continuing costs of maintaining two separate plans are so significant that reduced retirement and other benefits may result unless they can be assimilated. To offset these additional costs, the churches are expected with a very large, and possibly not absorbable, economic burden, merely to provide pre-ERISA level of benefits. There is no imposition by ERISA of such moment on the plans of our church organizations.

Church agencies are essential to the churches' mission. They are for the sick and needy and disseminate religious instruction. They are, in fact, part of the church. As a practical matter, it is doubtful that the agency plans would survive subject to ERISA. There is an essential difference between the plans of business and the plans of church institutions. If a business incurs increased plan maintenance costs, it merely passes these costs on to the consumer. The income of most church agencies, on the other hand, are dependent solely upon tithes and other offerings. There is virtually no way for the agencies to absorb the additional costs of complying with ERISA.

The churches fear that many of the agencies would abandon their plans. We are concerned today that the requirements of ERISA will make the maintenance of plans too expensive and demanding even for businesses which have the capacity to absorb additional costs. The impact of ERISA on church agencies would be many times as serious as that on businesses.

Ministers and lay employees have a unique need to be covered by one plan. Employment is extremely fluid within our denominations. A minister will frequently move from church to agency, or wherever his services are most needed. If he cannot be covered by one plan, gaps in coverage may occur because the agency may not have a plan or may have a waiting period before participation. If the church plan definition is allowed to remain, ministers and lay employees will not be able to pursue their missions nearly as freely as they have in the past. It is inescapable that the way our churches have functioned will be directly affected.

As I mentioned earlier, the church plan definition is so narrowly drawn that it does not in any ways even approximate the way church plans are organized or operated. For example, this definition can be interpreted to require a minister or lay employee of a church to be a current employee. Many ministers serve their faith outside the denominational structure as chaplains in prisons, hospitals, universities, and elsewhere. Evangelists are usually self-employed and have no employer. There is no valid reason for denying these persons the benefits of retirement and welfare coverage.

This type of problem is less apt to occur in a hierarchical denomination because a minister may continue to be considered an employee even though he is serving outside the church structure. Most church plans of congregational denominations are administered by a pension board. This is usually an organization separately incorporated from, but controlled by, the denomination. Under the church plan definition, there is a question whether the plan is established by a church, as it must be, or by a pension board. This requirement also points up the inapplicability of the church plan definition to congregational churches. In this type of church, the denominations have little, if any, control over the local churches. Some differences in plan provisions or denominations cannot enforce uniformity, and the question whether the plan is maintained by the denomination or by the local churches is critical.

The inability of a congregational denomination to control its agencies makes it difficult to see how the church agency plan could meet the requirements of ERISA. In a corporate structure lines of authority are clear. One plan covering the church and its subsidiaries can easily meet the requirements of law because of the control exercised by the parent. As I have stated, a church with no organizational structure cannot force the agencies to observe the requirements of ERISA. Accordingly, there is little hope that a plan established by a denomination or its agencies could comply with ERISA.

Mr. President, these and other problems over the church plan definition under present law confront the churches today. They are worried that their plans do not now meet the church plan requirements and concerned over the impending restructurings of their plans. It is time we remove the churches from this statutory cloud. If we have enacted a statute that may require the church plans to come under ERISA, file reports, be subject to the audit of books and records and possible foreclosure of church property to satisfy plan liabilities, it must be changed because we have clearly created a Government entanglement with religion.

Under the provisions of our proposals, effective as of January 1, 1974, a church plan shall be able to continue to cover the employees of church-associated organizations. There will be no need to separate the employees of church agencies from the church plan. Our legislation retains the church plan as a plan established and maintained by its employees by a church or by a convention or association of churches exempt from tax under section 501. However, to accommodate the differences in beliefs, structures, and practices among our religious denominations, all employees are deemed to be employed by the denomination. The term employees is also redefined to include: First, a duly ordained, commissioned, or licensed minister of a church in the exercise of his calling; second, an employee of an organization which is exempt from tax and which is controlled by or associated with the church; and third, certain former employees who participated in the church plan before separation from service.

Under our legislation an organization is "associated" with a church if it shares common religious bonds and convictions with that church. Thus, by including an ordained minister as an employee without the requirement of an actual employment in the church plan, a church plan may continue to cover a minister who serves outside of the denominational structure, provided the service is in the exercise of his ministry. Accordingly, a minister serving as a prison chaplain or teaching religious studies at a university or an evangelist minister by no employer would be entitled to participate in the church plan.

Under our legislation a church plan will not have to remove from its rolls an employee who has left the denominational group but has an accrued benefit or account for the eventual payment of benefits under the plan. There
is no real reason why a church plan should be forced to pay a former employee his accrued benefit in cash and, thus, destroy his retirement benefits. Some plans continue to honor plan contributions for disabled employees and, temporarily, for employees who have separated from service. A minister or lay employee may reach a point in his career where he wants time to decide whether he will spend the rest of his life in the service of the church. During this period the denomination may provide some form of compensation covered by the church plan even though he is separated from service. Under our legislation a church plan may continue to receive contributions for an individual who is a participant in the church plan at the time of his separation from service but only for a period of 5 years. A time limit is not placed upon employment separation from service because of disability.

A plan or program funded or administered through a pension board, whether a state or local government, will be considered a church plan, provided the principal purpose or function of the pension board is the administration of funds for or programs for retirement or welfare benefits for the employees of a church. The pension board must also be controlled by or associated with a church exempt from federal income tax under section 501. No church plan administered or funded by a pension board would be disqualified merely because it is separately incorporated or merely because of variations in the plan provisions among the local employers.

Our legislation also corrects a very serious provision contained in the Treasury Department's proposed regulations defining church plans. These proposed regulations provide that once a church plan fails to meet the requirements of church plan status, and lay employees in the form of annuities governed by section 403(b) of the code. The amount that can be contributed for the purchase of such annuities is limited to 20 percent of the employee's includable compensation for the year times the employee's years of service with his or her employer over 25 years. The tax consequences to the employee, is limited by the "exclusion allowance" of section 403(b) (2). The amount of the exclusion allowance for any year is the excess of (1) 20 percent of the employee's includable compensation for the year times the employee's years of service with his or her employer over (2) the aggregate tax-sheltered contributions made by the employer for the employee in prior years.

Our proposals provide a mechanism whereby a church plan will be disqualified as such only after it receives appropriate notice that it has violated the church plan requirements and does not within a certain period of time correct such default. The term "correction" as used in the legislation is not intended necessarily to require a church plan to undo the default completely or to put itself and other parties in precisely the same position they would have been in had the default never occurred. The term "free of correction required should depend upon the equities of the situation. For example, a possible violation of the church plan requirements would be the coverage of an impermissible number of individuals who are not defined as employees. A complete correction of this type of default would require the plan to refund to those individuals all contributions made on their behalf. Such a correction may cause the distributions to be made in the incomes of individuals and, hence, work a hardship on them.

In this type of situation the default should be considered corrected if the church plan were permitted to retain the accrued benefits or accounts of these individuals and reduce the benefit upon their death or retirement. But the plan should accept no further contributions with respect to them.

Mr. President, our distinguished colleagues Senators Bentsen and Boxer, I today reintroduce legislation to amend several provisions of the Internal Revenue Code that inequitably prevent the taxation of retirement benefits for the majority of clergymen and lay employees of church denominations in this country. This legislation is a large step in the direction of assuring our ministers and lay employees of an adequate retirement allowance.

It is well known that clergymen and lay employees are not well compensated. The beginning salary for a minister may be from $5,000 to $10,000 a year. Prior to retirement his salary may have increased to $15,000. Lay employees generally receive less compensation than ministers. Moreover, the retirement incomes of ministers and lay employees from church plans are very small, being on the order of from $2,000 to $3,000 a year.

Most of our church denominations provide for the retirement of their ministers and lay employees in the form of annuities governed by section 403(b) of the code. The amount that can be contributed for the purchase of such an annuity is limited to 20 percent of the employee's includable compensation for the year times the employee's years of service with his or her employer over 25 years. The tax consequences to the employee, is limited by the "exclusion allowance" of section 403(b) (2). The amount of the exclusion allowance for any year is the excess of (1) 20 percent of the employee's includable compensation for the year times the employee's years of service with his or her employer over (2) the aggregate tax-sheltered contributions made by the employer for the employee in prior years.

The exclusion allowance is designed to permit larger than usual retirement annuities to be contributed late in the employee's career to compensate for the years when contributions may not have been possible. These are called catch-up contributions. The opportunity for making catch-up contributions is extremely important to poorly paid persons such as ministers and lay employees. A minister who is paid $7,500 a year at the beginning of his career will need all of his income for many years to support his family and educate his children. During these years, because of the minister's income, pension contributions made on his behalf by his church will be minimal. However, when he reaches 50 years or so, his living expenses will tend to decrease. Then he or his employer may be in a position to make significant catch-up contributions to his retirement annuity.

However, two provisions of the code inequitably limit the ability of catch-up contributions in the case of many ministers and lay employees. In 1974 when we enacted section 401(c)(11) of the code, we placed a limitation on the amounts that can be contributed to a defined contribution plan such as a 403(b) annuity arrangement. This limitation, which operates independently of the exclusion allowance, is the lesser of $2,500 (adjusted by increases in the cost of living) or 25 percent of the participant's compensation. In imposing this limitation, we recognized that it would affect only the ability to make catch-up contributions and are provided in section 415(c) (4) certain elections that a participant could make in order to overcome the 25% ceiling. However, these elections are available only to employees of educational organizations, hospitals, and home health service agencies. Obviously, we were not then aware of the extensive use of section 403(b) annuities by our churches.

The second problem area is the provision in section 401(c)(2) which limits the "years-of-service" factor of the exclusion allowance to years of service with the employee's current employer. In computing the exclusion allowance for any year, the employee is not given credit for any years of service with his or her current employer if those years of service were with another employer. It is common in many denominations for a minister or lay employee to move from one church to another within the same denomination during the course of their careers. Under current law each church or denominational agency for which the minister or lay employee works is treated as a separate employer for purposes of the years-of-service factor. The minister or lay employee is accordingly not given credit for all of his service with his or her current denomination in the computation of the exclusion allowance. For an employee who has changed jobs frequently, as do the ministers and lay employees of many denominations, this rule severely reduces the exclusion allowance and the ability to make catch-up contributions.

Mr. President, our legislation would correct the first inequity by extending the right to make the elections in section 415(c)(4) to employees of churches and their agencies. We believe that these elections should have been available to all clergy and lay employees in the same elections as employees of educational organizations, hospitals, and home health service agencies. Our legislation also provides a de minimis amount of $10,000 which may be contributed, subject to the exclusion allowance, without the necessity of making the section 415(c)(4) elections. This de minimis amount is parallel to the de minimis amount provided for defined benefit plans in section 415(b)(4) of the code.

The term "agency" of a church is also defined in our legislation. An organization which is either controlled by or associated with a church or a convention or association of churches. We further provide that an organization is "associated" with a church or a convention or association of churches if it shares common religious beliefs and convictions with that church.

Our legislation would not only correct the inequities in the current law but also would treat the service of a minister or lay employee with any church or church agency of a religious denomination as the service of a minister or lay employee for purposes of computing the exclusion allowance.
Congressional Record—Senate

May 7, 1979

the years of service of a minister or lay employee for churches or agencies of the denomination would be aggregated in determining the exclusion allowance for taxation beginning after 1977. It would make no difference whether the years of service being aggregated occurred before 1978 or after 1977. Our legislation would make contributions to be made by and on behalf of ministers and lay employees in order to provide them with retirement benefits based upon the years of service with the denomination, roughly similar benefits with the current employer.

Mr. President, I have received numerous letters from officials of various denominations endorsing the legislative package the Senate is making today regarding church pension plans and related reform of ERISA. I ask unanimous consent that they be printed at this point in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

THE RABBINICAL PENSION BOARD,

Senator HERMAN E. TALMAGE, Russell Senate Office Building, Washington, D.C.

DEAR DEAN TALMAGE: We wish to express our appreciation for the favorable action taken in this chamber regarding ERISA legislation. We believe that the extension of retirement benefits to clergy and religious workers is important and that the end of the 1976-1979 moratorium is long overdue. We trust that the final legislation will prove to be an important step toward ensuring the financial security of our clergy and religious workers.

Sincerely,

THEODORE K. BROMO,
Secretary, Rabbinical Pension Board.

JOINT RETIREMENT BOARD,
Of Rabbinical Assembly,

Senator HERMAN E. TALMAGE, Russell Senate Office Building, Washington, D.C.

DEAR DEAN TALMAGE: I wish to thank you for your introduction of the legislation regarding the effects of ERISA on church pension programs by the Church Assembly for Clarification of ERISA and show my appreciation to the millions of participants in Church and Synagogue-sponsored pension plans.

I would very much appreciate it and would deem it an honor if you could find time to introduce and sponsor similar legislation in the 96th session of Congress.

If there is any way we can be of help, please do not hesitate to let us know.

Sincerely,

LEO. J. LANDERS,
Worker Benefit Plans.

HON. HERMAN E. TALMAGE, U.S. Senate, Washington, D.C.

DEAR SENATOR TALMAGE: First, I want to express on behalf of our church body my deep appreciation for the interest and efforts you have demonstrated on behalf of the church pension programs by introducing legislation in Congress, which would have benefited the many workers presently enrolled in the various denominational pension plans.

If the provisions of "church plan" as contained in the Employee Retirement Income Security Act of 1974 ("ERISA") is not changed as outlined in the legislation you introduced into the Senate last year, the pension program of The United Church-Missouri Synod will have to be divided into two programs, one for ministers who are serving church agencies and another for those ministers serving the present definitions call "church.

This splitting up of our programs is going to be a costly procedure and can only be borne out of the program monies, which means out of the pension monies available to our already strained church budget.

Our church body certainly does not look favorably upon the fact that the Internal Revenue Service is attempting to define what is and what is not "church" and how the mission of the church is to be carried out.

Senators TALMAGE, The Lutheran Church-Missouri Synod does not have any church pension programs for the clergy and the mission of the church is to be carried out.

DEAR SENATOR TALMAGE: Last year you introduced and co-sponsored legislation with Senator Lloyd Bentsen designed to clarify the church pension plan definition of the Employee Retirement Income Security Act of 1974 (ERISA) and to allow denominational workers to have greater retirement annuity benefits. Your continued interest and support in these matters is greatly appreciated.

Sincerely yours,

EARL H. MAAKE, Administrator.

THE BOARD OF PENSIONS,

HON. HERMAN E. TALMAGE, U.S. Senate, Washington, D.C.

Mr. DEAR SENATOR: On behalf of the Board of Pensions of the United Presbyterian Church in the U.S.A., I want to express our sincere appreciation for your introduction and co-sponsorship last year of legislation designed to clarify the ERISA definition of a "church plan." From the standpoint of this Board and similar units of religious denominations, such clarifying legislation is essential to remove the present uncertainty concerning the intent of this definition.

Absent the needed clarification, church plans will be unable to serve all employees of churches and church agencies without becoming subject to the restrictive requirements of ERISA. The expenses that would result from meeting these administrative requirements would necessarily result in a reduction of the pension benefits that would otherwise be payable to plan beneficiaries. Because of the low salaries paid to church workers, their pensions are already small—they can ill afford to be reduced.

We believe that the legislation you sponsored last year would correct important defects of the ERISA. Therefore, we urge you to reintroduce and co-sponsor similar legislation in the present session of Congress. In doing so, you will be helping to assure that church pension plans will be able to maintain their service to church workers and their families on an efficient, cost-effective basis.

Very truly yours,

ARMUT W. BROWN,
President, Board of Pensions.

BOARD OF PENSIONS,
Lutheran Church in America,
Minneapolis, Minn., April 18, 1979.

Senator HERMAN E. TALMAGE, Russell Senate Office Building, Washington, D.C.

DEAR DEAN TALMAGE: Last year you introduced and co-sponsored legislation with Senator Lloyd Bentsen designed to clarify the church pension plan definition of the Employee Retirement Income Security Act of 1974 (ERISA) and to allow denominational workers to have greater retirement annuity benefits. Your continued interest and support in this matter is greatly appreciated.

Sincerely yours,

EARL H. MAAKE, Administrator.

PRESBYTERIAN CHURCH in AMERICA,
Columbus, Ga., April 27, 1979.

Senator HERMAN E. TALMAGE, Washington, D.C.

DEAR MR. TALMAGE: The Presbyterian Church in America has expressed its support of the various bills being suggested to modify the pension funds from the provisions of ERISA.

Whatever you can do to help us would be greatly appreciated.

Yours truly,

DEN M. MOORE,
Business Administrator.

THE BOARD OF PENSIONS,

HON. HERMAN E. TALMAGE, U.S. Senate, Washington, D.C.

Mr. DEAR SENATOR: On behalf of the Board of Pensions of the United Presbyterian Church in the U.S.A., I want to express our sincere appreciation for your introduction and co-sponsorship last year of legislation designed to clarify the ERISA definition of a "church plan." From the standpoint of this Board, the uniformity and related federal subsidies for religious denominations, such clarifying legislation is essential to remove the present uncertainty concerning the intent of this definition.

Absent the needed clarification, church plans will be unable to serve all employees of churches and church agencies without becoming subject to the restrictive requirements of ERISA. The expenses that would result from meeting these administrative requirements would necessarily result in a reduction of the pension benefits that would otherwise be payable to plan beneficiaries. Because of the low salaries paid to church workers, their pensions are already small—they can ill afford to be reduced.

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Very truly yours,

ARMUT W. BROWN,
President, Board of Pensions.
legislation.

Your introduction and co-sponsoring of the legislation needed in this session is most appreciated.

Cordially yours,

William Martin Smith.

THE AMERICAN LUTHERAN CHURCH.

Pension Fund programs. April 18, 1979.

Senator HERMAN E. TAMMAGE,
Russell Senate Office Building, Washington, D.C.

Dear Senator Tammage: The American Lutheran Church (ALC) has been established as a "union of congregations to which the Gospel has been given the specific purposes to be "the proclamation and propagation of the Christian faith, and the convincing and sanctification of the members of its congregations through the use of the means of Grace."

A copy of the stated purpose, chapter 2 of the Constitution of The ALC, is enclosed with this letter for your information. Please note that Section 2.28 specifically recognizes the establishment and maintenance of the work of the Board of Pensions by The ALC.

Many people of our 2.4 million member church body are deeply concerned about the seeming intrusion of the Internal Revenue Service into the affairs of religious groups and their agencies, by presuming to define what is and what is not an integral part of these religious groups' mission and supporting "legislation to amend Section 33 of the Employee Retirement Income Security Act of 1974 (ERISA) and Section 414(e) of the Internal Revenue Code of 1954 (IRC) relating to the definition of 'church plan' so that church related agencies are recognized as part of a church or convention of churches and entitled to participate in a church plan." We share a great concern about the effects of the Employee Retirement Income Security Act of 1974 ("ERISA") on our denomination's retirement annuity and welfare benefit programs.

We appreciate your introducing and co-sponsoring legislation with Senator Lloyd Bentsen last year designed to clarify the church plan definition of ERISA and to allow denominational workers to have greater retirement annuity benefits.

We appreciate your introduction and co-sponsoring legislation with Senator Lloyd Bentsen last year designed to clarify the church plan definition of ERISA and to allow denominational workers to have greater retirement annuity benefits. Comparable legislation has been reintroduced this session by Representative Barber B. Conable, Jr. of New York as HB 1576, 1577, and 1578 which we support.

Your introduction and co-sponsoring the legislation is supported by the Reorganized Church of Jesus Christ of Latter Day Saints and is most appreciated.

Sincerely,

P. E. Hansen,
Presiding Bishop.

THE PENSION BOARDS,
UNITED CHURCH OF CHRIST,
April 17, 1979.

Re: Employee Retirement Income Security Act and church plans.
Hon. Herman E. Tammage,
Senator Office Building, Washington, D.C.

Dear Senator Tammage: The Pension Boards of the United Church of Christ include three pension corporations and a community investment corporation to be individually or jointly serving the ministry and the employees of the United Church of Christ since 1914.

The United Church of Christ is a denomination formed out of the merger of the Congregational Christian Church and the Evangelical and Reformed Church. Both of these denominations date back to colonial times, the Congregational Christian Church growing out of the church of the Pilgrims, while the Evangelical and Reformed Church grew out of the colonial settlers coming from Germany and other parts of middle Europe.

Over the years that the Pension Boards have served the ministers and employees of the United Church of Christ, their record has been outstanding in providing benefits for those participants who are covered under the plan. The Pension Boards are well ahead of their time in facing up to the responsibility of providing retirement income for their employees. We have maintained standards that, in most areas, were ahead of those required by the Employee Retirement Income Security Act of 1974, long before that Act was even contemplated by the Congress.

When that Act was ultimately passed by the Congress, one of the first actions by the Pension Boards was to review that Act and assure that we met the standards of vesting and non-discrimination under the Act, even though, as a church plan, we were probably not covered by the Act during the current years.

Notwithstanding our general compliance with the intent of the Act, many of the Act's provisions would be a substantial detriment to the Pension Boards, and a disservice to the funds of the Pension Boards for administering the detail that would burden the participants, nor the Government. In addition, the Pension Boards carry on a substantial tax-relief function of the Church which cannot be accommodated within the strict provisions of ERISA. For these reasons, and on behalf of the participants, we greatly appreciated your introducing and co-sponsoring this legislation during the last session of the Congress, legislation intended
to clarify the exemption of churches from the provisions of ERISA and to provide for the coverage of church agencies and ministers, to put their ministry within the church plan.

As you are aware, Senator Talmadge, the multiple denominations have a substantial concern over the effects of ERISA, and have joined together to form the Church Alliance for the Clarification of ERISA. The legislative effort is being supported by the Church Alliance for the Clarification of ERISA, which you introduced in the Senate last year, and which was passed by the House last year by Representative Barber B. Conable, Jr. of New York, and has been reintroduced in the House this year by Representative William B. Archer, of Texas.

Dear Senator Talmadge: I am writing you in reference to bill S. 1157 as it relates to Church Pension Plans and ERISA. We appreciate your efforts here to date in working with church representatives to get a clear understanding of the measures proposed and to understand the implications of proposed changes. Your efforts on our behalf have been greatly appreciated and we continue to ask for your support in the passage of bill S. 1157 in this Congress.

Yours sincerely,
J. M. Cranberry, Jr.
Secretary-Treasurer.

ANNIUTY BOARD OF THE SOUTHERN BAPTIST CONVENTION.
Dallas, Tex., April 4, 1979.

Re: Church Plans

Senators E. T. Talmadge
Russell Senate Office Building,
Washington, D.C.

Dear Senator Talmadge: The Southern Baptist Convention was incorporated in 1845 by an act of the Georgia legislature for the "propagation of the Christian religion and the advancement of Christian principles among the people," and is the largest single religious denomination in the United States.

As of January 1, 1970, the Christian Reformed Church was determined to be exempt from Federal Income Tax under section 501 (c) (2) on October 7, 1971 as a non-profit corporation organized for the purpose of propagating the Christian gospel.

Your remarks in introducing this legislation last year, as published in the Congressional Record, indicated an understanding of these problems.

We are writing to urge you to reintroduce this legislation in the Senate as a companion to H.R. 1266 and 1275 introducing the Senate by Representative William Archer, Russell Senate Office Building, Washington, D.C., and as a companion to S. 1157.

We join with the members of the Church Alliance for the Clarification of ERISA, which represents every major religious group in the United States, in expressing our appreciation for your assistance in this effort.

Sincerely yours,
DEAN E. WRIGHT,
Executive Director.

THE CHURCH PENSION FUND
April 27, 1979.

Re: Church Plans

Senator E. T. Talmadge
Russell Senate Office Building,
Washington, D.C.

Dear Senator Talmadge: In 1914, The Church Pension Fund was created by The General Convention of the American Baptist Churches, to provide pension benefits for aged and disabled ministers of the Episcopal Church. Our Board is managed by a Board of Trustees elected triennially by action of the General Convention.

We are pleased that companion legislation has been reintroduced this legislative session in the House by Representative Barber B. Conable, Jr., of New York, and has been reintroduced in the Senate last year by Senator Talmadge. We appreciate your efforts to clarify the church plan definition of ERISA and to allow denominational workers to have greater retirement security.

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CONGRESSIONAL RECORD — SENATE

The Employee Retirement Income Security Act of 1974 (ERISA) and Section 414(e) of the Internal Revenue Code of 1976 (Code) relating to the definition of ‘church plan’ so that employee-related agencies are recognized as part of a church or convention of churches and entitled to participate in a church plan.

We respectfully appraise your introducing and co-sponsoring legislation with Senator Lloyd Bentsen last year designed to clarify the church plan definition of ERISA and to allow denominational workers to have greater retirement annuity benefits.

The legislation has been reintroduced this legislative session in the House by Representatives Barber B. Conable, Jr., of New York as H.R. 792 and John W. McKeown of California as H.R. 2032. Over twenty-five religious denominations have expressed their concerns about the effects of ERISA on traditional church pension programs through the Church Alliance for Clarification of ERISA.

On behalf of the Trustees of The Church Pension Fund and the active and retired ministers of the Episcopal Church, I express an earnest appeal for your continued support of all church plans or church organizations by reintroducing and co-sponsoring in this session the legislation supported by the Church Alliance for Clarification of ERISA.

Sincerely,

ROBERT A. ROBINSON,
President.

UNITARIAN UNIVERSALIST ASSOCIATION,
Boston, Mass., April 30, 1979

Re Church Plans
Senator HERMAN E. Talmadge,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Talmadge: Last year the Unitarian Universalist Association (UUA) joined the Church Alliance for Clarification of ERISA because of its concern about the many questions raised by the impact of ERISA on church pension plans, such as the one maintained by the UUA.

Your support of the clarifying legislation last year was greatly appreciated; and the division by you to reintroduce the legislation this year would also be much appreciated.

I am pleased to find that the Pension Plan Study Committee that was appointed by the UUA Board of Trustees at its January 30, 1978, meeting has been working diligently. If we decide to re-file the legislation prior to that date, please let me know so that I can inform the Committee members of our favorable action.

Thank you for your consideration of these matters.

Very truly yours,
WILLIAM B. DUFFY, Jr.,
General Counsel.

GENERAL CONFERENCE OF SEVENTH-DAY ADVENTISTS,

Subject: Church Retirement Plans
Senator HERMAN E. TALMADGE,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Talmadge: The Seventh-day Adventist Church was one of the first religious or business organizations to initiate a private pension plan for the benefit of its employees. Our retirement plan was started in 1911 and has been a continuous operation since then. As of December 31, 1978, approximately 2,650 employees of our church and agencies were covered by this plan. In 1978 benefit payments amounted to just over $26 million.

Our retirement plan is a ‘promise to pay’ type plan functioning in a manner that could be classified as an ‘unfunded’ type retirement plan since we do not keep individual accounts for coverage. We never had and no attempt has been made to fund the liabilities on an accrual basis. The cost of the yearly benefits is considered a current operating expense of the Church. However, according to the actuary, all benefits for the next three years benefit expense is kept on hand at all times. Our Church feels that it is just as much obligated to pay retirement benefits as to pay the salaries of active employees. The entire assets of the Church are back up the retirement plan and have always lived up to its obligations in this regard.

The Seventh-day Adventist Church, along with over twenty-five religious denominations, has a major concern about the effects that the Employee Retirement Income Security Act (ERISA) and Section 414(e) of the Code will have on the operation of our retirement plan. We have been an active member of the Church Alliance for Clarification of ERISA and are supporting the efforts of this association to effect needed changes in the Act. For one thing, the funding requirements would be a major problem for us if we have to comply with ERISA requirements. We would place an oppressive burden on the Church organization to retain the pension plan, the church plan 401(k) plan, and provide the retirement benefits of employees of church agencies.

The possibility of having to separate the employees of church agencies from our retirement plan is another of our major concerns.

Our Church has always considered its agencies as directly involved in the total ministry and outreach of the Church. In our theology of church with operations our institutions have from their inception been integral parts of the Church, directing our efforts of the Church’s mission. To separate these workers from the Church plan will create a problem of portability and the unstable employment of employees and this is an effort to maintain the identity of the Church and its mission. To separate these workers from the Church plan will create a problem of portability and the unstable employment of employees and this is an effort to maintain the identity of the Church and its mission.

The efforts of the Internal Revenue Service to define what constitutes a church and what does not is in our opinion a violation of the principle of separation of church and state, but has characterized our nation from its beginning. If the church can prevent some of our charitable activities as a tax-exempt non-profit, the government does not have this right to determine which charitable activities are tax-exempt.

The church plan 401(k) plan adopted by the church does not provide retirement benefits for employees of its affiliates without being maintained by the church.

Our Church plan is presently being revised to comply with nearly all of the standards of ERISA, including the prohibition of multiple employer plans. However, in addition it provides many additional benefits that are not mandated by ERISA. Such an annual cost of living increase. Complying under the jurisdiction of ERISA will not require benefit the employees, but instead the excessive administration and reporting burdens would have no doubt result in a reduction in the pension benefits of employees.

We appreciate very much your introducing and co-sponsoring legislation with Senator Lloyd Bentsen last year designed to clarify the church plan definition of ERISA and to bring about the passage of needed corrections in this Act. Your introducing and co-sponsoring similar legislation in this session of Congress was greatly appreciated.

Sincerely,

K. H. EMMSMANN,
Treasurer.

GENERAL BOARD OF PENSIONS OF THE UNITED METHODIST CHURCH,
Evansville, Ind., May 1, 1979.

Senator HERMAN E. TALMADGE,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Talmadge: The general United Methodist denomination is a voluntary religious movement and connectional network of millions of ‘members,’ and literally tens of thousands of units, variously designated as local churches, charge conferences, annual conferences, commissions, councils, and agencies. These many units operate in religious service and mission throughout the United States, in the District of Columbia, and in numerous foreign countries. They are related and brought together in worship through The United Methodist Church, Districts, Annual, Jurisdictional (Regional), and the General Conference in a connected and interdependent relationship. The UMC is fundamentally characterized by the denominational polity of its membership. To assist in its work, the denominational structures known as the United Methodist Church, through an "Administrative Board," have established certain organizations at a denominational level to assist all other units in performing certain specific tasks. The General Board of Pensions of the United Methodist Church, in writing to you in support of legislation proposed by the Church Alliance for Clarification of ERISA, the General Board of Pensions of the United Methodist Church is acting within its specific and delegated authority, on behalf of all persons and organizational units which comprise the known as the United Methodist Church.

A fundamental tenet of the United Methodist doctrine is that the "wholeness of the church is manifest in the unity of the Church." From its earliest days, United Methodists have been active in the support of many institutions of health care, and in other areas, and millions of persons have benefited from these efforts over the years. The legislative action which we now support, in our opinion, will aid our denominations and other religious denominations in performing support work, which has been one of such special benefit to individual persons (in this country).

We would not presume to suggest that, because the United Methodist denomination is identified as a "church," it is therefore "outside the law," or entitled to "special treatment by the law." Nevertheless, the fact remains that churches, even more than non-profit organizations in general, by their very nature, organization, and function are unique. I daresay that no two religious denominations are organized in exactly the same way.

Efforts, by legislatures or other bodies, to lump all "churches" together for identical treatment, particularly when legislation has been designed initially to deal with the commercial or business world, pose very serious and, we presume, generally unintended consequences for such churches. We respectfully submit that the Congress has a clear and justifiable interest in seeing that legislation passed by it presents no unnecessary handicap to both the religious denominations for the work of their denominations in the areas affected by such laws. If, because of the unique structure and operation of the various individual churches, specific legislation is required in order to minimize the elimination of current practices favorable to churches, then we feel that specific legislation should receive the prompt and careful attention of all members of the Congress.

In the interest of time, we shall mention only two of the many instances in which the proposed legislative changes would be of some significance when considered in the context of the United Methodist denomination. "The inheritance is the accepted method of The United Methodist Church by which its property is derived, and ownership by the boards, agencies, and churches turnover of the ordained clergy in and out of different pension plans at each time such ministers changed appointments from local churches into what
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are known as “special appointments” in such areas as the chaplaincy, church-related and other educational institutions, and other areas where such a requirement to move a person in and out of a “church plan” — is unduly burdensome and provides no benefit for the individual involved. The proposed legislation will permit the inclusion of ordained ministers in a single pension plan regardless of where those ministers are serving at any time.

Along the same line, the present definition of a “church plan” is too restrictive. The present definition simply will not accommodate the needs of the United Methodist denomination in its efforts to provide pensions for ordained clergy and lay employees of churches and church-related institutions. The United Methodist Church has licensed clergy, two levels of ordination, a separate Diocesan ministry classification, and lay employees in various degrees of relationship to the various units of the church. To require a multitude of different pension plans, each having to be tailored for the specific status of each such group is again unduly burdensome and provides no benefits for the individuals concerned. The legislation proposed, by broadening the definition of a “church plan,” will permit the General Board of the General Board of the United Methodist Church to consolidate the number of differences and must administer thus providing a multitude of benefits for the plan participants.

For these, and other similar reasons, we urge your support of the legislation proposed and submitted under the Church Alliance for Clarification of ERISA. Yours sincerely.

James M. Walton-Myers
Board of Pensions of the Church of God
Anderson, Ind., April 17, 1979

Re: Church Plan
Senator Herman E. Talmage, Senate Office Building, Washington, D.C.

Dear Senator Talmage: Thank you for introducing in last year’s Senate the legislation supported by the Church Alliance for Clarification of ERISA. Since the Senate did not have time to act on this legislation, it is our hope and prayer that you will reintroduce this proposal this year.

The Church of God Pension Plan came into existence in 1946. We are a small church in comparison to large denominations. Yet we have our heritage dates back 100 years. We have approximately 4,000 ministers and congregation members who have never earned large salaries, and retirement benefits for them will be minimal in comparison to many persons who have gone on pension.

If our church plan is required to abide by all the demands of ERISA after 1982, we will have to lower our retirees’ retirement income even more for there is no way we can take on additional costs without increasing the operational costs to run our plan.

Since our plan is only 30 years old, and a voluntary plan, many of our ministers have a vested interest in their retirement fund. Our hope is that Government regulations will permit churches like educational institutions to make retro-active (tax-labeled) contributions to a minister’s retirement account for years of service when he was a part of the voluntary pension program sponsored by his denomination.

If the Senate does not permit Church Agencies as part of our Church Pension Plan, our office will find it necessary to run two pension programs. Operational costs will have to be paid for our low income church employees and ministers will again be made to suffer.

From the foregoing information, you can readily see the frustrations we face as Church Pension Plans. Our ministers and church employees, even though academically qualified and often highly trained have been underpaid during their working days because they found themselves in service oriented positions, and often find themselves short-changed in retirement.

Our Communion and I’m sure all churches affiliated with the Church Alliance for Clarification of ERISA will be most appreciative for any help you give us in the Legislature pertaining to these matters.

Sincerely yours,

HAROLD A. CONRAD
Executive Secretary.

Catholic Mutual
RELIEF SOCIETY of AMERICA
Omaha, Neb., May 1, 1979

Re: Church Plan
Senator Herman E. Talmage, Senate Office Building, Washington, D.C.

Dear Senator Talmage: The Catholic Mutual Relief Society is a nonprofit, charitable, religious and benevolent association organized in 1889 by an ecclesiastical body of members of the Roman Catholic Church in North America for the purpose of protecting and preserving properties of such Church and to further aid and assist the Members of the Hierarchy and Religious in the discharge of their Canonical Duties. This Society is vested in a Board of Trustees, all of whom must be Archbishops or Bishops of the Roman Catholic Church. Currently there are twenty-one Bishops and Archbishops acting as Trustees of the Society.

Through its members, the Society has learned of the concern of church groups and their agencies for their continued operation in the face of increasing interference by the Internal Revenue Service. As a service to our members, we have helped support the Church Alliance For The Clarification of ERISA in its attempts to amend ERISA to at least recognize the present state of church retirement plans for churches and agency.

We thank you for your co-sponsorship of the legislation with Senator Benison in the last session of Congress attempting to clarify the church plan definition contained in ERISA and allowing greater retirement annuity benefits, in line with the church organizations in the denominations. While ours is a Roman Catholic organization, our association with the Church Alliance and awareness of the many problems caused by ERISA to our brothers in the Protestant and Jewish organizations.

You are aware of the many problems created by ERISA which the Church Alliance has addressed. Your continued support and co-sponsorship of legislation proposed by the Church Alliance For The Clarification of ERISA is very much appreciated. We would respectfully urge you to reintroduce the Church Alliance legislation in this session of Congress.

Sincerely,

THOMAS J. HANEBAN
Executive Vice President

Mr. Robert R. Byrd: Mr. President, I ask unanimous consent that a bill introduced by Mr. Talmage, for himself and others, relating to ERISA, be jointly referred to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. PRESSLER (for himself and Mr. MATHEW):
S.J. Res. 74. Joint resolution authorizing and requesting the President to issue a proclamation designating May 11, 1979, as "CARE Day"; considered and passed.

(The remarks of Mr. Pressler when he introduced the joint resolution appear elsewhere in today’s proceedings.)

ADDITIONAL COSPONSORS

S. 499

At the request of Mr. Nelson, the Senator from Kentucky (Mr. Huddleston) was added as a co-sponsor of S. 499, a bill to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of S. 446, the Equal Employment Opportunity for the Handicapped Act of 1975.

S. 852

At the request of Mr. Nelson, the Senator from California (Mr. Cranston) was added as a co-sponsor of S. 852, the Farm Entry Assistance Act.

S. 715

At the request of Mr. Bellinger, the Senator from Indiana (Mr. Bayh), and the Senator from Nevada (Mr. Laxalt) were added as cosponsors of S. 819, a bill to amend the Clean Air Act to promote the use of alcohol as a motor fuel and as an additive to motor vehicle fuels, and for other purposes.

S. 819

At the request of Mr. Huddleston, the Senator from Arkansas (Mr. Bumpers), the Senator from Montana (Mr. Baucus), the Senator from Alabama (Mr. Stennis), the Senator from Michigan (Mr. Levin), the Senator from Utah (Mr. Hatch), the Senator from New Mexico (Mr. Schlitter), and the Senator from Montana (Mr. Melcher) were added as cosponsors of S. 819, a bill to authorize the Small Business Administration to establish small business development centers.

S. 1006

At the request of Mr. Cochran, the Senator from North Dakota (Mr. Young), the Senator from Texas (Mr. Tower), and the Senator from Alabama (Mr. Herlong) were added as co-sponsors of S. 1006, to permit the emergency use of the pesticide mirex on imported fire ants in accordance with health and safety standards of the EPA.