

Social Security Amendments of 1958
Public Law 85-840--85th Congress--H.R. 13549

Volume I

MINOR AMENDMENTS TO THE SOCIAL SECURITY ACT
AND RELATED ACTS
1957-60

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DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

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APPLICATION FOR SOCIAL SECURITY ACT DISABILITY
DETERMINATION

MARCH 27, 1957.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. COOPER, from the Committee on Ways and Means, submitted
the following

R E P O R T

[To accompany H. R. 6191]

The Committee on Ways and Means, to whom was referred the bill (H. R. 6191) to amend title II of the Social Security Act, as amended, to extend the period during which an application for a disability determination is granted full retroactivity, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

After line 6, insert the following:

SEC. 2. (a) Section 224 (e) of the Social Security Act is amended by adding at the end thereof the following new sentence: "For purposes of this section, the term 'periodic benefit' does not include compensation paid to any individual under laws administered by the Veterans' Administration on account of such individual's service-connected disability."

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits under title II of the Social Security Act for months after June 1957.

PURPOSE

H. R. 6191 would amend title II of the Social Security Act, as amended in 1956, to (1) extend for 1 year (through June 30, 1958) the period within which an application may be filed to establish a period of disability without being subject to the limitation that a period of disability cannot begin more than a year before the application is filed; and (2) make the present offset provision (under which disability insurance benefits must be reduced by the amount of any periodic disability payments received under another Federal program

or State workmen's compensation law) inapplicable to disability compensation received by any veteran on account of his service-connected disability.

SUMMARY OF PROVISIONS

1. Postponement of deadline for filing applications for the preservation of benefit rights of disabled persons

Under a provision enacted in 1954 to preserve the old-age and survivors' insurance rights of disabled persons, an individual's social-security earnings record can be frozen during a period of extended total disability so that his inability to work during such period of disability will not result in a reduction in, or a loss of his old-age, survivors' and disability insurance benefit rights. In its report on the bill that became the Social Security Amendments of 1954 (H. Rept. 1698, 83d Cong.), your committee expressed the view that the advantages of this disability freeze provision should be made available to persons totally disabled for some time before the enactment of the amendments as well as to persons who become disabled in the future. To this end, a provision was included in the 1954 amendments under which an individual who has been continuously disabled for a number of years could preserve his rights under the old-age and survivors' insurance program if he filed an application for the disability freeze before July 1, 1957. Under this provision, rights can be preserved for an individual who became disabled as long ago as October 1941.

It is now clear that many people who have been disabled for some time and who would be eligible for the freeze will not make the necessary application before July of this year because they are not aware of the existence of the freeze provisions. While this is understandable in view of the newness of the disability features of the old-age and survivors insurance program, your committee is concerned that many persons who became disabled some time ago will, if they fail to file applications before July 1, 1957, lose all their protection under the old-age and survivors insurance program—retirement and survivor, as well as disability protection. Your committee believes that it is only fair to give workers now disabled a further opportunity to avoid loss of these valuable rights by extending through June 30, 1958, the period for filing an application which will make the freeze effective for eligible workers for the entire period of their total disability.

2. Social-security disability benefit not to be reduced on account of veterans' compensation

Your committee has also given further consideration to the provision, included in the Social Security Amendments of 1956, which requires that the monthly disability insurance benefits (which first become payable after June 1957) under the old-age, survivors, and disability insurance program be reduced by the amount of any periodic disability payments that an individual receives under another Federal program or under a State workmen's compensation law. This offset provision is designed to avoid duplication or unwarranted pyramiding of disability benefits. Your committee believes, however, that the purpose of veterans' compensation is such as to justify disregard of that compensation in the determination of rights to disability insurance benefits under the social-security program.

Your committee believes that persons who are receiving compensation for disability incurred or aggravated as a result of service to their country in its Armed Forces should not be required to give up all or part of the disability insurance benefits which they may have earned under the contributory social-security program. Your committee's bill would amend the offset provision in the Social Security Act so that the disability insurance benefits payable under the old-age, survivors, and disability insurance program will not be reduced by the amount of veterans' compensation payments received on account of a service-connected disability.

The amendment of your committee would add a new sentence to section 224 (e) of the Social Security Act to provide that the term "periodic benefit" does not include disability compensation paid to any individual under laws administered by the Veterans' Administration on account of such individuals' service-connected disability. For purposes of this amendment, it is intended that the term "compensation" shall include only payments made under laws administered by the Veterans' Administration to a disabled veteran, who served in time of war or peace, by reason of his own service-connected disability (including additional compensation payable under Public Law 877, 80th Cong.), but shall not include emergency officers' retirement pay. The amendment would be applicable only with respect to monthly benefits under title II of the Social Security Act for months after June 1957.

3. Applications for disability insurance benefits

The Social Security Amendments of 1956 provided for disability insurance benefits. Under the amendments, except in the case of applications filed before January 1958, disability insurance benefits will not be paid for months before the month in which application is filed. While H. R. 6191 extends for 1 year the time for filing for a freeze of periods of disability, it does not change the provision relating to retroactive payment of disability insurance benefits.

Your committee, however, requested the Department of Health, Education, and Welfare to report back to it by March 1, 1958, on the extent to which individuals filing applications for disability-insurance benefits after December of this year may have lost benefits by reason of not having applied earlier. Your committee can then determine, on the basis of this information, what, if any, action should be taken with respect to payment of disability insurance benefits for months prior to the month in which application for such benefits is filed.

Your committee is unanimous in recommending enactment of this legislation.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 216 (i) OF THE SOCIAL SECURITY ACT

DISABILITY; PERIOD OF DISABILITY

(i) (1) * * *

* * * * *

(4) If an individual files an application for a disability determination after December 1954, and before July [1957] 1958, with respect to a disability which began before July [1956] 1957, and continued without interruption until such application was filed, then the beginning day for the period of disability, if such individual does not die prior to July 1, 1955, shall be—

(A) the day such disability began, but only if he satisfies the requirements of paragraph (3) on such day;

(B) if he does not satisfy such requirements on such day, the first day of the first quarter thereafter in which he satisfies such requirements.

For information of the Members of the House, changes in existing law made by section 2 of the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 224 OF THE SOCIAL SECURITY ACT

“REDUCTION OF BENEFITS BASED ON DISABILITY

SEC. 224. (a) If—

(1) any individual is entitled to a disability insurance benefit for any month, or to a child's insurance benefit for the month in which he attained the age of eighteen or any subsequent month, and

(2) either (A) it is determined by any agency of the United States under any other law of the United States or under a system established by such agency that a periodic benefit is payable by such agency for such month to such individual, and the amount of or eligibility for such periodic benefit is based (in whole or in part) on a physical or mental impairment of such individual, or (B) it is determined that a periodic benefit is payable for such month to such individual under a workmen's compensation law or plan of the United States or of a State on account of a physical or mental impairment of such individual, then the benefit referred to in paragraph (1) shall be reduced (but not below zero) by an amount equal to such periodic benefit or benefits for such month. If such benefit referred to in paragraph (1) for any month is a child's insurance benefit and the periodic benefit or benefits referred to in paragraph (2) exceed such child's insurance benefit, the monthly benefit for such month to which an individual is entitled under subsection (b) or (g) of section 202 shall also be reduced (but not below zero) by the amount of such excess, but only if such individual (i) did not attain retirement age in such month or in any prior month, and (ii) would not be entitled to such monthly benefit if she did not have such child in her care (individually or jointly with her husband, in the case of a wife).

(b) If any periodic benefit referred to in subsection (a) (2) is determined to be payable on other than a monthly basis (excluding a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments), reduction of the benefits under this section shall be made at such time or times and in such amounts as the Secretary finds will approximate, as nearly as practicable, the reduction prescribed in subsection (a).

(c) In order to assure that the purposes of this section will be carried out, the Secretary may, as a condition to certification for payment of any monthly insurance benefit payable to an individual under this title (if it appears to him that such individual may be eligible for a periodic benefit which would give rise to a reduction under this section), require adequate assurance of reimbursement to the Federal Disability Insurance Trust Fund in case periodic benefits, with respect to which such a reduction should be made, become payable to such individual and such reduction is not made.

(d) Any agency of the United States which is authorized by any law of the United States to pay periodic benefits, or has a system of periodic benefits, which are based in whole or in part on physical or mental impairment, shall (at the request of the Secretary) certify to him, with respect to any individual, such information as the Secretary deems necessary to carry out his functions under subsection (a).

(e) For purposes of this section, the term "agency of the United States" means any department or other agency of the United States or any instrumentality which is wholly owned by the United States. *For purposes of this section, the term "periodic benefit" does not include compensation paid to any individual under laws administered by the Veterans' Administration on account of such individual's service-connected disability.*



Mr. Speaker, I urge my colleagues in the House to give favorable consideration to H. R. 6191 as amended.

as amended, to extend the period during which an application for a disability determination is granted full retroactivity, and for other purposes.

The bill was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That paragraph (4) of section 216 (1) of the Social Security Act is amended by striking out "July 1957" and inserting in lieu thereof "July 1958," and by striking out "July 1956" and inserting in lieu thereof "July 1957."

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Page 1, after line 6, insert the following:
"Sec. 2. (a) Section 224 (e) of the Social Security Act is amended by adding at the end thereof the following new sentence: 'For purposes of this section, the term "periodic benefit" does not include compensation paid to any individual under laws administered by the Veterans' Administration on account of such individual's service-connected disability.'

"(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits under title II of the Social Security Act for months after June 1957."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. COOPER. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COOPER. Mr. Speaker, H. R. 6191 would amend title II of the Social Security Act, as amended in 1956, to, first, extend for 1 year—through June 30, 1958—the period within which an application may be filed to establish a period of disability without being subject to the limitation that a period of disability cannot begin more than a year before the application is filed; and, second, make the present offset provision—under which disability-insurance benefits must be reduced by the amount of any periodic disability payments received under another Federal program or State workmen's compensation law—inapplicable to disability compensation received by any veteran on account of his service-connected disability.

The gentleman from New York [Mr. REED] introduced an identical bill, H. R. 6192.

Enactment of this bill will permit additional time for persons to become acquainted with the disability-freeze provisions of the social-security laws and file applications for a freeze, without losing any of their rights. The effect of the extension of the time for filing such applications from July 1, 1957, to July 1, 1958, will be that eligible persons who became disabled as long ago as Oc-

tober 1941 may have their wage records frozen back to that time. Without the extension provided for in this bill, persons filing on or after July 1, 1957, can have their wage records frozen only for 1 year prior to their filing.

This bill was unanimously reported by the Committee on Ways and Means. I urge that it be enacted.

Mr. REED. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. REED. Mr. Speaker, H. R. 6191 extends for 1 year the period during which an application for disability determination is granted full retroactivity under the old-age and survivors' insurance program of the Social Security Act. Such an extension is necessary to safeguard the interests of individuals who have not been sufficiently informed as to their rights under this program of the social-security system.

It will be recalled that in the social-security amendments of 1954 a disability freeze was included in the Social Security Act to preserve the retirement rights of an individual who had the misfortune of sustaining an extended disability. Under the 1954 amendments an individual who had been continuously disabled for a number of years could preserve his OASI rights if he filed application for a disability freeze before July 1, 1957. The provisions would have permitted an individual to have made application for a retroactive wage freeze even though the individual became disabled as long ago as October 1941.

This legislation would enable the Department of Health, Education, and Welfare to undertake an extensive program of publicity to make certain that all interested persons are made aware of this provision.

An important amendment to H. R. 6191 was adopted by the committee and relates to the payment of disability benefits under the old-age and survivors' insurance program. It will be recalled that the social-security amendments of 1956 required that monthly disability insurance benefits payable under the program would be reduced by the amount of any disability payments that an individual received under another Federal program or under a State workmen's compensation law. This provision requiring the reduction in OASI benefits imposes a severe hardship on veterans who are entitled to veterans compensation. To remove this hardship my committee colleague, the distinguished gentleman from Wisconsin [Mr. BYRNES], offered an amendment in committee which would permit the receipt of disability compensation under laws administered by the Veterans' Administration without requiring the reduction in OASI disability benefits. I would like to commend Mr. BYRNES for sponsoring this meritorious amendment that will remedy an unjustifiable discrimination against our American veterans who have served their Nation so well in time of danger and peril.

APPLICATION FOR SOCIAL SECURITY ACT DISABILITY DETERMINATION

Mr. COOPER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 6191) to amend title II of the Social Security Act,

Office Memorandum • UNITED STATES GOVERNMENT

SSA-OASI

14:A:K

DATE: March 29, 1957

TO : Administrative, Supervisory,
and Technical Employees**FROM** : Victor Christgau, Director
Bureau of Old-Age and Survivors Insurance**SUBJECT**: Director's Bulletin No. 250
Bill to Amend the OASI Disability Provisions (H.R. 6191) Passed by
House of Representatives on March 28, 1957

The House of Representatives yesterday passed H.R. 6191, a bill which would amend two of the disability provisions of the old-age and survivors insurance program. The bill was called up in the House under a unanimous consent request and was approved without debate.

H.R. 6191 was introduced on March 20 by Congressman Jere Cooper, Chairman of the Committee on Ways and Means. As introduced, the bill would have extended for 1 year (through June 30, 1958) the time within which disabled workers can file disability freeze applications and still have the beginning of a period of disability established as early as the actual onset of disablement (provided the other requirements of the law are met). The Committee approved this provision and then added an amendment which would modify the disability "offset" provision. Under this amendment, a disability insurance benefit would not be reduced by reason of compensation payable to a veteran by the Veterans Administration for his service-connected disability. The offset provision would continue to apply to veterans' pension, which is paid on account of nonservice-connected disability. Moreover, the amendment would have no effect on the offset provision as it applies to disabled child's benefits.

The proposed 1-year postponement of the present June 30, 1957, deadline affecting freeze applications was initiated by the Department. There has been a growing concern within the Bureau about the losses of old-age, survivors, and disability insurance protection that would be suffered if freeze applications filed after June 30 were to be subject, as under present law, to the limitation that a period of disability cannot begin more than a year before the application is filed. Secretary Folsom recently expressed to the Congress his concern that, because the disability features of the OASI program are relatively new, many persons now disabled are likely to fail to file applications before July 1 and, as a result, might lose all rights under OASI. Mr. Folsom also stated that, if the proposed change were to be enacted, early enactment would be helpful from the standpoint of administration; we could then avoid concentrating into the next few months a large special workload in addition to the loads with which we are now coping.

Administrative, Supervisory,
and Technical Employees--3/29/57

In regard to the Committee amendment that would make the disability offset provision inapplicable to veterans' compensation payable on account of a service-connected disability, the Committee report on the bill states:

"This offset provision is designed to avoid duplication or unwarranted pyramiding of disability benefits. Your committee believes, however, that the purpose of veterans' compensation is such as to justify disregard of that compensation in the determination of rights to disability insurance benefits under the social-security program.

"Your committee believes that persons who are receiving compensation for disability incurred or aggravated as a result of service to their country in its Armed Forces should not be required to give up all or part of the disability insurance benefits which they may have earned under the contributory social-security program."

In its report on the bill the Committee also expresses concern that a substantial number of disabled persons may be deprived of retroactive disability insurance benefits because the present law precludes the payment of retroactive disability insurance benefits to persons who file applications for disability benefits after December 1957. No amendment to this provision of present law was included in the bill. The Department is requested, by the Committee, however, to report to the Committee by March 1, 1958, on the extent to which persons who file applications after December 1957 may have lost monthly disability insurance benefits because of the present provision under which no retroactive disability insurance benefits may be paid on the basis of applications filed after December 31, 1957.

H.R. 6191 has been sent to the Senate and referred to the Committee on Finance. I will keep you informed of further developments.



Victor Christgau

Calendar No. 462

85TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 455

AMENDING TITLE II OF THE SOCIAL SECURITY ACT, AS AMENDED

JUNE 17, 1957.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 6191]

The Committee on Finance, to whom was referred the bill (H. R. 6191) to amend title II of the Social Security Act, as amended, to extend the period during which an application for a disability determination is granted full retroactivity, and for other purposes, having considered the bill, report favorably thereon with an amendment and recommend that the bill as amended do pass.

I. PURPOSE OF BILL

H. R. 6191 would amend title II of the Social Security Act, as amended, to extend for 1 year (through June 30, 1958) the time within which disabled workers can file applications which would permit the beginning of a period of disability to be established as early as the actual onset of disablement (provided the other requirements of the law are met). Under present law if an application to establish a period of disability is filed by a disabled worker after June 30, 1957, any period of disability that is established for him cannot begin earlier than 1 year before the application is filed.

II. GENERAL EXPLANATION OF COMMITTEE BILL

1. Postponement of deadline for filing applications for the preservation of benefit rights of disabled persons

Under a provision enacted in 1954 to preserve the old-age and survivors insurance rights of disabled persons, an individual's social security earnings record can be frozen during a period of extended total disability so that his inability to work during such period of disability will not result in a reduction in, or a loss of, his old-age, survivors, and disability insurance benefit rights. In its report on the bill that became the Social Security Amendments of 1954 (S. Rept.

1987, 83d Cong.) your committee expressed the view that the advantages of this disability freeze provision should be made available to persons totally disabled for some time before the enactment of the amendments as well as to persons who become disabled in the future. To this end, a provision was included in the 1954 amendments under which an individual who has been continuously disabled for a number of years could preserve his rights under the old-age and survivors insurance program if he filed an application for the disability freeze before July 1, 1957. Under this provision, rights can be reserved for an individual who became disabled as long ago as October 1941.

It is now clear that many people who have been disabled for some time and who would be eligible for the freeze will not make the necessary application before July of this year because they are not aware of the existence of the freeze provisions. While this is understandable in view of the newness of the disability features of the old-age and survivors insurance program, your committee is concerned that many persons who became disabled some time ago will, if they fail to file applications before July 1, 1957, lose all their protection under the old-age and survivors insurance program—retirement and survivor, as well as disability protection. Your committee believes that it is only fair to give workers now disabled a further opportunity to avoid loss of these valuable rights by extending through June 30, 1958, the period for filing an application which will make the freeze effective for eligible workers for the entire period of their total disability.

2. Reduction of social security disability benefit amount on account of disability payments from certain other programs

Your committee has not included in its bill the provision of the House-approved bill under which the disability benefit offset provision of the Social Security Act would be modified so that an individual's disability insurance benefit under old-age and survivors insurance would not be reduced because of disability compensation he receives from the Veterans' Administration. This action was without prejudice as to the merit of the proposal.

The offset provision has the desirable objective of preventing duplication between disability benefits payable under OASI and those payable under any other Federal program or under State workmen's compensation laws. Your committee is in complete sympathy with the objectives of the disability payments provided under the veterans' compensation program, and recognizes that considerations underlying this program may suggest that these payments be given special treatment insofar as the social security disability offset provision is concerned. Your committee is also aware that at the time this offset provision was enacted service in the Armed Forces could count toward social-security benefits without any contribution on the part of servicemen; since then, service in the Armed Forces has been covered under social security on a regular contributory basis.

Nevertheless your committee believes that this change proposed in the House-approved bill should be deferred until the Department of Health, Education, and Welfare is able to complete its study of the provision, including an analysis of experience in operating under it after social security disability benefits become payable. The committee will take up this legislation promptly upon receipt of the information from the Department of Health, Education, and Welfare.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SECTION 216 (i) OF THE SOCIAL SECURITY ACT

DISABILITY; PERIOD OF DISABILITY

(i) (1) * * *

* * * * *

(4) If an individual files an application for a disability determination after December 1954, and before July ~~1957~~ 1958, with respect to a disability which began before July ~~1956~~ 1957, and continued without interruption until such application was filed, then the beginning day for the period of disability, if such individual does not die prior to July 1, 1955, shall be—

(A) the day such disability began, but only if he satisfies the requirements of paragraph (3) on such day;

(B) if he does not satisfy such requirements on such day, the first day of the first quarter thereafter in which he satisfies such requirements.

○

AMENDMENT OF SOCIAL SECURITY
ACT, AS AMENDED

Mr. BYRD. Mr. President, there is a bill which has been reported unani-
mously by the Committee on Finance,
and which has an expiration date of July
1. I therefore ask unanimous consent
that the unfinished business be tempo-
rarily laid aside and that the Senate
proceed to the consideration of Calendar
No. 462, H. R. 6191.

Mr. CARLSON. May I inquire to what
the bill relates?

Mr. BYRD. It relates to social se-
curity payments to veterans.

The **PRESIDING OFFICER.** The clerk will state the bill by title for the information of the Senate.

The **LEGISLATIVE CLERK.** A bill (H. R. 6191) to amend title II of the Social Security Act, as amended, to extend the period during which an application for a disability determination is granted full retroactivity, and for other purposes.

The **PRESIDING OFFICER.** Is there objection to the request of the Senator from Virginia that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of the bill (H. R. 6191)?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendment on page 1, after line 6, to strike out:

SEC. 2. (a) Section 224 (e) of the Social Security Act is amended by adding at the end thereof the following new sentence: "For the purposes of this section, the term 'periodic benefit' does not include compensation paid to any individual under laws administered by the Veterans' Administration on account of such individual's service-connected disability."

And, on page 2, after line 3, to strike out:

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits under title II of the Social Security Act for months after June 1957.

Mr. **BYRD.** Mr. President, H. R. 6191 would amend title II of the Social Security Act, as amended, to extend for 1 year—through June 30, 1958—the time within which disabled workers can file applications which would permit the beginning of a period of disability to be established as early as the actual onset of disablement, provided the other requirements of the law are met. Under present law if an application to establish a period of disability is filed by a disabled worker after June 30, 1957, any period of disability that is established for him cannot begin earlier than 1 year before the application is filed.

It is now clear that many people who have been disabled for some time and who would be eligible for the freeze will not make the necessary application before July of this year because they are not aware of the existence of the freeze provisions. While this is understandable in view of the newness of the disability features of the old-age and survivors insurance program, your committee is concerned that many persons who became disabled some time ago will, if they fail to file applications before July 1, 1957, lose all their protection under the old-age and survivors insurance program—retirement and survivor, as well as disability protection.

The committee believes that it is only fair to give workers now disabled a further opportunity to avoid loss of these valuable rights by extending through June 30, 1958, the period for filing an application which will make the freeze effective for eligible workers for the entire period of their total disability.

Without prejudice as to the merit of the proposal, the committee did not include in its reported bill section 2 of the House-approved bill which would modify the disability-benefit offset provision

of the Social Security Act so that an individual's disability-insurance benefit under old-age and survivors insurance would not be reduced, because of disability compensation he receives from the Veterans' Administration. The purpose in deferring action on this provision was to allow the Social Security Administration sufficient time to endeavor to work out appropriate language to enable the service-connected disabled veteran to draw full social-security disability benefits in the event he is disabled in employment or his employment aggravates his veterans' disability to such an extent that he can no longer be gainfully employed. In other words, the committee is in complete sympathy with the objective insofar as the service-connected disabled veteran is concerned but distinctly disapproves the duplication or unwarranted pyramiding of disability benefits received under other Federal plans.

After studying the problem further the Social Security Administration subsequently reported that the suggested committee amendment was administratively infeasible; thus, the committee reconsidered and approved the House amendment. I, therefore, ask the Senate to disapprove the committee amendment, thereby restoring section 2 to the bill.

The **PRESIDING OFFICER.** The question is on agreeing to the committee amendment.

The amendment was rejected.

Mr. **BYRD.** The rejection of the committee amendment restores the bill to the form in which it passed the House. It is a very desirable bill. The amendment proposed by the Committee on Finance would have disallowed veterans certain benefits under social security. The purpose of rejecting the amendment is to give to the service-connected disabled veteran full benefits under social security, in addition to his veteran's disability compensation, as provided in the House bill.

Mr. **CARLSON.** As I understand, the bill now is exactly the same as it was passed by the House, H. R. 6191. Is that correct?

Mr. **BYRD.** The Senator is correct.

Mr. **CARLSON.** Section 2 is restored to the bill, and that section provides that disabled veterans shall be able to secure benefits under both old-age and survivors insurance and pension benefits. Is that correct?

Mr. **BYRD.** The Senator is correct.

Mr. **CARLSON.** I think it is a worthy bill, and I sincerely hope it will be passed.

The **PRESIDING OFFICER.** The Chair announces that the parliamentary situation as it stands now is that the committee amendment has been rejected. Its rejection restores the bill to the form in which it passed the House.

Mr. **BARRETT.** Mr. President, will the Senator yield?

Mr. **BYRD.** I yield.

Mr. **BARRETT.** Do I understand correctly that the amendment which has been rejected restores section 2 of the House bill?

Mr. **BYRD.** It does. The Senate has rejected the committee amendment. The effect is to restore section 2 of the bill. The amendment resulted from a suggestion of the administration that cer-

tain details had to be worked out. The details were worked out, and were included in the House bill, and the rejection of the committee amendment restores the House provision to the bill. Therefore the bill now before the Senate is exactly the same bill that passed the House.

Mr. **BARRETT.** As the situation stands now, a veteran with service-connected disability may also obtain disability benefits under social security. Is that correct?

Mr. **BYRD.** Such benefits may be paid to the veterans; yes.

Mr. **POTTER.** Mr. President, will the Senator yield?

Mr. **BYRD.** I yield.

Mr. **POTTER.** I had intended to offer an amendment to the pending bill to allow Michigan, one of the States to qualify under the legislation, along with other States which also qualify, to include firemen and policemen under the provisions. However, it is my understanding that such a provision will be submitted as separate legislation. I should like to ask the chairman if it is the intention of the Committee on Finance to take up such proposed legislation in a separate bill. I realize that the chairman would like to have the bill passed in its present form, so that it would not be necessary to have it go to conference.

Mr. **BYRD.** As soon as the House sends to the Senate such a bill as that referred to by the Senator from Michigan, I feel certain that there will be no objection to the adoption of an amendment in line with the Senator's suggestion. The bill before the Senate has a time limit of July 1, and to add an amendment to it would require the bill to go to conference.

Mr. **POTTER.** But it is the view of the chairman, is it, that other bills dealing with the Social Security Act will come before this session of Congress, and that an amendment could be either offered on the floor or referred to the committee at that time?

Mr. **BYRD.** The Senator is correct. I suggest that he offer an amendment and have it referred to the Committee on Finance, to be applied to any bill to which it would be proper to attach it.

Mr. **POTTER.** With that understanding, I will not offer the amendment at this time. I thank the Senator from Virginia.

Mr. **BYRD.** I thank the Senator from Michigan.

Mr. **O'MAHONEY.** Mr. President, I desire to ask the Senator from Virginia a question. My understanding of what has been said by the distinguished chairman of the Committee on Finance is that if the bill is now enacted, after the rejection of the original amendment suggested by the Committee on Finance, and now withdrawn, the bill will read as follows. It is a short bill, and it will not take long to read it:

Be it enacted, etc., That paragraph (4) of section 216 (1) of the Social Security Act is amended by striking out "July 1957" and inserting in lieu thereof "July 1958", and by striking out "July 1956" and inserting in lieu thereof "July 1957."

SEC. 2. (a) Section 224 (c) of the Social Security Act is amended by adding at the

end thereof the following new sentence: "For the purposes of this section, the term 'periodic benefit' does not include compensation paid to any individual under laws administered by the Veterans' Administration on account of such individual's service-connected disability."

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits under title II of the Social Security Act for months after June 1957.

The result of the action which has been taken as I understand, is to strike from the bill the restrictive language which was suggested by the committee, excluding from the meaning of the words "periodic disability" service-connected disability allowances for the individual, so that a veteran will be entitled to all the benefits provided in section 1.

Mr. BYRD. The Senator is correct. The rejection of the committee amendment leaves the bill in the form it passed the House.

Mr. O'MAHONEY. The House bill does not restrict the veteran.

Mr. BYRD. It does not restrict him.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. JAVITS subsequently said: Mr. President, I was not in the Chamber when the debate took place on Calendar No. 462, H. R. 6191. I wish to be recorded in connection with the deliberations on that bill.

I am very much pleased that the Committee on Finance has seen fit to report a bill which accords with the views of the American Legion, the Veterans of Foreign Wars, and other distinguished veterans' organizations in the State of New York, who feel very keenly about the opportunity for veterans to receive their service-connected compensation payments as well as social-security benefits. The committee has done that under the chairmanship of the distinguished senior Senator from Virginia [Mr. BYRD], by restoring the House language in section 2.

SSA - OASI
Office Memorandum • UNITED STATES GOVERNMENT

14:A:K

July 3, 1957

TO : Administrative, Supervisory,
and Technical Employees

FROM : Victor Christgau, Director
Bureau of Old-Age and Survivors Insurance

SUBJECT: Director's Bulletin No. 254
Bill to Amend the OASI Disability Provisions (H.R. 6191) Passed by
the Senate

The Senate today passed H.R. 6191. This bill, which was passed by the House of Representatives on March 28, would make two changes in the disability provisions of the OASI program. The bill was approved unanimously by voice vote.

The Senate-approved bill is identical to that passed by the House of Representatives. As explained in Director's Bulletin No. 250, H.R. 6191 would extend for one year--through June 30, 1958--the time within which disabled workers can file disability freeze applications and still have the beginning of a period of disability established as early as the actual onset of disablement (provided other requirements of the law are met). The bill would also modify the disability "offset" provision so that a disability insurance benefit would not be reduced because of compensation payable to a veteran by the Veterans Administration for his service-connected disability. The offset would continue to apply to cases involving veterans' pension, which is paid on account of nonservice-connected disability; there would be no change in the offset provision as it applies to childhood disability benefits.

A postponement of the June 30, 1957, deadline applicable to disability freeze applications is of course highly desirable from the standpoint of disabled workers who failed to make application before that date. Despite the Bureau's recent informational efforts, it is clear that many people who have been disabled for some time have not fully understood that missing the deadline might mean loss of rights to immediate disability benefits and loss of valuable OASI protection. The Department, as Secretary Folsom advised the Congress, was much concerned with this possibility and felt that, because of the newness of the disability features of the OASI program, workers now disabled should be given a further opportunity to file applications and thus protect their rights under the program.

Administrative, Supervisory,
and Technical Employees -

The Department did not support the provision of H.R. 6191 that would make the disability offset inapplicable to veterans' compensation payable on account of service-connected disability. The Department, in its comments to the Senate Finance Committee, pointed out that the offset provision has the desirable objective of preventing unwarranted duplication of disability benefits, and that the change proposed in H.R. 6191 might lead to major cutbacks in the provision with the result that it would lose much of its value. While it recognized that there are possibilities of inequitable results in the existing provision, since the provision applies alike to disability payments under many programs differing widely both in the amounts to be paid and in the purposes to be served, the Department recommended to the Committee that any action amending the provision be postponed until the results of the Department's study of the provision could be reported to the Congress. The Finance Committee first acted to go along with the Department's recommendation but upon reconsideration decided to accept the House-approved modification of the offset provision.

H.R. 6191 will now be sent to the President. I will inform you of the President's action on the bill.

A handwritten signature in black ink, reading "Victor Christgau". The signature is written in a cursive, flowing style with a large initial "V".

Victor Christgau

Public Law 85-109
85th Congress, H. R. 6191
July 17, 1957

AN ACT

71 Stat. 308.

To amend title II of the Social Security Act, as amended, to extend the period during which an application for a disability determination is granted full retroactivity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (4) of section 216 (i) of the Social Security Act is amended by striking out "July 1957" and inserting in lieu thereof "July 1958", and by striking out "July 1956" and inserting in lieu thereof "July 1957".

68 Stat. 1080.
42 USC 416.

Sec. 2. (a) Section 224 (e) of the Social Security Act is amended by adding at the end thereof the following new sentence: "For the purposes of this section, the term 'periodic benefit' does not include compensation paid to any individual under laws administered by the Veterans' Administration on account of such individual's service-connected disability."

70 Stat. 817.
42 USC 424.

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits under title II of the Social Security Act for months after June 1957.

70 Stat. 807.
42 USC 401-425.

Approved July 17, 1957.

UNITED STATES GOVERNMENT

SSA - OASI

Memorandum

14:A:K

July 18, 1957

TO : Administrative, Supervisory,
and Technical Employees

FROM : Victor Christgau, Director
Bureau of Old-Age and Survivors Insurance

SUBJECT: Director's Bulletin No. 256
Bill to Amend the OASI Disability Provisions (H.R. 6191) Signed by
the President

On July 17 the President signed H.R. 6191, a bill which makes two changes in the disability provisions of the OASI program. The bill became Public Law 109, 85th Congress.

The provisions of the legislation were reviewed in Director's Bulletins No. 250 and 254. You will recall that a provision requested by the Department extends for one year--through June 30, 1958--the time within which disabled workers can file disability freeze applications and still have the beginning of a period of disability established as early as the actual onset of disablement (provided all other requirements are met).

A second provision of Public Law 109 modifies the OASI disability "offset" provision so that a disability insurance benefit will not be reduced because of compensation payable to a veteran by the Veterans Administration for his service-connected disability. The offset will continue to be applicable to cases involving veterans' pension, which is paid on account of nonservice-connected disability; there will be no change in the offset provision as it applies to childhood disability benefits.



Victor Christgau

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SOCIAL SECURITY COVERAGE FOR CERTAIN STATE AND LOCAL GOVERNMENTAL EMPLOYMENT

I. Reported to and Passed House

A. Committee on Ways and Means Report

House Report No. 892 (to accompany H.R. 8755)--*July 29, 1957*

(Committee reported bill without amendment.)

B. House Debate--Congressional Record--*July 31, 1957*

(House passed bill as introduced, see Congressional Record, pp. 13168-69 for text.)

II. Reported to and Passed Senate

A. Committee on Finance Report

Senate Report No. 859 (to accompany H.R. 8755)--*August 13, 1957*

(Committee reported bill with amendments.)

B. Director's Bulletin No. 261, Old-Age and Survivor's Insurance Bills Receiving Active Consideration in the Congress--*August 16, 1957*

C. Senate Debate--Congressional Record--*August 20, 1957*

(Senate passed bill, amended, see Congressional Record, p. 15299 for text.)

III. House Concurrence

Senate amendment agreed to by House--Congressional Record--*August 21, 1957*

IV. Public Law

A. Public Law 85-226--85th Congress--*August 30, 1957*

B. Director's Bulletin No. 262, Old-Age and Survivor's Insurance Bills Passed by the Congress and Sent to the President--*August 23, 1957*

C. Director's Bulletin No. 264, Old-Age and Survivor's Insurance Bills Enacted in 1957, *September 4, 1957*

AUTHORIZING INTERSTATE INSTRUMENTALITIES TO
DIVIDE RETIREMENT SYSTEMS FOR SOCIAL SECURITY
PURPOSES

JULY 29, 1957.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. COOPER, from the Committee on Ways and Means, submitted
the following

REPORT

[To accompany H. R. 8755]

The Committee on Ways and Means, to whom was referred the bill (H. R. 8755) to amend title II of the Social Security Act to permit any instrumentality of two or more States to obtain social security coverage under its agreement separately for those of its employees who are covered by a retirement system and who desire such coverage, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

H. R. 8755 would amend title II of the Social Security Act, as amended in 1956, to make applicable to all interstate instrumentalities the provision of present law which permits specified States to divide a retirement system into two parts and provide social security coverage for the part consisting of the positions of those employees who desire such coverage. Coverage agreements or modifications entered into prior to 1959 could be made effective with respect to services performed at any time after December 31, 1955, by employees of interstate instrumentalities obtaining coverage under the provisions in the bill.

EXPLANATION OF COVERAGE EXTENSION

The Social Security Amendments of 1956 included a provision permitting the States of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii to divide a State or local government retirement system into two parts for purposes of old-age and survivors insurance coverage,

2 DIVIDE RETIREMENT SYSTEMS FOR SECURITY PURPOSES

one part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. Services performed by the members in the part consisting of the positions of members who desire coverage may then be covered under old-age and survivors insurance; and once these services are covered, the services of all persons who in the future become members of the retirement system must also be covered.

Problems have arisen because this provision is not applicable to interstate instrumentalities. For example, where employees of an interstate instrumentality are covered under a retirement system of any one of the nine States specified in the provision, members of the system who are employees of the interstate instrumentality cannot be accorded the same treatment as those who are State employees. H. R. 8755 would alleviate these problems, and would at the same time facilitate the extension of old-age and survivors insurance coverage to employees of an interstate instrumentality of two or more States who are members of a retirement system of such instrumentality, or of any such States or subdivisions thereof, by extending to these instrumentalities the above-described provision which permits retirement system members who desire coverage to be covered without requiring other members of the system to be covered.

POSTPONEMENT OF DEADLINE FOR OBTAINING RETROACTIVE COVERAGE

Under a provision enacted in 1954, coverage provided under an agreement between a State, or an interstate instrumentality, and the Department of Health, Education, and Welfare, can take effect as early as January 1, 1955, if the coverage is agreed to before January 1, 1958. In order to afford sufficient time for interstate instrumentalities to make arrangements for covering employees pursuant to the provisions in this bill, it is desirable to provide an extension of the time within which a retroactive coverage agreement can be entered into with respect to these employees; under the bill a 1-year extension is provided.

Your committee does not believe, however, that it is necessary or desirable that coverage for the employees affected by the bill be permitted to take effect as early as January 1, 1955. In 1954, when January 1, 1955, was fixed as the earliest date for retroactive coverage under the provisions applicable to State and local government employees and employees of interstate instrumentalities, coverage on or before this date was necessary in order to minimize the adverse effect on old-age and survivors insurance protection that might result due to late entry into coverage. As a result of provisions enacted in 1956, however, coverage beginning January 1, 1956, generally speaking, now minimizes the adverse effects of late entry into coverage to the same extent as did coverage beginning January 1, 1955, at the time the 1954 provisions were enacted.

In view of these considerations, your committee's bill would provide that agreements or modifications applicable to services to which the provisions of this bill apply may, if they are entered into prior to 1959, be made effective with respect to such services performed as early as January 1, 1956.

Your committee is unanimous in reporting this bill favorably.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SUBSECTION (k) OF SECTION 218 OF THE SOCIAL SECURITY ACT
VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL
EMPLOYEES

* * * * *

Instrumentalities of Two or More States

(k) (l) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) *In the case of any instrumentality of two or more States, if—*

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended,
then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. The position of any employee of any such instrumentality which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of this paragraph or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title.

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AMENDING TITLE II OF SOCIAL SECURITY ACT WITH REFERENCE TO EMPLOYEES OF INTERSTATE INSTRUMENTALITIES

Mr. COOPER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 8755) to amend title II of the Social Security Act to permit any instrumentality of two or more States to obtain social security coverage under its agreement separately for those of its employees who are covered by a retirement system and who desire such coverage, which was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee [Mr. COOPER]?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That subsection (k) of section 218 of the Social Security Act is amended by inserting "(1)" after "(k)" and by adding at the end thereof the following new paragraph:

"(2) In the case of any instrumentality of two or more States, if—

"(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

"(B) such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

"(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended,

then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. The position of any employee of any such instrumentality which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of this paragraph or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title."

Sec. 2. Notwithstanding subsection (f) of section 218 of the Social Security Act, any agreement with an instrumentality of two or more States under such section which is applicable to services performed by employees of such instrumentality in positions covered by a separate retirement system (comprising a division or part of a retirement system of such instrumentality or of any of such States or any political subdivisions thereof, and consisting of the positions of members who desire coverage under the agreement) created pursuant to subsection (k) (2) of such section, and any modification of such an agreement which makes the agreement applicable to services performed by employees of such instrumentality in such positions may, if such agreement or modification is agreed to prior to 1959, be made effective with respect to services performed in such positions after an effective date specified in the agreement or modification, except that in no case may such date be earlier than December 31, 1955.

Mr. COOPER. Mr. Speaker, the purpose of H. R. 8755 is to amend title II of the Social Security Act to permit any instrumentality of 2 or more States to obtain social-security coverage under its agreement separately for those of its employees who are covered by a retirement system and who desire such coverage.

As may be recalled, the Social Security Amendments of 1956 included a provision permitting certain named States to divide their State or local government retirement systems into 2 parts for purposes of old-age and survivors insurance coverage, 1 part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage.

Problems have arisen because this provision is not applicable to interstate instrumentalities. For example, where employees of an interstate instrumentality are covered under a retirement system

of any one of the specified States in the provision, members of the system who are employees of the interstate instrumentality cannot be accorded the same treatment as those who are State employees. H. R. 8755 would alleviate these problems and would at the same time facilitate the extension of old-age and survivors insurance coverage to employees of an interstate instrumentality of 2 or more States who are members of a retirement system of such instrumentality, or of any such States or subdivisions thereof, by extending to these instrumentalities the above-described provision which permits retirement system members who desire coverage to be covered without requiring other members of the system to be covered.

Our distinguished colleagues, Mr. KEOGH of New York, Mr. EBERHARTER of Pennsylvania, and Mr. KEAN of New Jersey, had bills pending to permit employees of the Delaware River Port Authority, the Delaware River Joint Toll Bridge Commission, and the Port of New York Authority, who desire coverage under the old-age and survivors insurance system to come under such program. These, as well as other interstate instrumentalities, would be covered by the bill.

Under your committee's bill, coverage agreements or modifications entered into prior to 1959 could be made effective with respect to services performed at any time after December 31, 1955, by employees of interstate instrumentalities obtaining coverage under the provisions in the bill.

Your committee was unanimous in reporting this bill.

Mr. REED. Mr. Speaker, H. R. 8755 has as its purpose the amendment of title II of the Social Security Act providing for the extension of coverage under the act to employees of interstate instrumentalities. Under the provisions of this legislation, employees of such interstate instrumentalities would essentially be treated in the same way as present law treats State and local employees. The Committee on Ways and Means was unanimous in acting favorably on this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Calendar No. 886

85TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 859

SOCIAL SECURITY COVERAGE FOR CERTAIN STATE AND LOCAL GOVERNMENTAL EMPLOYMENT

AUGUST 13, 1957.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

R E P O R T

[To accompany H. R. 8755]

The Committee on Finance, to whom was referred the bill (H. R. 8755) to amend title II of the Social Security Act to permit any instrumentality of two or more States to obtain social security coverage under its agreement separately for those of its employees who are covered by a retirement system and who desire such coverage, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

H. R. 8755, as approved by the House and by your committee, would amend title II of the Social Security Act, as amended in 1956, to make applicable to all interstate instrumentalities the provision of present law which permits specified States to divide a retirement system into two parts and provide social security coverage for the part consisting of the positions of those employees who desire such coverage. Your committee has added an amendment designed to make sure that this provision will, to the extent practicable, be applicable to interstate instrumentalities on the same basis as it applies to the specified States.

The House-approved bill would permit coverage obtained under the provisions in the bill to be made effective any time after December 31, 1955, if the coverage agreement or modification is entered into prior to 1959. Your committee would substitute for this provision a more general retroactive coverage provision—one applicable to coverage agreements and modifications pertaining to service performed for a State or any of its political subdivisions as well as those pertaining to service performed for an interstate instrumentality. Under the provision in your committee's bill, a coverage agreement or modification could be made effective any time after December 31, 1955, if the agreement or modification is entered into prior to 1960.

2 SOCIAL SECURITY FOR STATE AND LOCAL EMPLOYMENT

Your committee has also added to the bill a provision which would make applicable to the States of Alabama, Georgia, New York, and Tennessee the provision in present law which permits five specified States to extend old-age and survivors insurance coverage (under their agreements with the Secretary of Health, Education, and Welfare) to services performed by employees of any such State (or of any political subdivision thereof) in any policeman's or fireman's position covered by a State or local retirement system.

EXPLANATION OF COVERAGE EXTENSIONS

The Social Security Amendments of 1956 included a provision permitting the States of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii to divide a State or local government retirement system into two parts for purposes of old-age and survivors insurance coverage, one part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. Services performed by the members in the part consisting of the positions of members who desire coverage may then be covered under old-age and survivors insurance; and once these services are covered, the services of all persons who in the future become members of the retirement system must also be covered.

Problems have arisen because this provision is not applicable to interstate instrumentalities. For example, where employees of an interstate instrumentality are covered under a retirement system of any one of the nine States specified in the provision, members of the system who are employees of the interstate instrumentality cannot be accorded the same treatment as those who are State employees. H. R. 8755 would alleviate these problems, and would at the same time facilitate the extension of old-age and survivors insurance coverage to employees of an interstate instrumentality of two or more States who are members of a retirement system of such instrumentality, or of any such States or subdivisions thereof, by extending to these instrumentalities the above-described provision which permits retirement system members who desire coverage to be covered without requiring other members of the system to be covered. Your committee has added an amendment to the House-approved bill designed to make sure that this provision will, to the extent practicable, be applicable to interstate instrumentalities on the same basis as it applies to the specified States.

The Social Security Amendments of 1954, which made old-age and survivors insurance coverage available to most members of State or local government retirement systems, continued the exclusion of services in policemen's and firemen's positions covered by such systems. Under a provision of the Social Security Amendments of 1956, coverage was made available for services in such positions in five specified States (Florida, North Carolina, Oregon, South Carolina, and South Dakota) which had requested this coverage. As in the case of other employees who are members of a State or local retirement system, the services of policemen and firemen in the specified States may be covered only through agreements between the States and the Department of Health, Education, and Welfare, and only upon a favorable referendum vote by the retirement-system members.

Your committee has been requested to remove the bar to coverage of policemen and firemen covered by a State or local retirement system in the States of Alabama, Georgia, New York, and Tennessee. While recognizing that old-age and survivors insurance legislation applying only to certain States has disadvantages, your committee believes that old-age and survivors insurance coverage for policemen and firemen should be made available at this time in the four additional States that have expressly asked to be included under this provision. Existing law provides adequate assurance that old-age and survivors insurance coverage will be extended only to groups of policemen or firemen who want such coverage. Under the present referendum provisions of the Social Security Act, members of a State or local government retirement system group have a voice in any decision to cover them under old-age and survivors insurance. In addition, existing law contains a declaration that it is the policy of the Congress that the protection afforded members of a State or local government retirement system not be impaired as a result of the extension of old-age and survivors insurance coverage to members of the system.

POSTPONEMENT OF DEADLINE FOR OBTAINING RETROACTIVE COVERAGE

Under a provision enacted in 1954, old-age and survivors insurance coverage provided under an agreement between a State and the Department of Health, Education, and Welfare can take effect as early as January 1, 1955, if the coverage is agreed to before January 1, 1958. These retroactive coverage provisions were intended to give States time to enact legislation needed to permit members of State and local government retirement systems to be brought under old-age and survivors insurance, and to otherwise make arrangements for such coverage. It now appears that the present provisions will not afford sufficient time for many States to take the action necessary to provide retroactive coverage for prior years, particularly under the special provisions enacted in 1956 which apply to specified States.

The House-approved bill would have provided additional time for this retroactive coverage to be arranged in the case of groups whose coverage would be made possible by that bill. While there would be a particular need for additional time in the case of these groups, your committee believes that the extension of time during which retroactive coverage can be provided under a coverage agreement or modification should be made applicable to service performed in the employ of State and local governments generally, as well as to service performed in the employ of interstate instrumentalities. The amendment approved by your committee would therefore extend the period within which the coverage provided under an agreement or modification may be made retroactive irrespective of whether the service covered is performed in the employ of a State (or a political subdivision thereof) or in the employ of an interstate instrumentality. This period would be extended for 2 years (through 1959), whereas the House-approved bill would have provided a 1-year extension (through 1958) applicable only to coverage agreements and modifications pertaining to services to which the provisions of that bill applied.

Your committee believes that a 1-year extension might not be long enough to permit coverage for all groups wishing to come under old-age and survivors insurance under the present provisions of law. A 2-year extension would, of course, be especially needed for any groups

obtaining coverage under legislation enacted this year. The fact that most State legislatures ordinarily meet only in odd-numbered years has an important bearing here. A State must enact enabling legislation before it can bring groups of employees under old-age and survivors insurance. In some States such legislation has not been enacted; in others, the enabling legislation already enacted may require amendment in order to enable the States to take advantage of amendments to the Federal law which may be enacted this year.

While, as indicated above, it is possible under present law for coverage provided under a State agreement to take effect as early as January 1, 1955, your committee has provided that coverage for the employees affected shall begin no earlier than January 1, 1956. In 1954, when January 1, 1955, was fixed as the earliest date for retroactive coverage under the provisions applicable to State and local government employees, coverage on or before this date was necessary in order to minimize the adverse effect on old-age and survivors insurance protection that might result due to late entry into coverage. As a result of provisions enacted in 1956, however, coverage beginning January 1, 1956, generally speaking, now minimizes the adverse effect of late entry into coverage to the same extent as did coverage beginning January 1, 1955, at the time the 1954 provisions were enacted.

Accordingly, your committee's bill provides that an agreement or modification extending old-age and survivors insurance coverage to service performed in the employ of any State (or any political subdivision thereof) or in the employ of any interstate instrumentality could be made effective as early as January 1, 1956, if the coverage agreement or modification is entered into prior to 1960.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SECTION 218 (f), (k), AND (p) OF THE SOCIAL SECURITY ACT

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

SEC. 218. (a) (1) * * *

* * * * *

Effective Date of Agreement

(f) Any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that—

(1) in the case of an agreement or modification agreed to prior to 1954, such date may not be earlier than December 31, 1950;

(2) in the case of an agreement or modification agreed to after 1954 but prior to 1958, such date may not be earlier than December 31, 1954; [and]

(3) in the case of an agreement or modification agreed to after 1957 but prior to 1960, such date may not be earlier than December 31, 1955; and

[(3)] (4) in the case of an agreement or modification agreed to during 1954 or after [1957] 1959, such date may not be earlier than the last day of the calendar year preceding the year in which such agreement or modification, as the case may be, is agreed to by the Secretary of Health, Education, and Welfare and the State.

Instrumentalities of Two or More States

(k) (1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) *In the case of any instrumentality of two or more States, if—*

(A) *employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and*

(B) *such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and*

(C) *it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended,*

then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. The position of any employee of any such instrumentality which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of this paragraph or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) (and consisting of the positions of members who desire coverage under such agreement).

* * * * *

Policemen and Firemen in Certain States

(p) Any agreement with the State of *Alabama*, Florida, *Georgia*, *New York*, North Carolina, Oregon, South Carolina, **[or]** South Dakota, or *Tennessee*, entered into pursuant to this section prior to the date of enactment of this subsection may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), be modified pursuant to subsection (c) (4) to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after the date of the enactment of this subsection, but only upon compliance with the requirements of subsection (d) (3). For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.



Office Memorandum • UNITED STATES GOVERNMENT

SSA-OAST

14:A

August 16, 1957

TO : Administrative, Supervisory
and Technical Employees

FROM : Victor Christgau, Director
Bureau of Old-Age and Survivors Insurance

SUBJECT: Director's Bulletin No. 261
Old-Age and Survivors Insurance Bills Receiving Active Consideration
in the Congress

Since the enactment by the Congress of H.R. 6191, relating to disability insurance benefits (Director's Bulletin No. 256), the Congress has taken action on additional bills amending various provisions of the old-age and survivors insurance law. Today, the last of five bills which were recently passed by the House of Representatives was considered and reported out by the Senate Committee on finance; it appears likely that all of the five bills will be enacted before the Congress adjourns.

While none of these bills can be considered major social security legislation, you will all want to be informed about them, and about their current legislative status. Three of these bills (H.R. 8753, H.R. 8755, and H.R. 8821) amend the provisions of law making coverage available to employees of State and local governments; one bill (H.R. 1944) concerns the payment of benefits to certain aliens outside the United States; a Finance Committee amendment, to be proposed from the Senate floor, would eliminate the "living with" requirement for widow's, widower's, wife's and husband's benefits; and one bill (H.R. 8892) amends the present provisions applying to ministers.

The enclosure summarizes these bills and includes information about their legislative histories. We will promptly inform you of the final action on the bills.



Victor Christgau

Enclosure

SUMMARY OF OLD-AGE AND SURVIVORS INSURANCE BILLS
RECEIVING ACTIVE CONSIDERATION IN THE CONGRESS

State and Local Governmental Employment

H.R. 8753, authorizing California, Connecticut, Minnesota, and Rhode Island to divide retirement systems for purposes of OASI coverage.

1. H.R. 8753 as amended by the Senate Committee on Finance would include the States of California, Connecticut, Minnesota, and Rhode Island under the so-called "divided retirement system" provision enacted in 1956. This provision permits specified States to divide a retirement system into two parts and provide OASI coverage for the part consisting of the positions of those employees who desire such coverage. The Senate Finance Committee added Minnesota to the three States that had been named in the House-approved bill.

2. Both the Senate Finance Committee bill and the House-approved bill would make an amendment, effective only with respect to coverage arranged under the provisions of the bill, in the provisions of law which permit State and local coverage to take effect as early as January 1, 1955, if the coverage is agreed to before January 1, 1958. The Senate Committee bill provides a 2-year extension (through 1959) of the time within which such retroactive coverage can be arranged for these employees, whereas under the House-approved bill an extension of only 1 year (through 1958) would be provided. (These provisions of H.R. 8753 would be made unnecessary if H.R. 8755, described below, were enacted, as H.R. 8755 contains provisions on retroactive coverage which are the same as those of H.R. 8753 but which are generally applicable to State and local governmental employment.) Both the Finance Committee bill and the House-approved bill specify January 1, 1956, as the earliest effective date for coverage.

The Committee reports indicate that January 1, 1956, was selected as the earliest effective date for this retroactive coverage because, as a result of provisions enacted in 1956, coverage beginning January 1, 1956, generally speaking, now minimizes the adverse effects of late entry into coverage to the same extent as did coverage beginning January 1, 1955, at the time the 1954 provisions were enacted.

H.R. 8755, authorizing all interstate instrumentalities to divide retirement systems for purposes of OASI coverage, providing a general extension of the time during which retroactive coverage for prior years may be arranged under the State and local coverage provisions, and permitting OASI coverage of policemen and firemen under retirement systems in Alabama, Georgia, New York, and Tennessee.

1. H.R. 8755 would make applicable to all interstate instrumentalities the "divided retirement system" provision of present law. The Finance Committee added to the House-approved bill an amendment designed to make sure that the divided retirement system provision will, to the extent practicable, be applicable to interstate instrumentalities on the same basis as it applies to the specified States. Under this amendment, changes which may be made in the divided retirement system provision (for example, changes contemplated under H.R. 8821, described below) would also be available to interstate instrumentalities.
2. The House-approved version of H.R. 8755 would provide an additional year (through 1958) in which retroactive coverage for prior years could be arranged for groups (certain employees of interstate instrumentalities) whose coverage would be made possible by that bill. The bill approved by the Senate Finance Committee would provide two years' additional time (through 1959) for such retroactive coverage to be arranged for employees of interstate instrumentalities and also for employees of States and of local governments across the board. While it is possible under present law for coverage agreed to prior to 1958 to take effect as early as January 1, 1955, both the House-approved bill and the Senate Finance Committee bill would permit retroactive coverage arranged after 1957 to begin no earlier than January 1, 1956.
3. The Senate Finance Committee added a provision to H.R. 8755 to remove the bar to coverage of policemen and firemen covered by a State or local retirement system in the States of Alabama, Georgia, New York, and Tennessee. The House-approved version of H.R. 8755 did not contain provisions pertaining to policemen and firemen. (The House Ways and Means Committee reported favorably on another bill, H.R. 4770, which would have made OASI coverage available to policemen and firemen under retirement systems in all States. That bill, however, failed by a narrow margin--120 for and 64 against--to gain the two-thirds majority necessary for passage by the House of Representatives under the House "suspension of the rules" procedure. Debate on the House floor indicated that policemen and firemen in several States, e.g., Illinois, Massachusetts, and Ohio, were concerned that if OASI were made available to policemen and firemen who are under retirement systems, the protection that they have under these systems might be impaired.)

H.R. 8821, facilitating OASI coverage for retirement system groups obtaining coverage under the divided retirement system provision.

H.R. 8821 would expedite the completion of an OASI coverage referendum in conjunction with the divided retirement system provision. The bill is intended to overcome certain problems that have arisen under the present divided retirement system provision--for example, the delay that sometimes results from the double vote on OASI coverage, and the complexity and duplication involved in the double voting action.

H.R. 8821 would permit the specified States (eight States and the Territory of Hawaii, plus the States that would be added if H.R. 8753 is enacted) to provide coverage without a regular coverage referendum for those retirement system members who wish OASI coverage, if certain safeguards, similar to those included in the present referendum provisions, are observed in connection with the division of the system into two parts. The present procedure, under which the retirement system is first divided, and a referendum then held among the members desiring coverage, would continue to be available for those of the specified States that wish to use it in the future.

BENEFITS TO CERTAIN ALIENS LIVING ABROAD

H.R. 1944, eliminating suspension of benefits of aliens outside the United States who are survivors of veterans who died from service-connected causes.

H.R. 1944 provides that the provision for suspension of benefits of certain aliens outside the United States, sponsored by Senator Williams and enacted as part of the 1956 amendments, is not to apply to alien survivors where the individual on whose wages and self-employment income the benefits would be payable dies while serving in the Armed Forces of the United States or as a result of disease or injury incurred or aggravated in the service. The need for the proposed change arises primarily from the fact that the United States Government has been encouraging recruitment of nationals of the Philippine Islands for service in our Armed Forces. As members of the uniformed services, these men are covered by OASI and are required to pay contributions. However, under the existing law most nonresident alien survivors of Philippine servicemen would not be eligible to receive benefits because the servicemen do not obtain 40 quarters of coverage or 10 years of residence in this country. Enactment of H.R. 1944 is necessary in order to carry out fully the intent of the Servicemen's and Veterans' Survivors Benefits Act, which set dependency and indemnity compensation rates for survivors of veterans at levels premised on the concurrent payment of OASI payments.

REMOVAL OF "LIVING WITH" REQUIREMENT

An amendment intended to be proposed to H.R. 1944 and approved by the Senate Finance Committee would provide the following:

1. The "living with" requirement for widow's, widower's, wife's and husband's benefits would be eliminated effective for monthly benefits for months after the month of enactment, and for deaths that occurred either before or after enactment.
2. The definition of wife, husband, widow and widower under present law requires that the spouse be able to inherit the intestate personal property of the worker under applicable State law. Under the amendment, a spouse would meet the definition if a valid marriage was in existence at the time of the worker's death (or the spouse's application for benefits). If a valid marriage had not existed, the relationship would nevertheless be deemed to have existed if the spouse were able to inherit the intestate personal property of the worker.
3. The definitions of wife, husband, widow, and widower and the "living with" requirement for purposes of the Railroad Retirement Act would not be changed.
4. Since the existence of a potentially eligible widow bars payment of parent's benefits, a savings clause would provide that where a parent was receiving benefits or had filed proof that he had been chiefly supported by the deceased worker before the end of the month of enactment of the amendment, payment of benefits to the parent would not be barred where a widow becomes eligible because of these changes.
5. In cases where a widow becomes entitled to benefits because of these changes and, because parents are already entitled to benefits, the maximum on family benefits would apply, a parent's benefit would nevertheless not be reduced below the amount payable to the parent for the month before the month in which the widow becomes entitled to a mother's or aged widow's benefit. (In other words, the amount payable to the parent would be determined without regard to whether the widow was entitled to benefits. Also, the widow's benefit would not be reduced because a parent was entitled on the same earnings record.)
6. In cases where a widow becomes entitled to benefits because of these changes and where the maximum is involved because children are also entitled, the children's benefits would be reduced because of the family maximum provisions.
7. The "living with" requirement would remain for entitlement to the lump-sum death payment based on relationship.

MINISTERS

H.R. 8892, extending the time for ministers to elect OASI coverage, providing that a minister who elects OASI coverage would include the rental value of a parsonage and certain other noncash remuneration in determining his new earnings from self-employment, and validating certain remuneration paid to ministers by nonprofit organizations and erroneously reported as wages.

1. The bill, as approved by the House and the Senate Finance Committee, would extend for a maximum of 2 years (in general, through April 15, 1959) the time within which ministers may file waiver certificates to elect coverage under the OASI program as self-employed persons. The bill would not change the present deadline for filing certificates when that deadline is later than the one provided in the bill--as, for example, in the case of a person who becomes a minister in 1958 or some future year. (H.R. 8892 was introduced after it became evident that many ministers failed to elect coverage under the self-employment provisions because of lack of knowledge or misunderstanding of the provisions and that a substantial number of such ministers now desire coverage. The committees which considered the bill indicated that the risk of adverse selection involved in the bill is not serious under the circumstances where the proposed extension of time for electing coverage is as limited as that provided in H.R. 8892, and where provision is made, as in the bill, for mandatory retroactive coverage.)
2. Each minister who files a certificate during the extended period would be covered retroactively for taxable years ending after 1955 for which he had net earnings from self-employment of \$400 or more (some part of which is from the exercise of his ministry). This retroactive coverage would be compulsory.
3. Where a minister was in the employ of a nonprofit organization in 1955 or 1956 and the nonprofit organization erroneously reported him as an employee for social security purposes, the remuneration erroneously reported for him in either or both of those years would be validated and would count toward social security benefits. (This would be true only if the social security taxes had been paid and no refunds made with respect to the erroneously reported earnings.)
4. A minister who is not affected by the special postponement of the deadline for filing certificates would, as under present law, have two years within which to file a certificate to elect coverage (that is, he will have until the due date of his income tax return for the second year in which he is in the ministry and has net earnings from self-employment of at least \$400). Under the bill, however, a minister who elects coverage within the usual two-year period would be mandatorily covered for the first year as well as the second year if these years are consecutive. Present law does not permit a minister to elect coverage for the first year if he files his election certificate after the due date of his income tax return for that first year.

5. Under an amendment added to H.R. 8892 by the Senate Finance Committee, ministers who elect OASI coverage would include, in determining their net earnings from self-employment for OASI purposes, (1) the rental value of a parsonage furnished them as part of their compensation and (2) the value of meals and lodging furnished them for the convenience of their employer and on the employer's premises. The tax-exempt status of this compensation for income tax purposes would not be affected. This provision of the bill would be effective with taxable years ending on or after December 31, 1957, except that for purposes of the retirement test under old-age and survivors insurance the provision would be effective with taxable years beginning after the month of enactment of the provision.

**AMENDMENT OF SOCIAL SECURITY
ACT—BILL PLACED AT FOOT OF
THE CALENDAR**

The bill (H. R. 8755) to amend title II of the Social Security Act to permit any instrumentality of two or more States to obtain social-security coverage under its agreement separately for those of its employees who are covered by a retirement system and who desire such coverage, was announced as next in order.

Mr. TALMADGE. Over.

Mr. BEALL. Mr. President, at this time I wish to offer to one of the committee amendments an amendment which is in no way controversial. Quite the contrary; it is simply to place the State of Maryland in the same position as that of so many other States with respect to section 218 subsection (p) of the Social Security Act. My amendment would place Maryland after Georgia in the alphabetical listing of States in section 2 of H. R. 8755.

Mr. President, this amendment provides coverage under social security for police and firemen in the State of Maryland. It is endorsed by the Maryland Municipal League, and also by the Maryland State Legislature, which, in the State Senate on January 16, 1957, passed resolution 5 of the 1957 session. The Governor of Maryland approved this resolution on February 1, 1957.

The PRESIDING OFFICER. Does the Senator from Georgia withhold his objection?

Mr. TALMADGE. I withhold my objection, and I should like to hear the amendment of the Senator from Maryland read.

The PRESIDING OFFICER. The amendment of the Senator from Maryland will not be in order until the committee amendment to which it is submitted is considered. Since objection has been made to the consideration of the bill, the committee amendments cannot be considered at this time.

Mr. TALMADGE. Mr. President, I withdraw my objection at this time, in order that the amendment of the Senator from Maryland may be offered and read. After I hear the amendment read,

I shall know whether I wish to renew my objection.

The PRESIDING OFFICER. First, is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 8755), which had been reported from the Committee on Finance with amendments.

The PRESIDING OFFICER. The amendments of the committee will be stated.

The first amendment was on page 3, line 4, after the word "title", to insert "Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) (and consisting of the positions of members who desire coverage under such agreement)."; and after line 14, to strike out:

Sec. 2. Notwithstanding subsection (f) of section 218 of the Social Security Act, any agreement with an instrumentality of two or more States under such section which is applicable to services performed by employees of such instrumentality in positions covered by a separate retirement system (comprising a division or part of a retirement system of such instrumentality or of any of such States or any political subdivisions thereof, and consisting of the positions of members who desire coverage under the agreement) created pursuant to subsection (k) (2) of such section, and any modification of such an agreement which makes the agreement applicable to services performed by employees of such instrumentality in such positions may, if such agreement or modification is agreed to prior to 1959, be made effective with respect to services performed in such positions after an effective date specified in the agreement or modification, except that in no case may such date be earlier than December 31, 1955.

The amendment was agreed to.

The next committee amendment was on page 4, after line 7, to insert:

Sec. 2. Subsection (p) of section 218 of the Social Security Act is amended by striking out "Florida, North Carolina, Oregon, South Carolina, or South Dakota" and inserting in lieu thereof "Alabama, Florida, Georgia, New York, North Carolina, Oregon, South Carolina, South Dakota, or Tennessee."

Mr. BEALL. Mr. President, to this committee amendment, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Maryland to the committee amendment will be stated.

The LEGISLATIVE CLERK. In the committee amendment on page 4, in line 11, after "Georgia," it is proposed to insert "Maryland."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland to the committee amendment.

The amendment to the amendment was agreed to.

Mr. FREAR. Mr. President, to this committee amendment, as now amended, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Delaware to the committee amendment will be stated.

The LEGISLATIVE CLERK. On page 4, in line 13, after "Tennessee," it is proposed to insert "or Territory of Hawaii."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware to the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

The PRESIDING OFFICER. The next amendment of the committee will be stated.

The next amendment was, on page 4, after line 13, to insert:

Sec. 3. Subsection (f) of section 218 of the Social Security Act is amended by striking out "1957" in paragraph (3) and inserting in lieu thereof "1959", by striking out "and" at the end of paragraph (2), and by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) in the case of an agreement or modification agreed to after 1957 but prior to 1960, such date may not be earlier than December 31, 1955; and."

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The PRESIDING OFFICER. The question now is on the passage of the bill.

Mr. PURTELL. Mr. President, I understand that the Senator from Georgia previously objected to passage of the bill. Will he withhold his objection, so that I may ask that the bill go to the foot of the calendar?

Mr. TALMADGE. Mr. President, I withhold my objection at this time. But I should like to ask the nature of the amendment the Senator from Delaware submitted.

Mr. FREAR. It included "the Territory of Hawaii."

Mr. TALMADGE. Very well.

Mr. PURTELL. Mr. President, I ask unanimous consent that the bill go to the foot of the calendar. A Senator who will be in the Chamber a little later wishes to offer an amendment.

Mr. TALMADGE. I have no objection to the request.

The PRESIDING OFFICER. Without objection, the bill will be placed at the foot of the calendar.

Mr. BYRD. Mr. President, I ask unanimous consent that a statement regarding the bill be printed in the Record.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BYRD

The social-security amendments of 1956 included a provision permitting the States

of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii to divide a State or local government retirement system into two parts for purposes of old-age and survivors insurance coverage, one part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage.

Problems have arisen because this provision is not applicable to interstate instrumentalities. For example, where employees of an interstate instrumentality are covered under a retirement system of any one of the nine States specified in the provision, members of the system who are employees of the interstate instrumentality cannot be accorded the same treatment as those who are State employees. H. R. 8755 would alleviate these problems, and would at the same time facilitate the extension of old-age and survivors insurance coverage to employees of an interstate instrumentality of two or more States who are members of a retirement system of such instrumentality, or of any such States or subdivisions thereof, by extending to these instrumentalities the above-described provision which permits retirement system members who desire coverage to be covered without requiring other members of the system to be covered.

The Committee on Finance has added an amendment to the House-approved bill designed to make sure that this provision will, to the extent practicable, be applicable to interstate instrumentalities on the same basis as it applies to the specified States.

A State must enact enabling legislation before it can bring groups of employees under old-age and survivors insurance. In some States such legislation has not been enacted; in others, the enabling legislation already enacted may require amendment in order to enable the States to take advantage of these amendments. The Finance Committee bill, therefore, has been amended to postpone the deadline for obtaining such coverage to afford sufficient time for many States to take the necessary action. The committee bill provides that an agreement or modification extending OASI coverage to services performed in the employ of any State (or any political subdivision thereof) or in the employ of any interstate instrumentality could be made effective as early as January 1, 1956, if the coverage agreement or modification is entered into prior to 1960.

Prior to the 1956 social-security amendments the services of all policemen and firemen covered by a State or local government retirement system were specifically excluded from social-security coverage. In 1956 at the request of Senators from Florida, North Carolina, Oregon, South Carolina, and South Dakota, an amendment was adopted making OASI coverage available to the firemen and policemen of their States if they indicate by referendum they so desire to be covered. At the request of the Senators from Alabama, Georgia, New York, and Tennessee an amendment has been added in committee to H. R. 8755 which will extend this option to the policemen and firemen of their States.

Rather than see firemen and policemen from other States to be covered by the proposed legislation prejudiced, I will not offer my amendment at this time.

I wish the Record to show that many communities, particularly smaller communities in the State of Michigan, feel a need for social security protection. I regret that we have not had a unified position of police and firemen within our State, so that the amendment referred to could be included in the bill.

Therefore I shall not offer my amendment. If I do not do so, I understand that the junior Senator from Michigan will not object.

Mr. JAVITS. Mr. President, I express my appreciation to the Senator from Michigan. Speaking on behalf of the State of New York, we want legislation of this character very much, as do other States.

The PRESIDING OFFICER. All amendments to House bill 8755 have been agreed to. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

AMENDMENT OF TITLE II OF SOCIAL SECURITY ACT

Mr. JAVITS. Mr. President, I ask unanimous consent to return to Calendar No. 886, House bill 8755. An agreement has been reached with the Senator from Michigan [Mr. POTTER], and I believe the bill can now be passed by unanimous consent.

The PRESIDING OFFICER. Has the Senator who objected to House bill 8755 withdrawn his objection?

Mr. JAVITS. I understand he has agreed to do so. The Senator from Michigan will make a statement in connection with the bill.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 8755) to amend title II of the Social Security Act to permit any instrumentality of two or more States to obtain social-security coverage under its agreement separately for those of its employees who are covered by a retirement system and who desire such coverage.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PURTELL. Mr. President, my understanding was that Calendar No. 886, House bill 8755 was not objected to. It went to the foot of the calendar.

Mr. JAVITS. That is correct.

Mr. TALMADGE. The understanding of the Senator is correct.

Mr. POTTER. Mr. President, it had been my intention to offer an amendment to the bill. Michigan is one of the States where policemen and firemen may, by their own option, come under the Social Security Act. However, the junior Senator from Michigan [Mr. McNAMARA] has indicated that if such an amendment as was contemplated were offered he would oppose the bill.

ing in lieu thereof '1959', by striking out 'and' at the end of paragraph (2) and by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) in the case of an agreement or modification agreed to after 1957 but prior to 1960, such date may not be earlier than December 31, 1955 and."

Amend the title so as to read: "An act to amend title II of the Social Security Act to permit any instrumentality of two or more States to obtain social security coverage, under its agreement, separately for those of its employees who are covered by a retirement system and who desire such coverage, to include Alabama, Georgia, New York, and Tennessee among the States which may obtain social security coverage for policemen and firemen in position covered by a retirement system on the same basis as other State and local employees, and to extend the period during which State agreements for social security coverage of State and local employees may be made retroactive."

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. COOPER. Mr. Speaker, H. R. 8755 as it passed the House would have amended title II of the Social Security Act so as to permit a division of a retirement system on the part of interstate instrumentalities into two parts and thereby providing social-security coverage for the part consisting of the positions of those employees who desire such coverage.

The Senate added three main amendments to this bill. The first amendment is designed to make sure that the division in the case of interstate instrumentalities, to the extent practicable, will be on the same basis as the division now permitted to specified States.

The Senate also substituted a more general retroactive coverage provision which would be applicable to agreements and modifications pertaining to services performed for a State or any of its political subdivisions, as well as those pertaining to services performed for an interstate instrumentality. Under the Senate amendment a coverage agreement or modification could be made effective any time after December 31, 1955, if the agreement or modification is entered into prior to 1960.

The Senate also added a provision which would remove the bar to coverage of policemen and firemen covered by a State or local retirement system in the States of Alabama, Georgia, Maryland, New York, and Tennessee, and in Hawaii.

I urge that the House recede and concur in these Senate amendments.

Mr. REED. Mr. Speaker, H. R. 8755 as it passed the House of Representatives amended title II of the Social Security Act so as to provide improved OASI coverage to employees of interstate instrumentalities by permitting the retirement system to be divided into two parts for coverage purposes. The Senate amended the legislation to provide that Alabama, Georgia, Maryland, New York, and Tennessee, as well as the

AMENDMENT OF TITLE II OF THE SOCIAL SECURITY ACT

Mr. COOPER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8755) to amend title II of the Social Security Act to permit any instrumentality of two or more States to obtain social-security coverage under its agreement separately for those of its employees who are covered by a retirement system and who desire such coverage, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 7, after "title," insert "Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) (and consisting of the positions of members who desire coverage under such agreement)."

Page 3, strike out all after line 7 over to and including line 3 on page 4 and insert: "Sec. 2. Subsection (p) of section 218 of the Social Security Act is amended by striking out 'Florida, North Carolina, Oregon, South Carolina, or South Dakota' and inserting in lieu thereof 'Alabama, Florida, Georgia, Maryland, New York, North Carolina, Oregon, South Carolina, South Dakota, Tennessee, or Territory of Hawaii.'"

"Sec. 3. Subsection (f) of section 218 of the Social Security Act is amended by striking out '1957' in paragraph (3) and insert-

Territory of Hawaii, would be allowed to include policemen and firemen under the protection of the OASI system. In addition the Senate amended the bill so as to postpone the deadline for obtaining coverage to afford sufficient time for the many State legislatures to take appropriate action so as to enable giving effect to this extension of coverage.

Public Law 85-226
85th Congress, H. R. 8755
August 30, 1957

AN ACT

71 Stat. 511

To amend title II of the Social Security Act to permit any instrumentality of two or more States to obtain social security coverage, under its agreement, separately for those of its employees who are covered by a retirement system and who desire such coverage, to include Alabama, Georgia, New York, and Tennessee among the States which may obtain social security coverage for policemen and firemen in positions covered by a retirement system on the same basis as other State and local employees, and to extend the period during which State agreements for social security coverage of State and local employees may be made retroactive.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (k) of section 218 of the Social Security Act is amended by inserting "(1)" after "(k)" and by adding at the end thereof the following new paragraph:

Social security.
Retirement systems in certain States.
64 Stat. 514.
42 USC 418.

"(2) In the case of any instrumentality of two or more States, if—

"(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

"(B) such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

"(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended, then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. The position of any employee of any such instrumentality which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of this paragraph or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) (and consisting of the positions of members who desire coverage under such agreement)."

SEC. 2. Subsection (p) of section 218 of the Social Security Act is amended by striking out "Florida, North Carolina, Oregon, South Carolina, or South Dakota" and inserting in lieu thereof "Alabama, Florida, Georgia, Maryland, New York, North Carolina, Oregon, South Carolina, South Dakota, Tennessee, or Territory of Hawaii".

70 Stat. 826.
42 USC 418.

68 Stat. 1058.
42 USC 418.

• Sec. 3. Subsection (f) of section 218 of the Social Security Act is amended by striking out "1957" in paragraph (3) and inserting in lieu thereof "1959", by striking out "and" at the end of paragraph (2), and by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) in the case of an agreement or modification agreed to after 1957 but prior to 1960, such date may not be earlier than December 31, 1955; and".

Approved August 30, 1957.

Office Memorandum • UNITED STATES GOVERNMENT

TO : Administrative, Supervisory,
and Technical Employees

14:A:K
August 23, 1957

FROM : Victor Christgau, Director
Bureau of Old-Age and Survivors Insurance

SUBJECT: Director's Bulletin No. 262
Old-Age and Survivors Insurance Bills Passed by the Congress and
Sent to the President

In Director's Bulletin No. 261 we described the provisions of five old-age and survivors insurance bills which were receiving active consideration by the Congress. All five of these bills have now been passed by the Congress and sent to the President.

In all cases where the provisions of the Senate-approved bill differed from those of the House-approved bill, the House agreed to the provisions of the Senate-approved bill. (The differences between the House and Senate versions of the bills were indicated in Director's Bulletin No. 261.) Following is a listing of the five bills, with a brief summary of their final provisions.

H.R. 8753: Authorizes California, Connecticut, Minnesota, and Rhode Island to divide retirement systems for purposes of securing old-age and survivors insurance coverage.

H.R. 8755: Authorizes all interstate instrumentalities to divide retirement systems for purposes of old-age and survivors insurance coverage; provides a general extension of the time during which retroactive coverage for prior years may be arranged under the State and local coverage provisions; and permits old-age and survivors insurance coverage of policemen and firemen under retirement systems in Alabama, Georgia, Maryland, New York, Tennessee, and the Territory of Hawaii. (Maryland and Hawaii were added by amendments on the Senate floor.) The across-the-board provision permitting State and local coverage to take effect as early as January 1, 1956, if the coverage is agreed to before January 1, 1960, is of course of general interest in the State and local field.

H.R. 8821: Facilitates old-age and survivors insurance coverage for retirement system groups obtaining coverage under the divided retirement system provision.

H.R. 1944: Eliminates suspension of benefits of aliens outside the United States who are survivors of veterans who died from service-connected causes; eliminates the "living with" requirement for wife's, husband's, mother's, widow's, and widower's benefits; and changes the definition of wife, widow, husband, and widower.

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and Technical Employees - 8/23/57

H.R. 8892: Extends the time for ministers to elect old-age and survivors insurance coverage; provides that a minister who elects old-age and survivors insurance coverage would include the rental value of a parsonage and certain other noncash remuneration in determining his net earnings from self-employment; and validates certain remuneration paid to ministers by nonprofit organizations and erroneously reported as wages.

Materials to implement the administration of these new provisions are being prepared and will be released as soon as practicable after such time as the President may sign the bills. With the possibility of an exception in the case of H.R. 1944, there are no indications that he will refuse to sign them.



Victor Christgau

SSA - OASI

Office Memorandum • UNITED STATES GOVERNMENT

TO : Administrative, Supervisory
and Technical Employees

14:A:K

DATE: September 4, 1957

FROM : Victor Christgau, Director
Bureau of Old-Age and Survivors Insurance

SUBJECT: Director's Bulletin No. 264
OASI Bills Enacted In 1957

The President has signed into law the five old-age and survivors insurance bills we described in Director's Bulletins No. 261 and 262. You will remember that a sixth bill (H.R. 6191, described in Director's Bulletin No. 256) was enacted earlier this year. Following is a brief summary of OASI legislation enacted in the first session of the 85th Congress.

P.L. 109 (H.R. 6191) enacted on July 17, 1957: Extends for one year--through June 30, 1958--the time within which disabled workers can file disability freeze applications and still have the beginning of a period of disability established as early as the actual onset of disablement (provided all other requirements are met); and modifies the OASI disability "offset" provision so that a disability insurance benefit will not be reduced because of compensation payable to a veteran by the Veterans Administration for his service-connected disability.

P.L. 226 (H.R. 8755) enacted on August 30, 1957: Authorizes all interstate instrumentalities to divide retirement systems for purposes of old-age and survivors insurance coverage; provides a general extension of the time during which retroactive coverage for prior years may be arranged under the State and local coverage provisions; and permits old-age and survivors insurance coverage of policemen and firemen under retirement systems in Alabama, Georgia, Maryland, New York, Tennessee, and the Territory of Hawaii.

P.L. 227 (H.R. 8753) enacted on August 30, 1957: Authorizes California, Connecticut, Minnesota, and Rhode Island to divide retirement systems for purposes of securing old-age and survivors insurance coverage.

P.L. 229 (H.R. 8821) enacted on August 30, 1957: Facilitates old-age and survivors insurance coverage for retirement system groups obtaining coverage under the divided retirement system provision.

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and Technical Employees--9/4/57

P.L. 238 (H.R. 1944) enacted on August 30, 1957: Eliminates suspension of benefits of aliens outside the United States who are survivors of veterans who died from service-connected causes; eliminates the "living with" requirement for wife's, husband's, mother's, widow's, and widower's benefits; and changes the definition of wife, widow, husband, and widower.

P.L. 239 (H.R. 8892) enacted on August 30, 1957: Extends the time for ministers to elect old-age and survivors insurance coverage; provides that a minister who elects old-age and survivors insurance coverage would include the rental value of a parsonage and certain other noncash remuneration in determining his net earnings from self-employment; and validates certain remuneration paid to ministers by nonprofit organizations and erroneously reported as wages.



Victor Christgau

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¹SOCIAL SECURITY COVERAGE OF CERTAIN STATE AND LOCAL GOVERNMENTAL EMPLOYMENT

I. Reported to and Passed House

A. Committee on Ways and Means Report

House Report No. 891 (to accompany H.R. 8753)--*July 29, 1957*

(Committee reported bill without amendment.)

B. House Debate--Congressional Record--*July 31, 1957*

(House passed bill as introduced, see Congressional Record, p. 13167 for text.)

II. Reported to and Passed Senate

A. Committee on Finance Report

Senate Report No. 858 (to accompany H.R. 8753)--*August 13, 1957*

B. Committee-Reported Bill--*August 13, 1957*

(H.R. 8753, reported with amendments, see Congressional Record, p. 15298 for Committee amendments.)

C. Senate Debate--Congressional Record--*August 20, 1957*

(Senate passed committee reported bill.)

III. House Concurrence

Senate amendments agreed to by House--Congressional Record--*August 21, 1957*

IV. Public Law

Public Law 85-227--85th Congress--*August 30, 1957*

¹Also see legislative history of P.L. 226 (H.R. 8755), Director's Bulletins Nos. 261, 262, and 264 for additional background.

AUTHORIZING CALIFORNIA, CONNECTICUT, AND RHODE
ISLAND TO DIVIDE RETIREMENT SYSTEMS FOR SOCIAL
SECURITY PURPOSES

JULY 29, 1957.—Committed to the Committee of the Whole House of the State
of the Union and ordered to be printed

Mr. COOPER, from the Committee on Ways and Means, submitted the
following

REPORT

[To accompany H. R. 8753]

The Committee on Ways and Means, to whom was referred the bill (H. R. 8753) to amend title II of the Social Security Act to include California, Connecticut, and Rhode Island among the States which are permitted to divide their retirement systems into two parts so as to obtain social-security coverage, under State agreement, for only those State and local employees who desire such coverage, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

H. R. 8753 would amend title II of the Social Security Act, as amended in 1956, to include the States of California, Connecticut, and Rhode Island under the provision of present law which permits specified States to divide a retirement system into two parts and provide social-security coverage for the part consisting of the positions of those employees who desire such coverage. Coverage agreements or modifications entered into prior to 1959 could be made effective with respect to services performed at any time after December 31, 1955, by employees (of any of the three States and political subdivisions thereof) obtaining coverage under the provisions in the bill.

EXPLANATION OF COVERAGE EXTENSION

The Social Security Amendments of 1956 included a provision permitting the States of Florida, Georgia, New York, North Dakota,

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Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii to divide a State or local government retirement system into two parts for purposes of old-age and survivors insurance coverage, one part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. Services performed by the members in the part consisting of the positions of members who desire coverage may then be covered under old-age and survivors insurance, and, once these services are covered, the services of all persons who in the future become members of the retirement system must also be covered. This provision was made applicable to the eight specified States and the Territory of Hawaii at their request. While recognizing that old-age and survivors insurance legislation applying only to certain States has disadvantages, your committee believes that, at least for the time being, the provision should be extended to the three additional States—California, Connecticut, and Rhode Island—that have expressly requested such extension.

POSTPONEMENT OF DEADLINE FOR OBTAINING RETROACTIVE COVERAGE

Under a provision enacted in 1954, coverage provided under an agreement between a State and the Department of Health, Education, and Welfare can take effect as early as January 1, 1955, if the coverage is agreed to before January 1, 1958. In order to assure sufficient time for the 3 States to make arrangements for covering employees pursuant to the provisions in this bill, it is desirable to provide an extension of the time within which a retroactive coverage agreement can be entered into with respect to these employees; under the bill a 1-year extension is provided.

Your committee does not believe, however, that it is necessary or desirable that coverage for the employees affected by the bill be permitted to take effect as early as January 1, 1955. In 1954, when January 1, 1955, was fixed as the earliest date for retroactive coverage under the provisions applicable to State and local government employees, coverage on or before this date was necessary in order to minimize the adverse effect on old-age and survivors insurance protection that might result due to late entry into coverage. As a result of provisions enacted in 1956, however, coverage beginning January 1, 1956, generally speaking, now minimizes the adverse effects of late entry into coverage to the same extent as did coverage beginning January 1, 1955, at the time the 1954 provisions were enacted.

In view of these considerations, your committee's bill would provide that agreements or modifications applicable to services to which the provisions of this bill apply may, if they are entered into prior to 1959, be made effective with respect to such services performed as early as January 1, 1956.

Your committee is unanimous in reporting this bill favorably.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill as introduced, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 218 (d) (6) OF THE SOCIAL SECURITY ACT

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

Sec. 218. (a) (1) * * *

* * * * *

Positions covered by retirement systems

(d) (1) * * *

* * * * *

(6) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this paragraph, the term "institutions of higher learning" includes junior colleges and teachers' colleges. For the purposes of this subsection, any retirement system established by the State of California, Connecticut, Florida, Georgia, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision of any such State or Territory, which, on, before, or after the date of enactment of this sentence is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State or Territory so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. The position of any individual which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of such sentence or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Wash-

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ington, or the Territory of Hawaii which covers positions of employees of such State or Territory who are compensated in whole or in part from grants made to such State or Territory under title III, there shall be deemed to be, if such State or Territory so desires, a separate retirement system with respect to any of the following: (A) the positions of such employees; (B) the positions of all employees of such State or Territory covered by such retirement system who are employed in the department of such State or Territory in which the employees referred to in clause (A) are employed; or (C) employees of such State or Territory covered by such retirement system who are employed in such department of such State or Territory in positions other than those referred to in clause (A).



AMENDING TITLE II OF THE SOCIAL SECURITY ACT TO INCLUDE CERTAIN STATES TO DIVIDE THEIR RETIREMENT SYSTEMS INTO TWO PARTS

The SPEAKER. The Chair recognizes the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I have several bills which have been unanimously reported by the Committee on Ways and Means, and I ask unanimous consent that immediately following the calling up of each of these bills, I may have permission to extend my remarks in the RECORD at that point, and also that following my remarks the gentleman from New York [Mr. REED] may extend his remarks.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COOPER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 8753) to amend title II of the Social Security Act to include California, Connecticut, and Rhode Island among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage, which was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee [Mr. COOPER]?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the fourth sentence of section 218 (d) (6) of the Social Security Act is amended by inserting "California, Connecticut," before "Florida," and by inserting "Rhode Island," before "Tennessee."

Sec. 2. Notwithstanding subsection (f) of section 218 of the Social Security Act, any modification of the agreement with the State of California, Connecticut, or Rhode Island under such section which makes such agreement applicable to services performed in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) of such section (and consisting of the positions of members who desire coverage under the agreement) may, if such modification is agreed to prior to 1959, be made effective with respect to services performed in such positions after an effective date specified in such modification, except that in no case may such date be earlier than December 31, 1955.

Mr. COOPER. Mr. Speaker, the purpose of H. R. 8753 is to amend title II of the Social Security Act to include

California, Connecticut, and Rhode Island among the States which are permitted to divide their retirement systems into two parts so as to obtain social-security coverage, under State agreement, for only those State and local employees who desire such coverage.

As may be recalled, the social-security amendments of 1956 included a provision permitting certain named States to divide their State or local government retirement systems into two parts for purposes of old-age and survivors insurance coverage, one part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. The instant bill, H. R. 8753, would add California, Connecticut, and Rhode Island to this list of named States.

Several Members had bills pending before the Committee on Ways and Means in connection with adding the subject States to the list contained in the 1956 amendments. For example, our colleague, the distinguished gentleman from California [Mr. KING], had a bill pending to add the State of California, as did our colleague, the gentleman from Rhode Island [Mr. FORAND]. The gentleman from Connecticut [Mr. SADLAK], had a bill pending to add Connecticut to the list; and the gentleman from Rhode Island [Mr. FORAND], had bills pending to add the State of Rhode Island.

Under your committee's bill, coverage agreements or modifications entered into prior to 1959 could be made effective with respect to services performed at any time after December 31, 1955, by employees—of any of the three States and political subdivisions thereof—obtaining coverage under the provisions in the bill.

Your committee was unanimous in reporting this bill.

Mr. REED. Mr. Speaker, H. R. 8753 would amend title II of the Social Security Act so as to include the States of California, Connecticut, and Rhode Island in the enumeration of States set forth in present law which are permitted to divide a retirement system into two parts and provide social-security coverage for the part consisting of the positions of those employees who desire such coverage. It is my understanding that the employees of these three States have expressed their interest in such an amendment to the Social Security Act. This legislation is consistent with the policy followed by the Congress with respect to OASI coverage of providing protection under the act to groups that have expressed interest in being included within the coverage provisions. The Committee on Ways and Means was unanimous in acting favorably on this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Calendar No. 885

85TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 858

AUTHORIZING CALIFORNIA, CONNECTICUT, MINNESOTA, AND RHODE ISLAND TO DIVIDE RETIREMENT SYSTEMS FOR SOCIAL-SECURITY PURPOSES

AUGUST 13, 1957.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 8753]

The Committee on Finance, to whom was referred the bill (H. R. 8753) to amend title II of the Social Security Act to include California, Connecticut, and Rhode Island among the States which are permitted to divide their retirement systems into two parts so as to obtain social-security coverage, under State agreement, for only those State and local employees who desire such coverage, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

H. R. 8753, as passed by the House of Representatives, would amend title II of the Social Security Act, as amended in 1956, to include the States of California, Connecticut, and Rhode Island under the provision of present law which permits specified States to divide a retirement system into two parts and provide social-security coverage for the part consisting of the positions of those employees who desire such coverage. At the request of Minnesota, your committee has amended the bill to make it applicable to that State also.

The House-approved bill also provided that coverage agreements or modifications entered into prior to 1959 could be made effective with respect to services performed at any time after December 31, 1955, by employees obtaining coverage under the provisions in the bill. Your committee has amended this provision to make it applicable to such services under coverage agreements, or modifications thereof entered into prior to 1960.

EXPLANATION OF COVERAGE EXTENSION

The Social Security Amendments of 1956 included a provision permitting the States of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii to divide a State or local government retirement system into two parts for purposes of old-age and survivors insurance coverage, one part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. Services performed by the members in the part consisting of the positions of members who desire coverage may then be covered under old-age and survivors insurance, and, once these services are covered, the services of all persons who in the future become members of the retirement system must also be covered. This provision was made applicable to the eight specified States and the Territory of Hawaii at their request. While recognizing that old-age and survivors insurance legislation applying only to certain States has disadvantages, your committee believes that the provision should be extended at this time to the four additional States—California, Connecticut, Minnesota, and Rhode Island—that have expressly requested such extension.

POSTPONEMENT OF DEADLINE FOR OBTAINING RETROACTIVE COVERAGE

Under a provision enacted in 1954, coverage provided under an agreement between a State and the Department of Health, Education, and Welfare can take effect as early as January 1, 1955, if the coverage is agreed to before January 1, 1958.

In order to assure sufficient time for the four States to make arrangements for covering employees pursuant to the provisions in this bill, it is desirable to provide an extension of the time within which a retroactive coverage agreement can be entered into with respect to these employees. Under the House-approved bill a 1-year extension was provided. Your committee has amended the bill to provide a 2-year extension. Your committee believes that the 1-year extension might not be long enough to permit the four States affected by the bill, and the interested subdivisions, to take the necessary action by the end of 1958. These States and their subdivisions would of course need a certain amount of time in order to inform interested groups of the amendment and to provide for and carry out the actions which are a prerequisite to securing social-security coverage for them. A further delay would result if State enabling legislation necessary to action by the State has not been enacted. The problems that would arise in getting any needed State legislation if the extension of the deadline for obtaining retroactive coverage were extended for only 1 year might be particularly acute in Minnesota, since the legislature in that State ordinarily meets only in odd-numbered years.

While, as indicated above, it is possible under present law for coverage provided under a State agreement to take effect as early as January 1, 1955, your committee concurs in the provision in the House-approved bill under which coverage for the employees affected could begin no earlier than January 1, 1956. In 1954, when January 1, 1955, was fixed as the earliest date for retroactive coverage under the provisions applicable to State and local government employees, coverage on or before this date was necessary in order to minimize the

adverse effect on old-age and survivors insurance protection that might result due to late entry into coverage. As a result of provisions enacted in 1956, however, coverage beginning January 1, 1956, generally speaking, now minimizes the adverse effects of late entry into coverage to the same extent as did coverage beginning January 1, 1955, at the time the 1954 provisions were enacted.

Accordingly, your committee's bill provides that agreements or modifications applicable to services to which the bill applies may, if they are entered into prior to 1960, be made effective with respect to such services performed as early as January 1, 1956.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

SECTION 218 (d) (6) OF THE SOCIAL SECURITY ACT

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

SEC. 218. (a) (1) * * *

* * * * *

Positions Covered by Retirement Systems

(d) (1) * * *

* * * * *

(6) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this paragraph, the term "institutions of higher learning" includes junior colleges and teachers' colleges. For the purposes of this subsection, any retirement system established by the State of *California*, *Connecticut*, Florida, Georgia, *Minnesota*, New York, North Dakota, Pennsylvania, *Rhode Island*, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision of any such State or Territory, which, on, before, or after

the date of enactment of this sentence is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State or Territory so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. The position of any individual which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of such sentence or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii which covers positions of employees of such State or Territory who are compensated in whole or in part from grants made to such State or Territory under title III, there shall be deemed to be, if such State or Territory so desires, a separate retirement system with respect to any of the following: (A) the positions of such employees; (B) the positions of all employees of such State or Territory covered by such retirement system who are employed in the department of such State or Territory in which the employees referred to in clause (A) are employed; or (C) employees of such State or Territory covered by such retirement system who are employed in such department of such State or Territory in positions other than those referred to in clause (A).

○

**AMENDMENT OF SOCIAL SECURITY
ACT**

The Senate proceeded to consider the bill (H. R. 8753) to amend title II of the Social Security Act to include California, Connecticut, and Rhode Island among the States which are permitted to divide their retirement systems into two parts so as to obtain social-security coverage, under State agreement, for only those State and local employees who desire such coverage, which had been reported from the Committee on Finance with amendments on page 1, line 5, after the word "Florida", to insert "by inserting 'Minnesota,' before 'New York' ", and, on page 2, line 9, after the word "to", where it appears the second time, to strike out "1959" and insert "1960."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "An act to amend title II of the Social Security Act to include California, Connecticut, Minnesota, and Rhode Island among the States which are permitted to divide their retirement systems into two parts so as to obtain social-security coverage, under State agreement, for only those State and local employees who desire such coverage."

Mr. BYRD. Mr. President, I ask unanimous consent that a statement regarding the bill be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The social security amendments of 1956 included a provision permitting 8 specific States and the Territory of Hawaii, to divide State and local government retirement systems into 2 groups for purposes of old-age and survivors insurance coverage; 1 group to consist of those employees who desire to come under social-security coverage and the other group to be comprised of those who do not want to come into the OASI system. The Committee on Finance had made a very careful poll of all the States and included in this provision only those States specifically requested to be named by their Governors. They were: Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii.

H. R. 8753 extends this privilege to four additional States who have requested to be named—California, Connecticut, Minnesota, and Rhode Island. The bill, as passed by the House, did not include Minnesota, but it was added in the Committee on Finance at the request of Senator THYE and the endorsement of Senator HUMPHREY.

In order to assure sufficient time for the four States to make arrangements for covering employees pursuant to the provisions in this bill, it is desirable to provide an extension of the time within which a retroactive coverage agreement can be entered into with respect to these employees. Under the House-approved bill a 1-year extension was provided. The Committee on Finance has

amended the bill to provide a 2-year extension. The committee believes that the 1-year extension might not be long enough to permit the four States affected by the bill, and the interested subdivisions, to take the necessary action by the end of 1958. These States and their subdivisions would, of course, need a certain amount of time in order to inform interested groups of the amendment and to provide for and carry out the actions which are a prerequisite to securing social-security coverage for them. A further delay would result if State-enabling legislation necessary to action by the State has not been enacted. The problems that would arise in getting any needed State legislation if the extension of the deadline for obtaining retroactive coverage were extended for only 1 year might be particularly acute in Minnesota, since the legislature in that State ordinarily meets only in odd-numbered years.

The Finance Committee bill provides that agreements or modifications applicable to services to which the bill applies may, if they are entered into prior to 1960, be made effective with respect to such services performed as early as January 1, 1956.

systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 5, after "Florida," insert "by inserting 'Minnesota,' before New York".

Page 2, line 2, after "Connecticut," insert "Minnesota".

Page 2, line 9, strike out "1959" and insert "1960".

Amend the title so as to read: "An act to amend title II of the Social Security Act to include California, Connecticut, Minnesota, and Rhode Island among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage."

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. COOPER. Mr. Speaker, in the form in which H. R. 8753 passed the House of Representatives, three additional States, California, Connecticut, and Rhode Island, were added to the list of States which are permitted to divide a retirement system into two parts and provide social security coverage for the part consisting of the positions of those employees who desire such coverage. The Senate added the State of Minnesota to the three States included in the House bill.

The bill as approved by the House also provided that coverage agreements or modifications entered into prior to 1959 could be made effective with respect to services performed at any time after December 31, 1955, by employees obtaining coverage under the provisions of the bill. The Senate amended that provision to make it applicable to such services under coverage agreements or modifications thereof entered into prior to 1960. The Senate committee report stated that the 1-year extension might not be long enough to permit the four States affected by the bill, and the interested subdivisions, to take the necessary action by the end of 1958, and the Senate report pointed out that the problems in this regard would be particularly acute with respect to the State of Minnesota since the legislature in that State ordinarily meets only in odd-numbered years. As I indicated, the Senate amendment would provide a 2-year extension instead of a 1-year extension as included in the House bill, in this regard.

Mr. REED. Mr. Speaker, the House passed version of H. R. 8753 had as its purpose the amendment of title II of the Social Security Act so as to include the States of California, Connecticut, and Rhode Island among the enumeration of States contained in present law which are permitted to divide a retirement system into two parts and to provide social security coverage for the part consisting of the positions of those employees who desire OASI coverage. The Senate in acting on the legislation has added the State of Minnesota to the new list of States and has provided that

AMENDING TITLE TO THE SOCIAL SECURITY ACT

Mr. COOPER. Mr. Speaker, I ask unanimous consent following the calling of each of these bills which I shall call up, I may have unanimous consent to extend my remarks in the RECORD, that following my remarks the gentleman from New York [Mr. REED] may extend his remarks; and following that, any other Member of the House who desires to do so may extend his remarks on the bill in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. COOPER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 8753) to amend title II of the Social Security Act to include California, Connecticut, and Rhode Island among the States which are permitted to divide their retirement

agreements with States to accomplish this purpose entered into prior to 1960 may be made effective with respect to services performed as early as January 1, 1956. This legislation will assist deserving public employees in the States affected to obtain protection under the Social Security System.

Public Law 85-227
85th Congress, H. R. 8753
August 30, 1957

AN ACT

71 Stat. 512.

To amend title II of the Social Security Act to include California, Connecticut, Minnesota, and Rhode Island among the States which are permitted to divide their retirement systems into two parts so as to obtain social-security coverage, under State agreement, for only those State and local employees who desire such coverage.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fourth sentence of section 218 (d) (6) of the Social Security Act is amended by inserting "California, Connecticut," before "Florida", by inserting "Minnesota," before "New York", and by inserting "Rhode Island," before "Tennessee".

SEC. 2. Notwithstanding subsection (f) of section 218 of the Social Security Act, any modification of the agreement with the State of California, Connecticut, Minnesota, or Rhode Island under such section which makes such agreement applicable to services performed in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) of such section (and consisting of the positions of members who desire coverage under the agreement) may, if such modification is agreed to prior to 1960, be made effective with respect to services performed in such positions after an effective date specified in such modification, except that in no case may such date be earlier than December 31, 1955.

Approved August 30, 1957.

Social security.
Retirement systems in certain States.
70 Stat. 825.
42 USC 418.
68 Stat. 1058.
42 USC 418.

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SOCIAL SECURITY COVERAGE FOR STATE AND LOCAL
EMPLOYEES UNDER CERTAIN RETIREMENT SYSTEMS

JULY 30, 1957.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. COOPER, from the Committee on Ways and Means, submitted
the following

R E P O R T

[To accompany H. R. 8821]

The Committee on Ways and Means, to whom was referred the bill (H. R. 8821) to amend title II of the Social Security Act to facilitate the provision of social-security coverage for State and local employees under certain retirement systems, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

H. R. 8821 would amend title II of the Social Security Act, as amended in 1956, to expedite the completion of an old-age and survivors insurance coverage referendum in conjunction with the special provision of the Social Security Amendments of 1956 which permits certain specified States to divide a retirement system for purposes of extending old-age and survivors insurance coverage to those members of the system who desire coverage. Under present law, after a retirement system in any of the specified States has been divided between those members who desire old-age and survivors insurance coverage and those who do not, a referendum must be conducted among the members who indicated a desire for coverage before their coverage can be effected. H. R. 8821 would permit the specified States to provide this coverage without a subsequent coverage referendum for those retirement system members desiring coverage, provided certain safeguards, similar to those applying under the existing referendum provisions, were followed in the process of dividing the system into the two parts.

EXPLANATION OF AMENDMENT

The Social Security Amendments of 1956 included a provision permitting the States of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii to divide a State or local government retirement system into two parts for purposes of old-age and survivors insurance coverage, one part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. Services performed by the members in the part consisting of the positions of members who desire coverage may then be covered under old-age and survivors insurance under the regular referendum procedure; and once this is done, the services of all persons who in the future become members of the retirement system must also be covered.

H. R. 8821 is intended to overcome certain problems that have arisen in carrying out the requirements in present law. Although the Federal law does not prescribe the procedure a State must follow in dividing a retirement system, your committee understands that at least 1 State has required a separate 90-day notice to retirement system members before a retirement system is divided; this requirement is in addition to the requirement in the Social Security Act that there be a 90-day notice before the regular coverage referendum is held. Even in those States where no appreciable advance notice is necessary before a retirement system can be divided, the process of dividing the system may be time consuming. Since the time needed for this process is in addition to the 90 days' notice which the Social Security Act requires for the regular coverage referendum, social-security coverage may be delayed, with the result that some of the employees involved may fail to obtain old-age and survivors insurance protection. In addition, it would not appear necessary to require that a second vote be conducted if one, with adequate safeguards, has already been conducted.

H. R. 8821 would remedy these problems by permitting the specified States to provide coverage without a regular coverage referendum for those retirement system members who have already chosen to be included in that part of the retirement system made up of the positions of members desiring old-age and survivors insurance coverage. The new, shorter, procedure would be available, however, only if certain safeguards, similar to those included in the regular referendum provisions, were observed in connection with the division of the system into two parts. Thus, the governor would need to certify that in connection with the division of the system (1) an opportunity to vote by written ballot on the question of whether they wish to be covered by old-age and survivors insurance was given to all individuals who were members of such system at the time the vote was held, (2) not less than 90 days' notice of such vote was given to all individuals who were members on the date the notice was issued, and (3) the vote was conducted under the supervision of the governor or a designated agency or individual. The governor would also have to certify that the retirement system was then divided into two parts in accordance with the existing Social Security Act provisions on this matter.

The provisions of the bill would be effective upon enactment. Consequently, if a State was in the process of dividing a retirement system before the enactment date and was doing so in such a manner

as to meet the requirements set forth in the bill, the State could apply these provisions with no regular coverage referendum being required. On the other hand, a State that has already made plans for dividing a retirement system under the provisions of present law could proceed as planned if it wished, dividing the system first, then holding a referendum with respect to the part consisting of the positions of members who desire coverage. This longer procedure would continue to be available for States that wished to use it in the future.

Your committee is unanimous in recommending enactment of H. R. 8821.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 218 (d) OF THE SOCIAL SECURITY ACT

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

SEC. 218. (a) (1) * * *

* * * * *

Positions Covered by Retirement Systems

(d) (1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on the date of enactment of the succeeding paragraph of this subsection (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of enactment of such succeeding paragraph, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5) (A)). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5) (A)) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is hereby declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date of an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

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(3) Notwithstanding paragraph (1), an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system, and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this title to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this title has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c) (3) (C)).

(5) (A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this title to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c), and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3) (C) of such subsection, such exclusion may not include any services to which such paragraph (3) (C) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this paragraph, the term "institutions of higher learning" includes junior colleges and teachers' colleges. For the purposes of this subsection, any retirement system established by the State of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision of any such State or Territory, which, on, before, or after the date of enactment of this sentence is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State or Territory so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. The position of any individual which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of such sentence or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii which covers positions of

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employees of such State or Territory who are compensated in whole or in part from grants made to such State or Territory under title III, there shall be deemed to be, if such State or Territory so desires, a separate retirement system with respect to any of the following: (A) the positions of such employees; (B) the positions of all employees of such State or Territory covered by such retirement system who are employed in the department of such State or Territory in which the employees referred to in clause (A) are employed; or (C) employees of such State or Territory covered by such retirement system who are employed in such department of such State or Territory in positions other than those referred to in clause (A).

(7) *The certification by the governor required under paragraph (3) shall be deemed to have been made, in the case of a division or part (created under the fourth sentence of paragraph (6)) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor certifies to the Secretary of Health, Education, and Welfare that—*

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of the fourth and fifth sentences of paragraph (6).

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) shall not be considered a member of the retirement system.



consideration of the bill (H. R. 8821) to amend title II of the Social Security Act to facilitate the provision of social-security coverage for State and local employees under certain retirement systems, which was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill. The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 218 (d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7) The certification by the governor required under paragraph (3) shall be deemed to have been made, in the case of a division or part (created under the fourth sentence of paragraph (6)) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor certifies to the Secretary of Health, Education, and Welfare that—

"(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

"(B) not less than 90 days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

"(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

"(D) such system was divided into two parts or divisions in accordance with the provisions of the fourth and fifth sentences of paragraph (6).

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) shall not be considered a member of the retirement system."

Mr. COOPER. Mr. Speaker, H. R. 8821 would amend title II of the Social Security Act, as amended in 1956, to expedite the completion of an old-age and survivors insurance coverage referendum in conjunction with the special provision of the social-security amendments of 1956 which permits certain specified States to divide a retirement system for purposes of extending old-age and survivors insurance coverage to those members of the system who desire coverage.

Under present law, after a retirement system in any of the specified States has been divided between those members who desire old-age and survivors insurance coverage and those who do not, a referendum must be conducted among the members who indicated a desire for coverage before their coverage can be effected.

In some States the process of dividing the system may be time consuming; and your committee understands that at least 1 State has required a separate 90-day notice to retirement system members before a retirement system is divided; this requirement is in addition to the requirement in the Social Security Act that there be a 90-day notice before the regular coverage referendum is held. Since the time needed for this process is in addition to the 90 days' notice which

the Social Security Act requires for the regular coverage referendum, social-security coverage may be delayed, with the result that some of the employees involved may fail to obtain old-age and survivors insurance protection. Also, it would not appear necessary to require that a second vote be conducted if one, with adequate safeguards, has already been conducted.

H. R. 8821 would remedy these problems by permitting the specified States to provide coverage without a regular coverage referendum for those retirement-system members who have already chosen to be included in that part of the retirement system made up of the positions of members desiring old-age and survivors insurance coverage, but only if certain safeguards, similar to those included in the regular referendum provisions, were observed in connection with the division of the system into two parts.

The Committee on Ways and Means was unanimous in recommending enactment of H. R. 8821.

Mr. REED. Mr. Speaker, H. R. 8821 would permit certain specified States to provide OASI coverage without a regular coverage referendum for those retirement-system members who have already chosen in a properly conducted referendum to be included in that part of a retirement system made up of positions of members desiring OASI coverage. Thus, this legislation will facilitate the extension of coverage to State and local employees who are interested in such coverage without impairing the safeguards contained in existing law to preserve the retirement status of State and local employees. The Committee on Ways and Means was unanimous in acting favorably on this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING TITLE II OF SOCIAL SECURITY ACT WITH REFERENCE TO STATE AND LOCAL EMPLOYEES

Mr. COOPER. Mr. Speaker, I ask unanimous consent for the immediate

Calendar No. 887

85TH CONGRESS } SENATE { REPORT
1st Session } No. 860

FACILITATION OF SOCIAL SECURITY COVERAGE FOR STATE AND LOCAL EMPLOYEES UNDER CERTAIN RETIREMENT SYSTEMS IN SPECIFIED STATES

AUGUST 13, 1957.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 8821]

The Committee on Finance, to whom was referred the bill (H. R. 8821) to amend title II of the Social Security Act to facilitate the provision of social-security coverage for State and local employees under certain retirement systems, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

H. R. 8821 would amend title II of the Social Security Act, as amended in 1956, to expedite the completion of an old-age and survivors insurance coverage referendum in conjunction with the special provision of the Social Security Amendments of 1956 which permits certain specified States to divide a retirement system for purposes of extending old-age and survivors insurance coverage to those members of the system who desire coverage. Under present law, after a retirement system in any of the specified States has been divided between those members who desire old-age and survivors insurance coverage and those who do not, a referendum must be conducted among the members who indicated a desire for coverage before their coverage can be effected. H. R. 8821 would permit the specified States to provide this coverage without a subsequent coverage referendum for those retirement system members desiring coverage, provided certain safeguards, similar to those applying under the existing referendum provisions, were followed in the process of dividing the system into the two parts.

EXPLANATION OF AMENDMENT

The Social Security Amendments of 1956 included a provision permitting the States of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii to divide a State or local government retirement system into 2 parts for purposes of old-age and survivors insurance coverage, 1 part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. Services performed by the members in the part consisting of the positions of members who desire coverage may then be covered under old-age and survivors insurance under the regular referendum procedure; and once this is done, the services of all persons who in the future become members of the retirement system must also be covered.

H. R. 8821 is intended to overcome certain problems that have arisen in carrying out the requirements in present law. Although the Federal law does not prescribe the procedure a State must follow in dividing a retirement system, your committee understands that at least one State has required a separate 90-day notice to retirement-system members before a retirement system is divided; this requirement is in addition to the requirement in the Social Security Act that there be a 90-day notice before the regular coverage referendum is held. Even in those States where no appreciable advance notice is necessary before a retirement system can be divided, the process of dividing the system may be time consuming. Since the time needed for this process is in addition to the 90 days' notice which the Social Security Act requires for the regular coverage referendum, social security coverage may be delayed, with the result that some of the employees involved may fail to obtain old-age and survivors insurance protection. In addition, it would not appear necessary to require that a second vote be conducted if one, with adequate safeguards, has already been conducted.

H. R. 8821 would remedy these problems by permitting the specified States to provide coverage without a regular coverage referendum for those retirement-system members who have already chosen to be included in that part of the retirement system made up of the positions of members desiring old-age and survivors insurance coverage. The new, shorter procedure would be available, however, only if certain safeguards, similar to those included in the regular referendum provisions, were observed in connection with the division of the system into two parts. Thus, the governor would need to certify that (1) an opportunity to vote by written ballot on the question of whether they wish to be covered by old-age and survivors insurance was given to all individuals who were members of such system at the time the vote was held, (2) not less than 90 days' notice of such vote was given to all individuals who were members on the date the notice was issued, (3) the vote was conducted under the supervision of the governor or a designated agency or individual, and (4) the retirement system was divided into two parts in accordance with the existing Social Security Act provisions on this matter.

The provisions of the bill would be effective upon enactment. Consequently, if a State was in the process of dividing a retirement system before the enactment date and was doing so in such a manner as to meet the requirements set forth in the bill, the State could

apply these provisions with no regular coverage referendum being required. On the other hand, a State that has already made plans for dividing a retirement system under the provisions of present law could proceed as planned if it wished, dividing the system first, then holding a referendum with respect to the part consisting of the positions of members who desire coverage. This longer procedure would continue to be available for States that wished to use it in the future.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

SECTION 218 (d) OF THE SOCIAL SECURITY ACT

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

SEC. 218. (a) (1) * * *

* * * * *

Positions Covered by Retirement Systems

(d) (1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on the date of enactment of the succeeding paragraph of this subsection (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of enactment of such succeeding paragraph, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5) (A)). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5) (A)) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is hereby declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date of an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(3) Notwithstanding paragraph (1), an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

"An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system, and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this title to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this title has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c) (3) (C)).

(5) (A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this title to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c), and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3) (C) of such subsection, such exclusion may not include any services to which such paragraph (3) (C) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this paragraph, the term "institutions of higher learning" includes junior colleges and teachers colleges. For the purposes of this subsection, any retirement system established by the State of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision of any such State or Territory, which, on, before, or after the date of enactment of this sentence is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State or Territory so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. The position of any individual which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of such sentence or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii which covers positions of

employees of such State or Territory who are compensated in whole or in part from grants made to such State or Territory under title III, there shall be deemed to be, if such State or Territory so desires, a separate retirement system with respect to any of the following: (A) the positions of such employees; (B) the positions of all employees of such State or Territory covered by such retirement system who are employed in the department of such State or Territory in which the employees referred to in clause (A) are employed; or (C) employees of such State or Territory covered by such retirement system who are employed in such department of such State or Territory in positions other than those referred to in clause (A)).

(7) *The certification by the governor required under paragraph (3) shall be deemed to have been made, in the case of a division or part (created under the fourth sentence of paragraph (6)) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor certifies to the Secretary of Health, Education, and Welfare that—*

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of the fourth and fifth sentences of paragraph (6).

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) shall not be considered a member of the retirement system.



**AMENDMENT OF SOCIAL SECURITY
ACT**

The bill (H. R. 8821) to amend title II of the Social Security Act to facilitate the provision of social security coverage for State and local employees under certain retirement systems was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I ask unanimous consent that a statement regarding the bill be printed in the Record.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BYRD

H. R. 8821 would amend title II of the Social Security Act, as amended in 1956, to expedite the completion of an old-age and survivors insurance coverage referendum in conjunction with the special provision of the Social Security Amendments of 1956 which permits certain specified States to divide a retirement system for purposes of extending old-age and survivors insurance coverage to those members of the system who desire coverage. Under present law, after a retirement system in any of the specified States has been divided between those members who desire old-age and survivors insurance coverage and those who do not, a referendum must be conducted among the members who indicated a desire for coverage before their coverage can be effected. H. R. 8821 would permit the specified States to provide this coverage without a subsequent coverage referendum for those retirement system members desiring coverage, provided certain safeguards, similar to those applying under the existing referendum provisions, were followed in the process of dividing the system into the two parts.

The new, shorter procedure would be available, however, only if certain safeguards, similar to those included in the regular referendum provisions, were observed in connection with the division of the system into two parts. Thus, the governor would need to certify that (1) an opportunity to vote by written ballot on the question of whether they wish to be covered by old-age and survivors insurance was given to all individuals who were members of such system at the time the vote was held, (2) not less than 90 days' notice of such vote was given to all individuals who were members on the date the notice was issued, (3) the vote was conducted under the supervision of the governor or a designated agency or individual, and (4) the retirement system was divided into two parts in accordance with the existing Social Security Act provisions on this matter.

The provisions of the bill would be effective upon enactment. Consequently, if a State was in the process of dividing a retirement system before the enactment date and was doing so in such a manner as to meet the requirements set forth in the bill, the State could apply these provisions with no regular coverage referendum being required. On the other hand, a State that has already made plans for dividing a retirement system under the provisions of present law could proceed as planned if it wished, dividing the system first, then holding a referendum with respect to the part consisting of the positions of members who desire coverage. This longer procedure would continue to be available for States that wished to use it in the future.

Public Law 85-229
85th Congress, H. R. 8821
August 30, 1957

AN ACT

71 Stat. 513.

To amend title II of the Social Security Act to facilitate the provision of social security coverage for State and local employees under certain retirement systems.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 218 (d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

“(7) The certification by the governor required under paragraph (3) shall be deemed to have been made, in the case of a division or part (created under the fourth sentence of paragraph (6)) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor certifies to the Secretary of Health, Education, and Welfare that—

“(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

“(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

“(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

“(D) such system was divided into two parts or divisions in accordance with the provisions of the fourth and fifth sentences of paragraph (6).

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) shall not be considered a member of the retirement system.”

Approved August 30, 1957.

Social Security.
70 Stat. 825.
42 USC 418.

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C. House Debate--*Congressional Record--July 31, 1957*

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II. Reported to and Passed Senate

A. Committee on Finance Report

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(Senate reported bill without amendment)

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¹Also see legislative history of P.L. 226 (H.R. 8755), Director's Bulletins Nos. 261, 262, and 264 for additional background.

SOCIAL SECURITY BENEFITS FOR ALIEN SURVIVORS
OF CERTAIN MEMBERS OF THE ARMED FORCES

JULY 16, 1957.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. KEAN, from the Committee on Ways and Means, submitted the
following

REPORT

[To accompany H. R. 1944]

The Committee on Ways and Means, to whom was referred the bill (H. R. 1944) to amend title II of the Social Security Act so as to make inapplicable, in the case of the survivors of certain members of the Armed Forces, the provisions which presently prevent the payment of benefits to aliens who are outside the United States, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, strike out line 16, and insert:

conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause."

PURPOSE

The purpose of H. R. 1944, as reported, is to permit social-security benefits to be paid to the alien survivors, residing outside the United States, of members of the uniformed services who die as the result of service-connected disabilities.

GENERAL STATEMENT

The Social Security Amendments of 1956 included a provision which prohibits social security benefit payments from being made to aliens living outside the United States or its territories, except where the participant had become fully insured by reason of having accrued a minimum of 40 quarters of coverage, or has resided in the United

States for 10 years. On the same day that the social-security amendments were approved, the Servicemen's and Veterans' Survivor Benefits Act was also approved. That act brought members of the uniformed services, that is, members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, under social security on a contributory basis.

The Servicemen's and Veterans' Survivor Benefits Act established a survivor benefit system for members of the uniformed services who die of service-connected disabilities consisting of three elements: Dependency and indemnity compensation administered by the Veterans' Administration; 6 months' death gratuity paid by the service concerned; and social security survivor payments based on the individual's accrued wage credits.

The provision contained in the 1956 amendments to the Social Security Act would deprive a large proportion of the alien survivors of members of the uniformed services who are living outside the United States of the social-security element of this benefit.

At the present time, there are approximately 20,000 aliens enlisted in the Armed Forces, many of whose families reside outside the United States. Of these aliens, the largest single group consists of Philippine nationals, with 5,600 serving in the Navy, primarily as messmen, and approximately 600 in the Coast Guard serving in like capacity. These Philippine nationals were recruited in the Philippine Islands and enlisted with the understanding that they would be entitled to all the rights and benefits that accrue to members in the Armed Forces, yet, under present law, since the families of practically all of these Filipinos reside in the Philippine Islands, they would be deprived of social-security benefits in the event of the death of the serviceman. It should also be observed that these aliens have no alternative but to make contributions to the social-security system.

Your committee's bill, as amended, would add a provision to section 202 of the Social Security Act which would allow the benefits of that act to be paid to the survivors of individuals who die while on active duty or inactive duty training as members of a uniformed service, as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty, or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training, if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable. The provision which would be added to section 202 of the Social Security Act would be retroactive to January 1, 1957, the date on which members of the uniformed services were brought under social security on a contributory basis.

The Department of Defense, in urging the enactment of H. R. 1944, has pointed out that to deny aliens now serving in the Armed Forces a portion of the survivor protection granted to other members would have the effect of breaking faith with them. The Department of Health, Education, and Welfare also favors the enactment of your committee's bill.

Your committee is unanimous in reporting this bill favorably.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 202 (t) (4) OF THE SOCIAL SECURITY ACT

OLD-AGE INSURANCE BENEFITS

SEC. 202. (a) * * *

* * * * *

SUSPENSION OF BENEFITS OF ALIENS WHO ARE OUTSIDE THE UNITED STATES

(t) (1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual who is not a citizen or national of the United States for any month which is—

(A) after the sixth consecutive calendar month during all of which the Secretary finds, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, that such individual is outside the United States, and

(B) prior to the first month thereafter for all of which such individual has been in the United States,

* * * * *

(4) Paragraph (1) shall not apply to any benefit for any month if—

(A) not less than forty of the quarters elapsing before such month are quarters of coverage for the individual on whose wages and self-employment income such benefit is based, or

(B) the individual on whose wages and self-employment income such benefit is based has, before such month, resided in the United States for a period or periods aggregating ten years or more, or

(C) the individual entitled to such benefit is outside the United States while in the active military or naval service of the United States [.], or

(D) *the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 210 (m) (2) and (3)) as a member of a uniformed service (as defined in section 210 (n)), or (ii) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 210 (m) (2)), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 210 (m) (3)), as a member of a uniformed service (as defined in section 210 (n)), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable.*

monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 16, strike out "conditions other than dishonorable." and insert "conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause."

Mr. GROSS. Mr. Speaker, will the gentleman from Tennessee explain very briefly the extension of this plan to aliens outside the United States?

Mr. COOPER. We have a number of Filipino mess boys, people of that type, working for the armed services. They have to pay in under social security, but their survivors get no benefits. This is to take care of that situation and is strongly recommended by the Department of Defense.

Mr. REED. There are only 20,000 of them.

Mr. GROSS. I thank the gentleman.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

Mr. COOPER. Mr. Speaker, as indicated in the report on the bill, the purpose of H. R. 1944, as reported, is to permit social-security benefits to be paid to the alien survivors, residing outside the United States, of members of the uniformed services who die as a result of service-connected disabilities.

A provision was included in the social security amendments of 1956 which prohibits social-security benefit payments from being made to aliens living outside the United States or its Territories, except where the participant had become fully insured by reason of having accrued a minimum of 40 quarters of coverage, or has resided in the United States for 10 years.

Another act, the Servicemen's and Veterans' Survivor Benefits Act of 1956, established a survivor benefit system for members of the uniformed services who die of service-connected disabilities consisting of several elements, one of which is social-security survivor payments based on the individual's accrued wage credits.

The provision contained in the 1956 amendments to the Social Security Act would deprive a large proportion of the alien survivors of members of the uniformed services who are living outside the United States of the social-security element of this benefit. These members of the uniformed services have no choice but to make social-security contributions, yet, under present law, their survivors are deprived of the subject benefits.

H. R. 1944 would add a provision to section 202 of the Social Security Act which would allow the benefits of that act to be paid to the survivors of individuals who die while on active duty or inactive duty training as members of a uniformed service. The provision which would be added to section 202 of the Social Security Act would be retroactive to January 1, 1957, the date on which mem-

bers of the uniformed services were brought under social security on a contributory basis.

The bill was unanimously reported by the Committee on Ways and Means.

Mr. REED. Mr. Speaker, the present social-security law provides for mandatory participation in the old-age and survivors' insurance program by Armed Forces personnel on a contributory basis. At the present time it is estimated that there are approximately 20,000 aliens serving in the Armed Forces of the United States. Many of these alien servicemen have families residing outside the United States. However, the Social Security Act prohibits benefit payments to aliens residing outside the United States except where the individual has become fully insured or has resided in the United States for 10 years. These requirements of insured status or residence in the United States will mean that secondary benefits will not be available to the dependents and survivors of these aliens serving in the Armed Forces. H. R. 1944 would remedy this bar to benefit eligibility by allowing benefits to be paid to survivors of individuals who die while on active duty or in active duty training as a member of a uniformed service. Death in these cases would have to be the result of a disease or injury which the Administrator of Veterans' Affairs determined was incurred or aggravated in service-connected activity.

The Committee on Ways and Means was unanimous in urging enactment of this legislation. The Departments of Defense and Health, Education, and Welfare supported the legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING TITLE II OF SOCIAL SECURITY ACT

Mr. COOPER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 1944) to amend title II of the Social Security Act so as to make inapplicable, in the case of the survivors of certain members of the Armed Forces, the provisions which presently prevent the payment of benefits to aliens who are outside the United States, which was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 202 (t) (4) of the Social Security Act is amended (1) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and (2) by adding after subparagraph (C) the following new subparagraph:

"(D) the individual on whose wages and self-employment income such benefit is based died, before such month, either (1) while on active duty or inactive duty training (as those terms are defined in sec. 210 (m) (2) and (3)) as a member of a uniformed service (as defined in sec. 210 (n)), or (2) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in sec. 210 (m) (2)), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in sec. 210 (m) (3)), as a member of a uniformed service (as defined in sec. 210 (n)), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable."

Sec. 2. The amendments made by the first section of this act shall apply with respect to

Calendar No. 896

85TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 869

SOCIAL SECURITY BENEFITS FOR ALIEN SURVIVORS OF CERTAIN MEMBERS OF THE ARMED FORCES

August 14, 1957.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

R E P O R T

[To accompany H. R. 1944]

The Committee on Finance, to whom was referred the bill (H. R. 1994) to amend title II of the Social Security Act so as to make inapplicable, in the case of the survivors of certain members of the Armed Forces, the provisions which presently prevent the payment of benefits to aliens who are outside the United States, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL EXPLANATION

The Committee on Finance amended the Social Security Amendments of 1956 (Public Law 880, 84th Cong.) to include a provision which suspends the payments of old-age and survivors insurance benefits to any individual not a citizen or national of the United States who first becomes eligible for benefits after December 1956 if such an individual remains out of the country for 6 consecutive months. The payments would be resumed if he returns and remains in this country. However, payment of benefits to such an individual would not be suspended if either (1) he is a citizen of a foreign country which has in effect a social insurance or pension system of general application which would permit benefit payments to United States citizens in the event they left such foreign country without regard to the duration of their absence; or (2) he has 40 quarters of coverage (10 years); or (3) he has resided in the United States for 10 years; or (4) he is serving outside the country in the Armed Forces of the United States; or (5) application of the provision would violate a treaty obligation of the United States.

The committee later approved the Servicemens and Veterans Survivor Benefits Act (Public Law 881, 84th Cong.) bringing under social security on a contributory basis members of the uniformed

services: that is, members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.

This Act established a survivor benefit system for members of the uniformed services who die of service-connected disabilities consisting of three elements: Dependency and indemnity compensation administered by the Veterans' Administration; 6 months' death gratuity paid by the service concerned; and social security survivor payments based on the individual's accrued wage credits.

The provision contained in the 1956 amendments to the Social Security Act would deprive a large proportion of the alien survivors of members of the uniformed services who are living outside the United States of the social-security element of this benefit.

At the present time, there are approximately 20,000 aliens enlisted in the Armed Forces, many of whose families reside outside the United States. Of these aliens, the largest single group consists of Philippine nationals, with 5,600 serving in the Navy, primarily as messmen, and approximately 600 in the Coast Guard serving in like capacity. These Philippine nationals were recruited in the Philippine Islands and enlisted with the understanding that they would be entitled to all the rights and benefits that accrue to members in the Armed Forces, yet, under present law, since the families of practically all of these Filipinos reside in the Philippine Islands, they would be deprived of social-security benefits in the event of the death of the serviceman. It should also be observed that these aliens have no alternative but to make contributions to the social-security system.

H. R. 1944 would add a provision to section 202 of the Social Security Act which would allow the benefits of that act to be paid to the survivors of individuals who die while on active duty or inactive duty training as members of a uniformed service, as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty, or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training, if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable. The provision which would be added to section 202 of the Social Security Act would be retroactive to January 1, 1957, the date on which members of the uniformed services were brought under social security on a contributory basis.

The Department of Defense, in urging the enactment of H. R. 1944, has pointed out that to deny aliens now serving in the Armed Forces a portion of the survivor protection granted to other members would have the effect of breaking faith with them. The Department of Health, Education, and Welfare also favors the enactment of your committee's bill.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SECTION 202 (t) (4) OF THE SOCIAL SECURITY ACT

OLD-AGE INSURANCE BENEFITS

SEC. 202. (a) * * *

* * * * *

SUSPENSION OF BENEFITS OF ALIENS WHO ARE OUTSIDE THE UNITED STATES

(t) (1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual who is not a citizen or national of the United States for any month which is—

(A) after the sixth consecutive calendar month during all of which the Secretary finds, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, that such individual is outside the United States, and

(B) prior to the first month thereafter for all of which such individual has been in the United States.

* * * * *

(4) Paragraph (1) shall not apply to any benefit for any month if—

(A) not less than forty of the quarters elapsing before such month are quarters of coverage for the individual on whose wages and self-employment income such benefit is based, or

(B) the individual on whose wages and self-employment income such benefit is based has, before such month, resided in the United States for a period or periods aggregating ten years or more, or

(C) the individual entitled to such benefit is outside the United States while in the active military or naval service of the United States [.] , or

(D) *the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 210 (m) (2) and (3)) as a member of a uniformed service (as defined in section 210 (n)), or (ii) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 210 (m) (2)), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 210 (m) (3)), as a member of a uniformed service (as defined in section 210 (n)), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause.*

AMENDMENT OF SOCIAL SECURITY ACT

The bill (H. R. 1944) to amend title II of the Social Security Act so as to make inapplicable, in the case of survivors of certain members of the Armed Forces, the provisions which presently prevent the payment of benefits to aliens who are outside the United States was announced as next in order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WILLIAMS. Mr. President, I offer the amendment which I send to the desk. The amendment has been discussed in the committee, and I think it will be accepted by the chairman. I ask that the amendment be read by its identifying number only.

The PRESIDING OFFICER. Without objection, that will be done.

The LEGISLATIVE CLERK. The Senator from Delaware submits an amendment identified as "8-16-57-A."

Mr. WILLIAMS. Mr. President, I ask unanimous consent that a brief statement on the amendment, as prepared by the Department, be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF PROVISIONS OF AMENDMENT ON "LIVING WITH" REQUIREMENT

The present social security law sets out, as one of the requirements a woman must meet in order to be entitled to widow's benefits on her deceased husband's earnings record, that she must have been "living with" him at the time he died. "Living with" is a requirement for entitlement to wife's, widow's, husband's, and widower's benefits. The law defines "living with" to mean that the spouse must have been living in the same household with the worker, or that she must have been receiving regular contributions from the worker, or that the worker must have been under order by a court to contribute to her support.

The proposed amendment includes the following provisions:

1. The "living with" requirement for widow's, widower's, wife's, and husband's benefits could be eliminated, effective for monthly benefits for months after the month in which it is enacted, and for deaths that occurred either before or after its enactment.

2. The definition of wife, husband, widow, and widower under present law requires that the spouse be able to inherit the intestate personal property of the worker under applicable State law. Under the amendment, a spouse would meet the definition if a valid marriage was in existence at the time of the worker's death (or the spouse's application for benefits). If a valid marriage had not existed, the relationship would nevertheless be deemed to have existed if the spouse were able to inherit the intestate personal property of the worker.

3. The definitions of widow and widower and the "living with" requirement for the purposes of the Railroad Retirement Act would not be changed. (The survivorship benefit provisions of that act are coordinated with those of the Social Security Act, and an amendment to the former act is required in order to preserve present definitions for Railroad Retirement Act purposes.)

4. Since the existence of a potentially eligible widow bars payment of parent's benefits, a savings clause would provide that where a parent, before the month of enactment of the amendment, had filed proof that he had been chiefly supported by the deceased worker, payment of benefits to the parent would not be barred where a widow becomes eligible because of these changes.

5. In cases where a widow becomes entitled to benefits because of these changes and, because parents are already entitled to benefits, the maximum on family benefits would apply, a parent's benefits would nevertheless not be reduced below the amount payable to the parent for the month before the month in which the widow becomes entitled to a mother's or aged widow's benefit. (In other words, the amount payable to the parent without regard to whether the widow was entitled would continue to be paid. Also, the widow's benefit would not be reduced by reason of the operation of the maximum on family benefits.)

6. In cases where a widow becomes entitled to benefits because of these changes and where the maximum is involved because children are also entitled, the children's benefits would be reduced because of the family maximum provisions. To do otherwise would mean that a family with a widow and children living in the same household, where the widow could not meet the present "living with" requirement, would be able to receive higher total benefits than a family under similar conditions where the widow was able to meet the "living with" requirement.

Mr. WILLIAMS. Mr. President, the amendment further clarifies the definition of a widow for the benefit of establishing benefits under the social security system.

Mr. BYRD. Mr. President, the amendment of the Senator from Delaware was fully discussed in the committee, and was approved by the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to, as follows:

On page 3, after line 2, insert the following:

"Sec. 3. (a) Section 202 (b) (1) of the Social Security Act is amended by striking out subparagraph (C) and redesignating subparagraph (D) as subparagraph (C), and by inserting 'and' at the end of subparagraph (B).

"(b) Section 202 (c) (1) of such act is amended by striking out subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

"(c) Section 202 (e) (1) of such act is amended by striking out subparagraph (D)

and redesignating subparagraph (E) as subparagraph (D) and by inserting 'and' at the end of subparagraph (C).

"(d) Section 202 (f) (1) of such act is amended by striking out subparagraph (D) and redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

"(e) Section 202 (g) (1) (F) of such act is amended to read as follows:

"(F) in the case of a former wife divorced, was receiving from such individual (pursuant to agreement or court order) at least one-half of her support at the time of his death, and the child referred to in subparagraph (E) is her son, daughter, or legally adopted child and the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income."

"(f) Section 202 (h) (1) of such act is amended by striking out '(e) (1) (D) and (E)' and '(f) (1) (D), (E), and (F)' and inserting in lieu thereof '(e) (1) (D)' and '(f) (1) (D) and (E)' respectively.

"(g) Section 202 (p) (1) of such act is amended by striking out 'subparagraph (D) of subsection (c) (1)' and 'subparagraph (E) of subsection (f) (1)' and inserting in lieu thereof 'subparagraph (C) of subsection (c) (1)' and 'subparagraph (D) of subsection (f) (1)', respectively.

"(h) Section 216 (h) is amended to read as follows:

"(h) (1) An applicant is the wife, husband, widow, or widower of a fully or currently insured individual for purposes of this title if the courts of the State in which such insured individual is domiciled at the time such applicant files an application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless, be deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.

"(2) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this title, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.

"(3) For purposes of section 202 (i), a widow shall be deemed to have been living with her husband at the time of his death if they were both members of the same household on the date of his death, or she was receiving regular contributions from him toward her support on such date, or he had been ordered by any court to contribute to her support; a widower shall be deemed to have been living with his wife at the time of her death if they were both members of the same household at the time of her

death, or he was receiving regular contributions from her toward his support on such date, or she had been ordered by any court to contribute to his support.'

"(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of monthly benefits under section 202 of the Social Security Act for months after the month in which this act is enacted.

"(2) The amendment made by subsection (f) shall not apply in the case of benefits under section 202 (h) of the Social Security Act, based on the wages and self-employment income of a deceased individual who died in or prior to the month in which this act is enacted, for any parent who files the proof of support, required by such section 202 (h), in or prior to the month in which this act is enacted; and the amendment to section 216 (h) (1) of such act made by subsection (h) of this section shall not operate to deprive any such parent of benefits to which he would otherwise be entitled under section 202 (h) of such act.

"Sec. 4. (a) Section 1 (q) of the Railroad Retirement Act of 1937, as amended, is amended by striking out '1956' and inserting in lieu thereof '1957.'

"(b) Paragraph (1) of section 5 (1) of the Railroad Retirement Act of 1937, as amended, is amended by striking out the sentence immediately following clause (iii) thereof and inserting in lieu thereof the following sentence: 'A "widow" or "widower" shall be deemed to have been living with the employee if the conditions set forth in section 216 (h) (2) or (3), whichever is applicable, of the Social Security Act, as in effect prior to 1957, are fulfilled.'

"(c) Paragraph (1) of section 5 (1) of such act is further amended by striking out the third sentence immediately following clause (iii) thereof and inserting in lieu thereof the following sentence: 'In determining for purposes of this section and subsection (f) of section 2 whether an applicant is the wife, husband, widow, widower, child, or parent of an employee as claimed, the rules set forth in section 216 (h) (1) of the Social Security Act, as in effect prior to 1957, shall be applied.'

"Sec. 5. Where—

"(a) one or more persons were entitled (without the application of section 202 (j) (1) of the Social Security Act) to parents' insurance benefits under section 202 (h) of such act for the month in which this act is enacted on the basis of the wages and self-employment income of an individual;

"(b) a person becomes entitled to a widow's, widower's, or mother's insurance benefit under section 202 (e), (f), or (g) of the Social Security Act for any subsequent month on the basis of such wages and self-employment income;

"(c) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203 (a) of such act;

then the amount of the benefit to which each such person referred to in paragraph (a) or (b) is entitled for such subsequent month shall be increased, after the application of such section 203 (a), to the amount it would have been—

"(d) if, in the case of a parent's insurance benefit, the person referred to in paragraph (b) was not entitled to the benefit referred to in such paragraph, or

"(e) if, in the case of a benefit referred to in paragraph (b), no person was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income."

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the

amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H. R. 1944) was read the third time, and passed.

Mr. BYRD. Mr. President, I ask unanimous consent that a statement regarding the bill be printed in the Record.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BYRD

The Committee on Finance amended the Social Security Amendments of 1956 to include a provision which suspends the payments of old-age and survivors insurance benefits to any individual not a citizen or national of the United States who first becomes eligible for benefits after December 1956 if such an individual remains out of the country for 6 consecutive months. The payments would be resumed if he returns and remains in this country. However, payment of benefits of such an individual would not be suspended if either (1) he is a citizen of a foreign country which has in effect a social insurance or pension system of general application which would permit benefit payments to United States citizens in the event they left such foreign country without regard to the duration of their absence; or (2) he has 40 quarters of coverage (10 years); or (3) he has resided in the United States for 10 years; or (4) he is serving outside the country in the Armed Forces of the United States; or (5) application of the provision would violate a treaty obligation of the United States.

The committee later approved the Servicemen's and Veterans' Survivor Benefits Act bringing under social security on a contributory basis members of the uniformed services; that is, members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.

The provision contained in the 1956 amendments to the Social Security Act would deprive a large proportion of the alien survivors of members of the uniformed services who are living outside the United States of the social-security element of this benefit.

At the present time, there are approximately 20,000 aliens enlisted in the Armed Forces, many of whose families reside outside the United States. Of these aliens, the largest single group consists of Philippine nationals, with 5,600 serving in the Navy, primarily as messmen, and approximately 600 in the Coast Guard serving in like capacity. These Philippine nationals were recruited in the Philippine Islands and enlisted with the understanding that they would be entitled to all the rights and benefits that accrue to members in the Armed Forces, yet, under present law, since the families of practically all of these Filipinos reside in the Philippine Islands, they would be deprived of social-security benefits in the event of the death of the serviceman. It should also be observed that these aliens have no alternative but to make contributions to the social-security system.

H. R. 1944 proposes to allow social security benefits to be paid to survivors of servicemen whose deaths were service-connected. The provision would be retroactive to January 1, 1957, the date on which members of the uniformed services were brought under social security.

The Department of Defense, in urging the enactment of H. R. 1944, has pointed out that to deny aliens now serving in the Armed Forces a portion of the survivor protection granted to other members would have the effect of breaking faith with them. The De-

partment of Health, Education, and Welfare
also favors enactment of your committee's
bill.

AMENDING TITLE II OF THE SOCIAL SECURITY ACT

Mr. COOPER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 1944) to amend title II of the Social Security Act so as to make inapplicable, in the case of the survivors of certain members of the Armed Forces, the provisions which presently prevent the payment of benefits to aliens who are outside the United States, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, after line 2, insert:

"Sec. 3. (a) Section 202 (b) (1) of the Social Security Act is amended by striking out subparagraph (C) and redesignating subparagraph (D) as subparagraph (C), and by inserting 'and' at the end of subparagraph (B).

"(b) Section 202 (c) (1) of such act is amended by striking out subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

"(c) Section 202 (e) (1) of such act is amended by striking out subparagraph (D) and redesignating subparagraph (E) as subparagraph (D) and by inserting 'and' at the end of subparagraph (C).

"(d) Section 202 (f) (1) of such act is amended by striking out subparagraph (D) and redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

"(e) Section 202 (g) (1) (F) of such act is amended to read as follows:

"(F) in the case of a former wife divorced, was receiving from such individual (pursuant to agreement or court order) at least one-half of her support at the time of his death, and the child referred to in subparagraph (E) is her son, daughter, or legally adopted child and the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income."

"(f) Section 202 (h) (1) of such act is amended by striking out '(e) (1) (D) and (E)' and '(f) (1) (D), (E), and (F)' and inserting in lieu thereof '(e) (1) (D)' and '(f) (1) (D) and (E)', respectively.

"(g) Section 202 (p) (1) of such act is amended by striking out 'subparagraph (D) of subsection (c) (1)' and 'subparagraph (E) of subsection (f) (1)' and inserting in lieu thereof 'subparagraph (C) of subsection (c) (1)' and 'subparagraph (D) of subsection (f) (1)', respectively.

"(h) Section 216 (h) is amended to read as follows:

"(h) (1) An applicant is the wife, husband, widow, or widower of a fully or currently insured individual for purposes of this title if the courts of the State in which such insured individual is domiciled at the time such applicant files an application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless be deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestates personal property, have the same status with respect

to the taking of such property as a wife, husband, widow, or widower of such insured individual.

"(2) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this title, the secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.

"(3) For purposes of section 202 (1), a widow shall be deemed to have been living with her husband at the time of his death if they were both members of the same household on the date of his death, or she was receiving regular contributions from him toward her support on such date, or he had been ordered by any court to contribute to her support; a widower shall be deemed to have been living with his wife at the time of her death if they were both members of the same household at the time of her death, or he was receiving regular contributions from her toward his support on such date, or she had been ordered by any court to contribute to his support."

"(1) (1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of monthly benefits under section 202 of the Social Security Act for months after the month in which this act is enacted.

"(2) The amendment made by subsection (f) shall not apply in the case of benefits under section 202 (h) of the Social Security Act, based on the wages and self-employment income of a deceased individual who died in or prior to the month in which this act is enacted, for any parent who files the proof of support, required by such section 202 (h), in or prior to the month in which this act is enacted; and the amendment to section 216 (h) (1) of such act made by subsection (h) of this section shall not operate to deprive any such parent of benefits to which he would otherwise be entitled under section 202 (h) of such act.

"Sec. 4. (a) Section 1 (q) of the Railroad Retirement Act of 1937, as amended, is amended by striking out '1956' and inserting in lieu thereof '1957'."

"(b) Paragraph (1) of section 5 (1) of the Railroad Retirement Act of 1937, as amended, is amended by striking out the sentence immediately following clause (ii) thereof and inserting in lieu thereof the following sentence: 'A "widow" or "widower" shall be deemed to have been living with the employee if the conditions set forth in section 216 (h) (2) or (3), whichever is applicable, of the Social Security Act, as in effect prior to 1957, are fulfilled.'

"(c) Paragraph (1) of section 5 (1) of such act is further amended by striking out the third sentence immediately following clause (ii) thereof and inserting in lieu thereof the following sentence: 'In determining, for purposes of this section and subsection (f) of section 2 whether an applicant is the wife, husband, widow, widower, child, or parent of an employee as claimed, the rules set forth in section 216 (h) (1) of the Social Security Act, as in effect prior to 1957, shall be applied.'

"Sec. 5. Where—

"(a) one or more persons were entitled (without the application of sec. 202 (j) (1) of the Social Security Act) to parents' insurance benefits under section 202 (h) of such act for the month in which this act is

enacted on the basis of the wages and self-employment income of an individual;

"(b) a person becomes entitled to a widow's, widower's, or mother's insurance benefit under section 202 (e), (f), or (g) of the Social Security Act for any subsequent month on the basis of such wages and self-employment income;

"(c) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act, on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203 (a) of such act;

then the amount of the benefit to which each such person referred to in paragraph (a) or (b) is entitled for such subsequent month shall be increased, after the application of such section 203 (a), to the amount it would have been—

"(d) if, in the case of a parent's insurance benefit, the person referred to in paragraph (b) was not entitled to the benefit referred to in such paragraph, or

"(e) if, in the case of a benefit referred to in paragraph (b), no person was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income."

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. COOPER: Mr. Speaker, H. R. 1944 as it passed the House would have amended the old-age and survivors insurance provisions of the social-security laws so as to permit the payment of survivors' benefits to aliens residing outside the United States where the beneficiaries are survivors of members of the uniformed armed services who die as a result of service-connected disabilities. The Senate added a floor amendment which was approved by the Senate Committee on Finance which would eliminate the "living with" requirement for widows', widowers', wives', and husbands' benefits. At the present time the law defines "living with" to mean that the spouse must have been living in the same household with the worker or that she must have been receiving regular contribution from the worker or that the worker must have been under order by a court to contribute to her support. The definition of wife, husband, widow, and widower under present law requires that the spouse be able to inherit the intestate personal property of the worker under applicable State law. Under the Senate amendment a spouse would meet the definition if a valid marriage is in existence at the time of the worker's death or the spouse's application for benefits. If a valid marriage had not existed, the relationship would nevertheless be deemed to have existed if the spouse was able to inherit the intestate personal property of the worker.

Under present law the existence of a potentially eligible widow bars the payment of a parent's benefit. The Senate amendment contains a savings clause which provides that where a parent before the month of enactment of the amendment had filed proof that he had been chiefly supported by the deceased worker, payments of benefits to the parent would not be barred if a widow becomes eligible because of these amendments. The amendment also provides

that a parent's benefit would not be reduced below the amount payable to the parent before the month in which the widow becomes entitled to a mother's or aged widow's benefit. Otherwise, the maximum on family benefits would apply. Also, under the amendments the widow's benefit would not be reduced by reason of the operation on the maximum on family benefits. Under the amendments in cases where a widow becomes entitled to benefits because of the amendments, children's benefits would be reduced because of the family maximum provisions in those cases where the maximum is involved because the children are also entitled to benefits.

I urge that the Senate amendments be agreed to.

Mr. REED. Mr. Speaker, the purpose of the House-passed version of this legislation was to provide OASI benefit entitlement with respect to certain aliens serving in the Armed Forces of the United States who are required by law, on a compulsory basis, to contribute to the OASI trust fund. The Senate has amended this legislation to provide that a widow's benefit would be available to a woman surviving a deceased husband, if such widow would be legally entitled to inherit the intestate personal property of the worker under applicable State law. Mr. Speaker, the Senate amendment will serve to clarify the status of widows under the Social Security Act with respect to OASI benefit entitlement.

Public Law 85-238
85th Congress, H. R. 1944
August 30, 1957

AN ACT

To amend title II of the Social Security Act so as to make inapplicable, in the case of the survivors of certain members of the Armed Forces, the provisions which presently prevent the payment of benefits to aliens who are outside the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 (t) (4) of the Social Security Act is amended (1) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “, or”, and (2) by adding after subparagraph (C) the following new subparagraph:

Social Security
Act, amendments.
70 Stat. 835.
42 USC 402.

“(D) the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 210 (m) (2) and (3)) as a member of a uniformed service (as defined in section 210 (n)), or (ii) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 210 (m) (2)), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 210 (m) (3)), as a member of a uniformed service (as defined in section 210 (n)), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause.”

42 USC 410.

Sec. 2. The amendments made by the first section of this Act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956.

42 USC 402.

Sec. 3. (a) Section 202 (b) (1) of the Social Security Act is amended by striking out subparagraph (C) and redesignating subparagraph (D) as subparagraph (C), and by inserting “and” at the end of subparagraph (B).

70 Stat. 813.
42 USC 402.

(b) Section 202 (c) (1) of such Act is amended by striking out subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

70 Stat. 814.
42 USC 402.

(c) Section 202 (e) (1) of such Act is amended by striking out subparagraph (D) and redesignating subparagraph (E) as subparagraph (D) and by inserting “and” at the end of subparagraph (C).

71 Stat. 518.
71 Stat. 519.

(d) Section 202 (f) (1) of such Act is amended by striking out subparagraph (D) and redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

68 Stat. 1085.
42 USC 402.

(e) Section 202 (g) (1) (F) of such Act is amended to read as follows:

64 Stat. 486.

“(F) in the case of a former wife divorced, was receiving from such individual (pursuant to agreement or court order) at least one-half of her support at the time of his death, and the child referred to in subparagraph (E) is her son, daughter, or legally adopted child and the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income.”

- 70 Stat. 808. (f) Section 202 (h) (1) of such Act is amended by striking out “(e) (1) (D) and (E)” and “(f) (1) (D), (E), and (F)” and inserting in lieu thereof “(e) (1) (D)” and “(f) (1) (D) and (E)”, respectively.
- 70 Stat. 832.
42 USC 402. (g) Section 202 (p) (1) of such Act is amended by striking out “subparagraph (D) of subsection (c) (1)” and “subparagraph (E) of subsection (f) (1)” and inserting in lieu thereof “subparagraph (C) of subsection (c) (1)” and “subparagraph (D) of subsection (f) (1)”, respectively.
- 64 Stat. 492.
42 USC 416. (h) Section 216 (h) is amended to read as follows:
“(h) (1) An applicant is the wife, husband, widow, or widower of a fully or currently insured individual for purposes of this title if the courts of the State in which such insured individual is domiciled at the time such applicant files an application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless be deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.
“(2) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this title, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.
“(3) For purposes of section 202 (i), a widow shall be deemed to have been living with her husband at the time of his death if they were both members of the same household on the date of his death, or she was receiving regular contributions from him toward her support on such date, or he had been ordered by any court to contribute to her support; a widower shall be deemed to have been living with his wife at the time of her death if they were both members of the same household at the time of her death, or he was receiving regular contributions from her toward his support on such date, or she had been ordered by any court to contribute to his support.”
- 70 Stat. 871.
42 USC 402. (i) (1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of monthly benefits under section 202 of the Social Security Act for months after the month in which this Act is enacted.
- 71 Stat. 519.
71 Stat. 520. (2) The amendment made by subsection (f) shall not apply in the case of benefits under section 202 (h) of the Social Security Act, based on the wages and self-employment income of a deceased individual who died in or prior to the month in which this Act is enacted, for any parent who files the proof of support, required by such section 202 (h), in or prior to the month in which this Act is enacted; and the amendment to section 216 (h) (1) of such Act made by subsection
- 42 USC 402. (i) (1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of monthly benefits under section 202 of the Social Security Act for months after the month in which this Act is enacted.
- 70 Stat. 808.
42 USC 402. (2) The amendment made by subsection (f) shall not apply in the case of benefits under section 202 (h) of the Social Security Act, based on the wages and self-employment income of a deceased individual who died in or prior to the month in which this Act is enacted, for any parent who files the proof of support, required by such section 202 (h), in or prior to the month in which this Act is enacted; and the amendment to section 216 (h) (1) of such Act made by subsection
- 64 Stat. 492.
42 USC 416. (h) Section 216 (h) is amended to read as follows:
“(h) (1) An applicant is the wife, husband, widow, or widower of a fully or currently insured individual for purposes of this title if the courts of the State in which such insured individual is domiciled at the time such applicant files an application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless be deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.
“(2) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this title, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.
“(3) For purposes of section 202 (i), a widow shall be deemed to have been living with her husband at the time of his death if they were both members of the same household on the date of his death, or she was receiving regular contributions from him toward her support on such date, or he had been ordered by any court to contribute to her support; a widower shall be deemed to have been living with his wife at the time of her death if they were both members of the same household at the time of her death, or he was receiving regular contributions from her toward his support on such date, or she had been ordered by any court to contribute to his support.”

(h) of this section shall not operate to deprive any such parent of benefits to which he would otherwise be entitled under section 202 (h) of such Act.

70 Stat. 808.
42 USC 402.

SEC. 4. (a) Section 1 (q) of the Railroad Retirement Act of 1937, as amended, is amended by striking out "1956" and inserting in lieu thereof "1957."

70 Stat. 836,
877.

(b) Paragraph (1) of section 5 (1) of the Railroad Retirement Act of 1937, as amended, is amended by striking out the sentence immediately following clause (iii) thereof and inserting in lieu thereof the following sentence: "A 'widow' or 'widower' shall be deemed to have been living with the employee if the conditions set forth in section 216 (h) (2) or (3), whichever is applicable, of the Social Security Act, as in effect prior to 1957, are fulfilled."

45 USC 228a.
45 USC 228e.

(c) Paragraph (1) of section 5 (1) of such Act is further amended by striking out the third sentence immediately following clause (iii) thereof and inserting in lieu thereof the following sentence: "In determining, for purposes of this section and subsection (f) of section 2 whether an applicant is the wife, husband, widow, widower, child, or parent of an employee as claimed, the rules set forth in section 216 (h) (1) of the Social Security Act, as in effect prior to 1957, shall be applied."

64 Stat. 492.
42 USC 416.

SEC. 5. Where—

(a) one or more persons were entitled (without the application of section 202 (j) (1) of the Social Security Act) to parents' insurance benefits under section 202 (h) of such Act for the month in which this Act is enacted on the basis of the wages and self-employment income of an individual;

68 Stat. 1079.
42 USC 402.
70 Stat. 808.
42 USC 402.

(b) a person becomes entitled to a widow's, widower's or mother's insurance benefit under section 202 (e), (f), or (g) of the Social Security Act for any subsequent month on the basis of such wages and self-employment income;

68 Stat. 1085.
64 Stat. 485,
486.

(c) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act, on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203 (a) of such Act;

42 USC 402.

then the amount of the benefit to which each such person referred to in paragraph (a) or (b) is entitled for such subsequent month shall be increased, after the application of such section 203 (a), to the amount it would have been—

70 Stat. 808.

(d) if, in the case of a parent's insurance benefit, the person referred to in paragraph (b) was not entitled to the benefit referred to in such paragraph, or

71 Stat. 520.
71 Stat. 521.

(e) if, in the case of a benefit referred to in paragraph (b), no person was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income.

Approved August 30, 1957.

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II. Reported to and Passed Senate

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¹Also see legislative history of P.L. 226 (H.R. 8755), Director's Bulletins Nos. 261, 262, and 264 for additional background.

EXTENSION OF PERIOD WITHIN WHICH MINISTERS
MAY ELECT SOCIAL SECURITY COVERAGE AS SELF-
EMPLOYED INDIVIDUALS

AUGUST 1, 1957.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. COOPER, from the Committee on Ways and Means, submitted
the following

REPORT

[To accompany H. R. 8892]

The Committee on Ways and Means, to whom was referred the bill (H. R. 8892) to amend the Internal Revenue Code of 1954 to extend the time within which a minister may elect coverage as a self-employed individual for social security purposes, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

H. R. 8892 would amend the Internal Revenue Code of 1954 to extend for 2 years (in general, through April 15, 1959) the time within which ministers (including certain members of religious orders and Christian Science practitioners) may file waiver certificates to elect coverage under the old-age, survivors, and disability insurance program as self-employed persons. Each minister who files a waiver certificate during the extended period would be covered under old-age, survivors, and disability insurance for each year, beginning with his first taxable year ending after 1955, in which he had net earnings from self-employment of \$400 or more (some part of which is from the exercise of his ministry—for old-age, survivors, and disability insurance purposes these are all treated as earnings from self-employment).

The bill would not change the deadline presently prescribed for the filing of waiver certificates when that deadline is later than the one provided in the bill, as in the case of a person who becomes a minister in the future or a minister who did not have (and will not have) net earnings from self-employment of \$400 or more, some portion of which

was from the exercise of the ministry, in two or more of the taxable years 1955, 1956, 1957, and 1958. However, it would amend the existing provisions to make a waiver certificate filed after the extended period provided in the bill effective with the taxable year preceding the one for which it was filed (assuming this preceding year meets the \$400 earnings requirement).

Finally, the bill would provide, both for tax purposes under the Internal Revenue Code and benefit purposes under title II of the Social Security Act, for treatment as remuneration for employment, instead of as net earnings from self-employment, of remuneration paid in 1955 and 1956 to ministers and erroneously reported as wages, in good faith, by certain nonprofit organizations (to the extent of the unrecovered social security taxes paid).

EXPLANATION OF PROVISIONS

General

As a result of the Social Security Amendments of 1954, coverage under the old-age, survivors, and disability insurance program on an individual election basis was made available (effective for taxable years ending after 1954) to ministers performing services in the exercise of the ministry (as well as to certain members of religious orders in the exercise of duties required by such orders, and Christian Science practitioners). Under present law, a minister may obtain coverage under this program if he indicates his desire to be covered as a self-employed person by filing a certificate on or before the due date (April 15, 1957, in most cases) of the tax return for the second taxable year after 1954 in which he has net earnings from self-employment of \$400 or more (some part of which is from services in the exercise of his ministry); unless such a certificate is filed by the due date of the return for the first of these 2 taxable years, coverage cannot be obtained for that year. He may not be covered as an employee with respect to services in the exercise of his ministry even though such services might otherwise be considered as in "employment."

Many ministers have failed to file certificates to elect coverage under the self-employment provisions within the time prescribed by law. It has become evident that a substantial number of these ministers desire coverage, and that their failure to act was caused by lack of knowledge or misunderstanding of the provisions in existing law. Such misunderstanding has been particularly widespread among ministers employed by certain church-related, nonprofit organizations (such as colleges chartered by church denominations) who were under the erroneous impression that their services in the employ of these organizations were already covered under the old-age, survivors, and disability insurance program as employment.

Your committee is much concerned that, under the provisions of present law, many of the ministers who, because of lack of knowledge or misunderstanding, have failed to file certificates electing coverage by April 15, 1957, can never gain the protection of the old-age, survivors, and disability insurance program. Your committee believes that the present deadline for filing certificates should be extended so that these ministers will have a further opportunity to elect coverage under this program as self-employed persons. Generally speaking, any extension of the period within which a minister may elect coverage may be said to increase the element of adverse selection which is

inherent in the present provisions under which ministers can be covered under old-age and survivors insurance on an individual election basis. In the opinion of your committee, however, the risk of increased adverse selection is not serious under the circumstances where the proposed extension of time is as limited as that provided in H. R. 8892, where provision is made, as in the bill, for mandatory retroactive coverage.

Extension of time limit for filing of certificates and effective date of certificates filed during extended period

H. R. 8892 would, in general, postpone for 2 years the present deadline for ministers to file certificates to elect coverage under the old-age, survivors, and disability insurance program as self-employed persons. It would also provide mandatory retroactive coverage for ministers who file such certificates during the proposed extended period. A minister who had failed to file a certificate prior to the enactment of the bill would, by filing a certificate after such enactment and prior to the due date of the return (including any extension thereof) for his second taxable year ending after 1956, obtain coverage under the program's self-employment provisions for each year beginning with his first taxable year ending after 1955 (assuming that all other conditions which the present law provides as requirements for such coverage are met). A minister who met the self-employment coverage requirements for his 1956 and 1957 taxable years and who, prior to enactment of the bill, filed a certificate which was effective only with respect to his 1957 taxable year, could, at his option, file a supplemental certificate during the proposed extended period to elect coverage for his 1956 taxable year.

Your committee does not believe that it is necessary or desirable that a minister who exercises his option to elect coverage during the proposed extended period be required to elect coverage for his 1955 taxable year. In 1954, when coverage under the program was made available to ministers, coverage for 1955 was necessary in order to minimize the adverse effect on old-age and survivors insurance protection that might result from late entry into coverage. As a result of the provisions enacted in 1956, however, a person who is covered in 1956 and subsequent years will, in spite of his late entry into the old-age and survivors insurance program, generally be in as good a position relative to old-age and survivors insurance protection as that which a person newly covered in 1955 enjoyed as a result of the 1954 provisions. The bill contains a provision under which no interest or penalty shall be assessed or collected on self-employment taxes payable by such a minister with respect to years for which retroactive coverage is obtained if the minister pays these taxes before the end of the sixth month after the month in which he files his certificate electing coverage.

Ministers erroneously treated as employees in 1955 and 1956

H. R. 8892 also contains provisions to take account of the fact that certain ministers have been erroneously treated as employees by non-profit organizations (generally church-related organizations), and that the remuneration reported for them by these organizations does not, under present law, constitute remuneration for employment for purposes of the old-age, survivors, and disability insurance program. Under these provisions, such remuneration paid in 1955 and 1956 and erroneously reported by the employing organization will be deemed to

constitute remuneration for employment (and not net earnings from self-employment), both for purposes of the Internal Revenue Code and title II of the Social Security Act, provided the employer and employee social security taxes have been paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such services) with respect to such remuneration. These provisions would not, however, apply to the portion of such remuneration for which a refund or credit of the taxes has been obtained prior to the date of enactment of this bill.

Effective date of election certificates filed after the proposed extended period

H. R. 8892 would modify the provision of present law which governs the effective date of certificates filed by ministers (principally persons who become ministers in the future) who are eligible to elect coverage under the old-age, survivors, and disability insurance program by filing certificates after the close of the proposed extended period. The effect of this modification would be to continue to give ministers the full 2 years in which to exercise the option to elect coverage, but without loss of coverage under the program for the first of these years. Under present law, as under the bill, a minister may file a certificate on or before the due date of the return for his second taxable year (after 1954) for which he has net earnings from self-employment of at least \$400, some part of which was derived from service performed in the exercise of the ministry; but under present law, if the minister files such certificate after the due date of the return for his first such taxable year, the certificate can be effective only with respect to his second taxable year. The bill would provide that such a certificate filed after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 would be effective for the taxable year immediately preceding the taxable year with respect to which it was filed and all succeeding taxable years. Of course, if in the preceding taxable year the \$400 earnings test was not met—i. e., one or more taxable years elapsed after his first taxable year meeting this earnings test and the second one—this new provision would have no effect. Under this provision of the bill, interest would be assessed with respect to the delayed payment of taxes for the first taxable year and would be computed from the normal due date of the tax return for such year.

Effective date for benefits

The provisions of the bill, insofar as they affect old-age, survivors, and disability insurance benefits, would be effective in the case of monthly insurance benefits for months after the month in which the bill is enacted, and, in the case of lump-sum death payments, where death occurs after the date of enactment of the bill.

However, where the records of ministers affected by the bill are already serving as a basis for monthly insurance benefits under the old-age, survivors, and disability insurance program, the bill provides for recomputation of the benefits to include earnings (up to the last computation date) which the bill makes creditable under the program, but only upon the filing of an application for this purpose.

Any increase in monthly insurance benefits resulting from such a recomputation could be effective retroactively for up to 12 months

before the filing of the application, but not for months which began on or prior to the date of enactment of this bill.

Your committee is unanimous in recommending enactment of this bill.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

SEC. 1402. DEFINITIONS.

* * * * *

(e) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—

(1) WAIVER CERTIFICATE.—Any individual who is (A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) or (B) a Christian Science practitioner may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that he elects to have the insurance system established by title II of the Social Security Act extended to service described in subsection (c) (4), or service described in subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be, performed by him.

(2) TIME FOR FILING CERTIFICATE.—Any individual who desires to file a certificate pursuant to paragraph (1) must file such certificate on or before *whichever of the following dates is later*: (A) the due date of the return (including any extension thereof) for his second taxable year ending after 1954 for which he has net earnings from self-employment (computed, in the case of an individual referred to in paragraph (1) (A), without regard to subsection (c) (4), and, in the case of an individual referred to in paragraph (1) (B), without regard to subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner) of \$400 or more, any part of which was derived from the performance of service described in subsection (c) (4), or from the performance of service described in subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be; or (B) *the due date of the return (including any extension thereof) for his second taxable year ending after 1956.*

(3) EFFECTIVE DATE OF CERTIFICATE.—A certificate filed pursuant to this subsection shall be effective for the first taxable year with respect to which it is filed (but in no case shall the certificate be effective for a taxable year with respect to which the period for filing a return has expired, or for a taxable year ending prior to 1955) and all succeeding taxable years. An election made pur-

suant to this subsection shall be irrevocable. *Notwithstanding the first sentence of this paragraph:*

(A) *A certificate filed by an individual after the date of the enactment of this subparagraph but on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the first taxable year ending after 1955 and all succeeding taxable years.*

(B) *If an individual filed a certificate on or before the date of the enactment of this subparagraph which (but for this subparagraph) is effective only for the third or fourth taxable year ending after 1954 and all succeeding taxable years, such certificate shall be effective for his first taxable year ending after 1955 and all succeeding taxable years if such individual files a supplemental certificate after the date of the enactment of this subparagraph and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956.*

(C) *A certificate filed by an individual after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the taxable year immediately preceding the taxable year with respect to which it is filed and all succeeding taxable years.*

(4) **TREATMENT OF CERTAIN REMUNERATION PAID IN 1955 AND 1956 AS WAGES.—If—**

(A) *in 1955 or 1956 an individual was paid remuneration for service described in section 3121 (b) (8) (A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121 (k) or the corresponding section of prior law) as employment (within the meaning of chapter 21), and*

(B) *on or before the date of the enactment of this paragraph the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service,*

then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained on or before the date of the enactment of this paragraph, shall be deemed (for purposes of this chapter and chapter 21) to constitute remuneration paid for employment and not net earnings from self-employment.



after 1955 and all succeeding taxable years if such individual files a supplemental certificate after the date of the enactment of this subparagraph and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956.

"(C) A certificate filed by an individual after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the taxable year immediately preceding the taxable year with respect to which it is filed and all succeeding taxable years."

(c) If a certificate filed pursuant to section 1402 (e) (3) (A) or (B) of the Internal Revenue Code of 1954 after the due date of the return (including any extension thereof) for any taxable year is effective for such taxable year or for any preceding taxable year, then—

(1) for purposes of computing interest, the due date for the payment of the increase in tax for such taxable year or years resulting from the filing of such certificate shall be the last day of the sixth month following the month in which such certificate is filed;

(2) the statutory period for the assessment of any deficiency attributable to such increase in tax shall not expire before the expiration of 3 years from such due date; and

(3) for purposes of section 6651 of such code (relating to addition to tax for failure to file tax return), the amount of tax required to be shown on the return shall not include such increase in tax.

Sec. 2. Section 1402 (e) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(4) Treatment of certain remuneration paid in 1955 and 1956 as wages.—If—

"(A) in 1955 or 1956 an individual was paid remuneration for service described in section 3121 (b) (8) (A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121 (k) or the corresponding section of prior law) as employment (within the meaning of chapter 21), and

"(B) on or before the date of the enactment of this paragraph the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service,

then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained on or before the date of the enactment of this paragraph, shall be deemed (for purposes of this chapter and chapter 21) to constitute remuneration paid for employment and not net earnings from self-employment."

Sec. 3. Remuneration which is deemed under section 1402 (e) (4) of the Internal Revenue Code of 1954 to constitute remuneration for employment shall also be deemed, notwithstanding sections 210 (a) (8) (A) and 211 (c) of the Social Security Act, to constitute remuneration for employment (and not net earnings from self-employment) for purposes of title II of such Act.

Sec. 4. (a) Section 3, and the amendments made by the first section of this Act, shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months beginning after, and lump sum death payments under such title in the case of deaths occurring after, the date of the enactment of this Act.

(b) Notwithstanding subsection (a), in the case of any individual who—

(1) (A) has remuneration which is deemed, by reason of section 3, to constitute remuneration for employment for purposes of title II of the Social Security Act, or

(B) has income which constitutes net earnings from self-employment under such title by reason of the filing of a certificate pursuant to section 1402 (e) (3) (A) or (B) of the Internal Revenue Code of 1954, and

(2) was entitled to monthly insurance benefits under title II of the Social Security Act for the month in which this Act is enacted,

section 3 and the amendments made by the first section of this Act shall apply with respect to monthly insurance benefits under such title based on his wages and self-employment income only if he, or any other person entitled to monthly insurance benefits under such title on the basis of such wages and self-employment income, files, on or after the date of enactment of this Act, an application for recomputation by reason of this Act. Such recomputation shall be made in the manner provided in title II of the Social Security Act as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount and as though the application therefor was filed in the month in which the application for such last previous computation or recomputation was filed. No recomputation under this subsection shall be regarded as a recomputation under section 215 (f) of the Social Security Act. Any such recomputation shall be effective for and after the twelfth month before the month in which the application therefor is filed, but in no case for any month which begins on or prior to the date of the enactment of this Act. Any such recomputation shall be effective only if it results in a higher primary insurance amount.

(c) The preceding provisions of this section shall not render erroneous any monthly insurance benefits under title II of the Social Security Act for the month in which this Act is enacted or any prior month.

Mr. COOPER. Mr. Speaker, the purpose of H. R. 8892 is to amend the Internal Revenue Code of 1954 to extend for 2 years the time within which ministers may file waiver certificates to elect coverage under the old-age, survivors, and disability insurance program as self-employed persons. Each minister who files a waiver certificate during the extended period would be covered under old-age, survivors, and disability insurance for each year, beginning with his first taxable year ending after 1955, in which he had net earnings from self-employment of \$400 or more.

H. R. 8892 would not change the deadline presently prescribed for the filing of waiver certificates when that deadline is later than the one provided in the bill, as in the case of a person who becomes a minister in the future or a minister who did not have—and will not have—net earnings from self-employment of \$400 or more, some portion of which was from the exercise of the ministry, in two or more of the taxable years 1955, 1956, 1957, and 1958. However, it would amend the existing provisions to make a waiver certificate filed after the extended period provided in the bill effective with the taxable year preceding the one for which it was filed—assuming this preceding year meets the \$400 earnings requirement.

Finally, the bill would provide, both for tax purposes under the Internal Revenue Code and benefit purposes under title II of the Social Security Act, for

EXTENSION OF PERIOD WITHIN WHICH MINISTERS MAY ELECT SOCIAL-SECURITY COVERAGE AS SELF-EMPLOYED INDIVIDUALS

Mr. COOPER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 8892) to amend the Internal Revenue Code of 1954 to extend the time within which a minister may elect coverage as a self-employed individual for social-security purposes, and for other purposes, which has been unanimously approved favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That (a) section 1402 (e) (2) of the Internal Revenue Code of 1954 (relating to time for filing waiver certificates in the case of ministers, members of religious orders, and Christian Science practitioners) is amended (1) by inserting "whichever of the following dates is later: (A) after "on or before", and (2) by inserting "; or (B) the due date of the return (including any extension thereof) for his second taxable year ending after 1956" before the final period.

(b) Section 1402 (e) (3) of such code (relating to effective date of certificate) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph:

"(A) A certificate filed by an individual after the date of the enactment of this subparagraph but on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the first taxable year ending after 1955 and all succeeding taxable years.

"(B) If an individual filed a certificate on or before the date of the enactment of this subparagraph which (but for this subparagraph) is effective only for the third or fourth taxable year ending after 1954 and all succeeding taxable years, such certificate shall be effective for his first taxable year ending

treatment as remuneration for employment, instead of as net earnings from self-employment, of remuneration paid in 1955 and 1956 to ministers and erroneously reported as wages, in good faith, by certain nonprofit organizations—to the extent of the unrefunded social security taxes paid.

In order to state the matter as simply as possible, H. R. 8892 is designed to give an opportunity to ministers who, because of failure to receive information as to the filing deadline, or who because of other circumstances were unable to meet the deadline, or who because of being erroneously considered along with lay employees by nonprofit institutions, to elect coverage.

Your committee was unanimous in reporting this bill.

Mr. JENKINS. Mr. Speaker, this meritorious legislation would extend for 2 years the time within which ministers may elect to obtain OASI coverage under the provisions of the existing social-security law. Present law requires a minister to elect OASI coverage on or before the due date of the tax return for the second taxable year after 1954. For most individuals affected by this requirement the termination date of the coverage privilege was April 15, 1957. It was brought to the attention of the Committee on Ways and Means that many ministers had not been adequately informed as to their rights to obtain OASI coverage and the procedures they were required to follow to that end. Accordingly, the Committee on Ways and Means has approved H. R. 8892 to provide an additional period for ministers to act in making an election for coverage. This legislation is necessary to take care of situations where ministers have not acted at all to obtain coverage and to take care of situations where ministers have erroneously been treated as employees for social-security purposes for the years 1955 and 1956.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Calendar No. 1013

85TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 989

EXTENSION OF PERIOD WITHIN WHICH MINISTERS MAY ELECT SOCIAL SECURITY COVERAGE AS SELF-EMPLOYED INDIVIDUALS AND INCLUSION OF CERTAIN ITEMS OF INCOME BY MINISTERS FOR SOCIAL SECURITY PURPOSES

AUGUST 16, 1957.—Ordered to be printed

Mr. KERR, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 8892]

The Committee on Finance, to whom was referred the bill (H. R. 8892) to amend the Internal Revenue Code of 1954 to extend the time within which a minister may elect coverage as a self-employed individual for social security purposes, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

H. R. 8892 would amend the Internal Revenue Code of 1954 to extend for 2 years (in general, through April 15, 1959) the time within which ministers (including certain members of religious orders and Christian Science practitioners) may file waiver certificates to elect coverage under the old-age, survivors, and disability insurance program as self-employed persons. Each minister who files a waiver certificate during the extended period would be covered under old-age, survivors, and disability insurance for each year, beginning with his first taxable year ending after 1955, in which he had net earnings from self-employment of \$400 or more (some part of which is from the exercise of his ministry—for old-age, survivors, and disability insurance purposes these are all treated as earnings from self-employment).

The bill would not change the deadline presently prescribed for the filing of waiver certificates when that deadline is later than the one provided in the bill, as in the case of a person who becomes a minister in the future or a minister who did not have (and will not have) net earnings from self-employment of \$400 or more, some portion of which was from the exercise of the ministry, in two or more of the taxable years 1955, 1956, 1957, and 1958. However, it would amend the existing provisions to make a waiver certificate filed after the extended

period provided in the bill effective with the taxable year preceding the one for which it was filed (assuming this preceding year meets the \$400 earnings requirement).

In addition the bill would provide, both for tax purposes under the Internal Revenue Code and benefit purposes under title II of the Social Security Act, for treatment as remuneration for employment, instead of as net earnings from self-employment, of remuneration paid in 1955 and 1956 to ministers and erroneously reported as wages, in good faith, by certain nonprofit organizations (to the extent of the unre-funded social security taxes paid).

Your committee has added an amendment to the bill as passed by the House, which would provide that a minister, in computing his earnings from his ministry for social security purposes (but not for income tax purposes), shall include the value of the meals and lodging furnished to him for the convenience of his employer, and the rental value of the parsonage furnished to him.

EXPLANATION OF PROVISIONS

General

As a result of the Social Security Amendments of 1954, coverage under the old-age, survivors, and disability insurance program on an individual election basis was made available (effective for taxable years ending after 1954) to ministers performing services in the exercise of the ministry (as well as to certain members of religious orders in the exercise of duties required by such orders, and Christian Science practitioners). Under present law, a minister may obtain coverage under this program if he indicates his desire to be covered as a self-employed person by filing a certificate on or before the due date (April 15, 1957, in most cases) of the tax return for the second taxable year after 1954 in which he has net earnings from self-employment of \$400 or more (some part of which is from services in the exercise of his ministry); unless such a certificate is filed by the due date of the return for the first of these 2 taxable years, coverage cannot be obtained for that year. He may not be covered as an employee with respect to services in the exercise of his ministry even though such services might otherwise be considered as in "employment."

Many ministers have failed to file certificates to elect coverage under the self-employment provisions within the time prescribed by law. It has become evident that a substantial number of these ministers desire coverage, and that their failure to act was caused by lack of knowledge or misunderstanding of the provisions in existing law. Such misunderstanding has been particularly widespread among ministers employed by certain church-related, nonprofit organizations (such as colleges chartered by church denominations) who were under the erroneous impression that their services in the employ of these organizations were already covered under the old-age, survivors, and disability insurance program as employment.

Your committee is much concerned that, under the provisions of present law, many of the ministers who, because of lack of knowledge or misunderstanding, have failed to file certificates electing coverage by April 15, 1957, can never gain the protection of the old-age, survivors, and disability insurance program. Your committee believes that the present deadline for filing certificates should be extended so that these ministers will have a further opportunity to elect coverage under this program as self-employed persons.

Extension of time limit for filing of certificates and effective date of certificates filed during extended period

H. R. 8892 would, in general, postpone for 2 years the present deadline for ministers to file certificates to elect coverage under the old-age, survivors, and disability insurance program as self-employed persons. It would also provide mandatory retroactive coverage for ministers who file such certificates during the proposed extended period. A minister who had failed to file a certificate prior to the enactment of the bill would, by filing a certificate after such enactment and prior to the due date of the return (including any extension thereof) for his second taxable year ending after 1956, obtain coverage under the programs' self-employment provisions for each year beginning with his first taxable year ending after 1955 (assuming that all other conditions which the present law provides as requirements for such coverage are met). A minister who met the self-employment coverage requirements for his 1956 and 1957 taxable years and who, prior to enactment of the bill, filed a certificate which was effective only with respect to his 1957 taxable year, could, at his option, file a supplemental certificate during the proposed extended period to elect coverage for his 1956 taxable year.

Your committee does not believe that it is necessary that a minister who exercises his option to elect coverage during the proposed extended period be required to elect coverage for his 1955 taxable year.

In 1954, when coverage under the program was made available to ministers, coverage for 1955 was necessary in order to minimize the adverse effect on old-age and survivors insurance protection that might result from late entry into coverage. As a result of the provisions enacted in 1956, however, a person who is covered in 1956 and subsequent years will, in spite of his late entry into the old-age and survivors insurance program, generally be in as good a position relative to old-age and survivors insurance protection as that which a person newly covered in 1955 enjoyed as a result of the 1954 provisions. The bill contains a provision under which no interest or penalty shall be assessed or collected on self-employment taxes payable by such a minister with respect to years for which retroactive coverage is obtained if the minister pays these taxes before the end of the sixth month after the month in which he files his certificate electing coverage.

Rental value of parsonages and certain noncash remuneration

Your committee has added an amendment to the House-approved bill which would provide that a minister who elects or has elected coverage under old-age and survivors insurance shall, in determining his net earnings from self-employment, include the rental value of a parsonage (or allowance for the rental value of a parsonage) and the value of meals and lodging furnished to him for the convenience of the employer. This would apply both for determining the amount of the contributions to be collected (for social security purposes only) and eligibility for and amount of benefits to be paid. Under existing law, only the cash salary, fees, and honoraria are counted in determining a minister's earnings from his ministry for social security purposes. Your committee's amendment would give recognition to the fact that noncash remuneration (value of parsonage, meals, and lodging) received by ministers may, in many instances, constitute a significant portion of their total earnings. The amendment would

provide for the treatment of such remuneration of the ministers affected (who are actually employees) similar to the treatment provided under old-age and survivors insurance for employees generally. Enactment of the provision would not affect the traditional tax-exempt status of such remuneration accorded ministers for income tax purposes.

This provision of the bill would be effective with taxable years ending on or after December 31, 1957, except that, for purposes of the retirement test under old-age and survivors insurance, the provision would be effective with taxable years beginning after the month of enactment of the provision.

Ministers erroneously treated as employees in 1955 and 1956

H. R. 8892 also contains provisions to take account of the fact that certain ministers have been erroneously treated as employees by non-profit organizations (generally church-related organizations), and that the remuneration reported for them by these organizations does not, under present law, constitute remuneration for employment for purposes of the old-age, survivors, and disability insurance program. Under these provisions, such remuneration paid in 1955 and 1956 and erroneously reported by the employing organization will be deemed to constitute remuneration for employment (and not net earnings from self-employment), both for purposes of the Internal Revenue Code and title II of the Social Security Act, provided the employer and employee social-security taxes have been paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such services) with respect to such remuneration. These provisions would not, however, apply to the portion of such remuneration for which a refund or credit of the taxes has been obtained prior to the date of enactment of this bill.

Effective date of election certificates filed after the proposed extended period

H. R. 8892 would modify the provision of present law which governs the effective date of certificates filed by ministers (principally persons who become ministers in the future) who are eligible to elect coverage under the old-age, survivors, and disability insurance program by filing certificates after the close of the proposed extended period. The effect of this modification would be to continue to give ministers the full 2 years in which to exercise the option to elect coverage, but without loss of coverage under the program for the first of these years. Under present law, as under the bill, a minister may file a certificate on or before the due date of the return for his second taxable year (after 1954) for which he has net earnings from self-employment of at least \$400, some part of which was derived from service performed in the exercise of the ministry; but under present law, if the minister files such certificate after the due date of the return for his first such taxable year, the certificate can be effective only with respect to his second taxable year. The bill would provide that such a certificate filed after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 would be effective for the taxable year immediately preceding the taxable year with respect to which it was filed and all succeeding taxable years. Of course, if in the preceding taxable year the \$400 earnings test was not met—i. e., one or more taxable years elapsed after his first taxable year meet-

ing this earnings test and the second one—this new provision would have no effect. Under this provision of the bill, interest would be assessed with respect to the delayed payment of taxes for the first taxable year and would be computed from the normal due date of the tax return for such year.

Effective date for benefits

Except for the provision relating to the rental value of parsonages and certain noncash remuneration, the provisions of the bill, insofar as they affect old-age, survivors, and disability insurance benefits, would be effective in the case of monthly insurance benefits for months after the month in which the bill is enacted, and, in the case of lump-sum death payments, where death occurs after the date of enactment of the bill.

However, where the records of ministers affected by the provisions of the bill (relating to election of coverage) are already serving as a basis for monthly insurance benefits under the old-age, survivors, and disability insurance program, the bill provides for recomputation of the benefits to include earnings (up to the last computation date) which these provisions of the bill make creditable under the program, but only upon the filing of an application for this purpose.

Any increase in monthly insurance benefits resulting from such a recomputation could be effective retroactively for up to 12 months before the filing of the application, but not for months which began on or prior to the date of enactment of this bill.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

SEC. 1402. DEFINITIONS.

(a) NET EARNINGS FROM SELF-EMPLOYMENT. The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702 (a) (9) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

* * * * *

[(8) an individual who is—

[(A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order; and

[(B) a citizen of the United States performing service described in subsection (c) (4) as an employee of an American employer (as defined in section 3121(h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States,

shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States).]

(8) *an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121 (h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States).*

* * * * *

(e) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—

(1) WAIVER CERTIFICATE.—Any individual who is (A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) or (B) a Christian Science practitioner may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that he elects to have the insurance system established by title II of the Social Security Act extended to service described in subsection (c) (4), or service described in subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be, performed by him.

(2) TIME FOR FILING CERTIFICATE.—Any individual who desires to file a certificate pursuant to paragraph (1) must file such certificate on or before *whichever of the following dates is later*: (A) the due date of the return (including any extension thereof) for his second taxable year ending after 1954 for which he has net earnings from self-employment (computed, in the case of an individual referred to in paragraph (1) (A), without regard to subsection (c) (4), and, in the case of an individual referred to in paragraph (1) (B), without regard to subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner) of \$400 or more, any part of which was derived from the performance of service described in subsection (c) (4), or from the performance of service described in subsection (c) (5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be; or (B) *the due date of the return (including any extension thereof) for his second taxable year ending after 1956.*

(3) **EFFECTIVE DATE OF CERTIFICATE.**—A certificate filed pursuant to this subsection shall be effective for the first taxable year with respect to which it is filed (but in no case shall the certificate be effective for a taxable year with respect to which the period for filing a return has expired, or for a taxable year ending prior to 1955) and all succeeding taxable years. An election made pursuant to this subsection shall be irrevocable. *Notwithstanding the first sentence of this paragraph:*

(A) *A certificate filed by an individual after the date of the enactment of this subparagraph but on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the first taxable year ending after 1955 and all succeeding taxable years.*

(B) *If an individual filed a certificate on or before the date of the enactment of this subparagraph which (but for this subparagraph) is effective only for the third or fourth taxable year ending after 1954 and all succeeding taxable years, such certificate shall be effective for his first taxable year ending after 1955 and all succeeding taxable years if such individual files a supplemental certificate after the date of the enactment of this subparagraph and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956.*

(C) *A certificate filed by an individual after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the taxable year immediately preceding the taxable year with respect to which it is filed and all succeeding taxable years.*

(4) **TREATMENT OF CERTAIN REMUNERATION PAID IN 1955 AND 1956 AS WAGES.**—*If—*

(A) *in 1955 or 1956 an individual was paid remuneration for service described in section 3121 (b) (8) (A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121 (k) or the corresponding section of prior law) as employment (within the meaning of chapter 21), and*

(B) *on or before the date of the enactment of this paragraph the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service,*

then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained on or before the date of the enactment of this paragraph, shall be deemed (for purposes of this chapter and chapter 21) to constitute remuneration paid for employment and not net earnings from self-employment.

SOCIAL SECURITY ACT

SELF-EMPLOYMENT

SEC. 211. For the purposes of this title—

Net Earnings From Self-Employment

(a) The term "net earnings from self-employment" means the gross income, as computed under Subtitle A of the Internal Revenue Code of 1954, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702 (a) (9) of the Internal Revenue Code of 1953, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

* * * * *

[(7) An individual who is—

[(A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order; and

[(B) a citizen of the United States performing service described in subsection (c) (4) as an employee of an American employer (as defined in section 210 (e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States,

shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possession of the United States) of the Internal Revenue Code of 1954.]

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) of the Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 210 (e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of such Code.

* * * * *

○

the United States) and section 931 (relating to income from sources within possessions of the United States)."

(c) The amendments made by this section shall, except for purposes of section 203 of the Social Security Act, apply only with respect to taxable years ending on or after December 31, 1957. For purposes of section 203 of the Social Security Act (other than subsec. (a)), such amendments shall apply only with respect to taxable years beginning after the month in which this act is enacted. For purposes of subsection (a) of such section 203, such amendments shall apply only with respect to taxable years of the insured individual ending on or after December 31, 1957.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "An Act to amend the Internal Revenue Code of 1954 to extend the time within which a minister may elect coverage as a self-employed individual for social security purposes and to permit such a minister to include, for social security purposes, the value of meals and lodging furnished him for the convenience of his employer and the rental value of the parsonage furnished to him, and for other purposes."

Mr. BYRD. Mr. President, I ask unanimous consent that an explanation of the bill which has just been passed be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

H. R. 8892 would amend the Internal Revenue Code of 1954 to extend for 2 years (in general, through April 15, 1959) the time within which ministers (including certain members of religious orders and Christian Science practitioners) may file waiver certificates to elect coverage under the old-age, survivors, and disability insurance program as self-employed persons. Each minister who files a waiver certificate during the extended period would be covered under old-age, survivors, and disability insurance for each year, beginning with his first taxable year ending after 1955, in which he had net earnings from self-employment of \$400 or more (some part of which is from the exercise of his ministry—for old-age, survivors, and disability insurance purposes these are all treated as earnings from self-employment).

The bill would not change the deadline presently prescribed for the filing of waiver certificates when that deadline is later than the one provided in the bill, as in the case of a person who becomes a minister in the future or a minister who did not have (and will not have) net earnings from self-employment of \$400 or more, some portion of which was from the exercise of the ministry, in two or more of the taxable years 1955, 1956, 1957, and 1958. However, it would amend the existing provisions to make a waiver certificate filed after the extended period provided in the bill effective with the taxable year preceding the one for which it was filed (assuming this preceding year meets the \$400 earnings requirement).

In addition the bill would provide, both for tax purposes under the Internal Revenue Code and benefit purposes under title II of the Social Security Act, for treatment as remuneration for employment, instead of as net earnings from self-employment, of remuneration paid in 1955 and 1956 to ministers and erroneously reported as wages, in

EXTENSION OF PERIOD IN WHICH MINISTERS MAY ELECT SOCIAL- SECURITY COVERAGE AS SELF- EMPLOYED INDIVIDUALS

The Senate proceeded to consider the bill (H. R. 8892) to amend the Internal Revenue Code of 1954 to extend the time within which a minister may elect coverage as a self-employed individual for social-security purposes, and for other purposes, which had been reported from the Committee on Finance with an amendment, on page 7, after line 8, to insert:

SEC. 5. (a) Paragraph (7) of section 211 (a) of the Social Security Act is amended to read as follows:

"(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) of the Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in sec. 210 (e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of such code."

(b) Paragraph (8) of section 1402 (a) of the Internal Revenue Code of 1954 is amended to read as follows:

"(8) an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121 (h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without

EXTENDING TIME FOR A MINISTER TO ELECT COVERAGE FOR SOCIAL SECURITY PURPOSES

Mr. COOPER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 8892) to amend the Internal Revenue Code of 1954 to extend the time within which a minister may elect coverage as a self-employed individual for social security purposes, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 7, after line 7, insert:

"Sec. 5. (a) Paragraph (7) of section 211 (a) of the Social Security Act is amended to read as follows:

"(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) of the Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 210 (e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of such Code."

"(b) Paragraph (8) of section 1402 (a) of the Internal Revenue Code of 1954 is amended to read as follows:

"(8) an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121 (h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States."

"(c) The amendments made by this section shall, except for purposes of section 203 of the Social Security Act, apply only with respect to taxable years ending on or after December 31, 1957. For purposes of section 203 of the Social Security Act (other than subsection (a)), such amendments shall apply only with respect to taxable years beginning after the month in which this act is enacted. For purposes of subsection (a) of such section 203, such amendments shall apply only with respect to taxable years of

the insured individual ending on or after December 31, 1957.

"Amend the title so as to read 'An act to amend the Internal Revenue Code of 1954 to extend the time within which a minister may elect coverage as a self-employed individual for social security purposes and to permit such a minister to include, for social security purposes, the value of meals and lodging furnished him for the convenience of his employer and the rental value of the parsonage furnished to him, and for other purposes.'"

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. COOPER. Mr. Speaker, as I indicated at the time when H. R. 8892 passed the House of Representatives, the purpose of the bill was to amend the Internal Revenue Code of 1954 to extend for 2 years the time within which ministers may file waiver certificates to elect coverage under the old-age, survivors, and disability insurance program as self-employed persons.

The Senate has added an amendment to this bill which would provide that a minister who elects or has elected coverage under old-age and survivors insurance shall, in determining his net earnings from self-employment, include the rental value of a parsonage—or allowance for the rental value of a parsonage—and the value of meals and lodging furnished to him for the convenience of the employer. Under existing law only the cash salary, fees, and honoraria are counted in determining a minister's earnings from his ministry for social security purposes. The Senate committee report states that the Senate amendment would give recognition to the fact that noncash remuneration—value of parsonage, meals, and lodging—received by ministers may, in many instances, constitute a significant portion of their total earnings, and that the amendment would provide for the treatment of such remuneration of the ministers affected—who are actually employees—similar to the treatment provided under old-age and survivors insurance for employees generally. As is also indicated in the Senate committee report, enactment of the amendment would not affect the traditional tax-exempt status of such remuneration accorded ministers for income tax purposes. This amendment would be effective with taxable years ending on or after December 31, 1957, except that, for purposes of the retirement test under old-age and survivors insurance, the provision would be effective with taxable years beginning after the month of enactment of the provision.

Mr. REED. Mr. Speaker, the House of Representatives acted favorable on this legislation so as to extend the time within which ministers may elect social security coverage as self-employed individuals. The Senate, in its consideration of this meritorious legislation, included an amendment to provide that ministers, in computing their creditable income, may include the value of meals and lodging furnished them for the convenience of their ministerial obligations. The Senate amendment will have the effect, in many instances, of enabling a minister to become entitled for a higher

OASI benefit than would otherwise be possible.

Mr. HARRISON of Virginia. Mr. Speaker, as the author of H. R. 8892, I want to take this opportunity to thank my colleagues in the House and commend them for the favorable action which has just been taken on this bill. This legislation will make it possible for a very substantial number of ministers, who failed to receive information as to their rights or who received misinformation, to elect social-security coverage.

The problem involved was at least a twofold one. First, many ministers throughout the country had failed to exercise their right under the law to elect to receive social security coverage within the time specified by the law. It was evident that a large number of these ministers did desire coverage and that their failure to act was caused by lack of knowledge or by misunderstanding of the provisions of existing law.

Second, I was informed that a very large number of ministers who were employed by certain church-related nonprofit organizations—such as colleges chartered by churches—were erroneously enrolled along with lay employees and that when this became known they were in a position of possibly losing their social security coverage. This legislation will make it possible for such persons to elect coverage as though they were self-employed, just as the other ministers have been covered.

I initiated this legislation not only because a number of these ministers had discussed these problems with me but also because the National Council of the Churches of Christ in the United States of America had taken action requesting the Congress to amend the basic provisions of the act so that these ministers could obtain coverage.

The amendment which the Senate has added to the basic legislation is entirely agreeable to me.

It, in brief, would provide that a minister who elects or has elected coverage under old-age and survivors insurance shall, in determining his net earnings from self-employment, include the rental value of his parsonage and the value of meals and lodging furnished to him for the convenience of the employer.

Under existing law, this cannot be counted for social security purposes. I am advised that in many instances the value of the parsonage, meals and lodging received by ministers constitutes a significant portion of their total earnings and therefore this amendment should be of material assistance to ministers.

Public Law 85-239
85th Congress, H. R. 8892
August 30, 1957

AN ACT

To amend the Internal Revenue Code of 1954 to extend the time within which a minister may elect coverage as a self-employed individual for social security purposes and to permit such a minister to include, for social security purposes, the value of meals and lodging furnished him for the convenience of his employer and the rental value of the parsonage furnished to him, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1402 (e) (2) of the Internal Revenue Code of 1954 (relating to time for filing waiver certificates in the case of ministers, members of religious orders, and Christian Science practitioners) is amended (1) by inserting "whichever of the following dates is later: (A)" after "on or before"; and (2) by inserting "; or (B) the due date of the return (including any extension thereof) for his second taxable year ending after 1956" before the final period.

Internal Revenue Code of 1954, amendments. Ministers. 68 Stat. 1088.

(b) Section 1402 (e) (3) of such code (relating to effective date of certificate) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph:

68 Stat. 1089.

"(A) A certificate filed by an individual after the date of the enactment of this subparagraph but on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the first taxable year ending after 1955 and all succeeding taxable years.

"(B) If an individual filed a certificate on or before the date of the enactment of this subparagraph which (but for this subparagraph) is effective only for the third or fourth taxable year ending after 1954 and all succeeding taxable years, such certificate shall be effective for his first taxable year ending after 1955 and all succeeding taxable years if such individual files a supplemental certificate after the date of the enactment of this subparagraph and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956.

"(C) A certificate filed by an individual after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the taxable year immediately preceding the taxable year with respect to which it is filed and all succeeding taxable years."

(c) If a certificate filed pursuant to section 1402 (e) (3) (A) or (B) of the Internal Revenue Code of 1954 after the due date of the return (including any extension thereof) for any taxable year is effective for such taxable year or for any preceding taxable year, then—

71 Stat. 521.

71 Stat. 522.

(1) for purposes of computing interest, the due date for the payment of the increase in tax for such taxable year or years resulting from the filing of such certificate shall be the last day of the sixth month following the month in which such certificate is filed;

(2) the statutory period for the assessment of any deficiency attributable to such increase in tax shall not expire before the expiration of 3 years from such due date; and

(3) for purposes of section 6651 of such Code (relating to addition to tax for failure to file tax return), the amount of tax required to be shown on the return shall not include such increase in tax.

68A Stat. 821.

68 Stat. 1089. SEC. 2. Section 1402 (e) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF CERTAIN REMUNERATION PAID IN 1955 AND 1956 AS WAGES.—If—

68A Stat. 422;
68 Stat. 1091.

"(A) in 1955 or 1956 an individual was paid remuneration for service described in section 3121 (b) (8) (A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121 (k) or the corresponding section of prior law) as employment (within the meaning of chapter 21), and

70 Stat. 845.
49 Stat. 622;
70 Stat. 807.
42 USC 401-421.

"(B) on or before the date of the enactment of this paragraph the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service,

then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained on or before the date of the enactment of this paragraph, shall be deemed (for purposes of this chapter and chapter 21) to constitute remuneration paid for employment and not net earnings from self-employment."

42 USC 410,
411.

SEC. 3. Remuneration which is deemed under section 1402 (e) (4) of the Internal Revenue Code of 1954 to constitute remuneration for employment shall also be deemed, notwithstanding sections 210 (a) (8) (A) and 211 (c) of the Social Security Act, to constitute remuneration for employment (and not net earnings from self-employment) for purposes of title II of such Act.

42 USC 401-
421.

SEC. 4. (a) Section 3, and the amendments made by the first section of this Act, shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months beginning after, and lump sum death payments under such title in the case of deaths occurring after, the date of the enactment of this Act.

(b) Notwithstanding subsection (a), in the case of any individual who—

(1) (A) has remuneration which is deemed, by reason of section 3, to constitute remuneration for employment for purposes of title II of the Social Security Act, or

(B) has income which constitutes net earnings from self-employment under such title by reason of the filing of a certificate pursuant to section 1402 (e) (3) (A) or (B) of the Internal Revenue Code of 1954, and

(2) was entitled to monthly insurance benefits under title II of the Social Security Act for the month in which this Act is

71 Stat. 522.

enacted, section 3 and the amendments made by the first section of this Act shall apply with respect to monthly insurance benefits under such title based on his wages and self-employment income only if he, or any other person entitled to monthly insurance benefits under such title on the basis of such wages and self-employment income, files, on or after the date of enactment of this Act, an application for recomputation by reason of this Act. Such recomputation shall be made in

the manner provided in title II of the Social Security Act as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount and as though the application therefor was filed in the month in which the application for such last previous computation or recomputation was filed. No recomputation under this subsection shall be regarded as a recomputation under section 215 (f) of the Social Security Act. Any such recomputation shall be effective for and after the twelfth month before the month in which the application therefor is filed, but in no case for any month which begins on or prior to the date of the enactment of this Act. Any such recomputation shall be effective only if it results in a higher primary insurance amount. 42 USC 415.

(c) The preceding provisions of this section shall not render erroneous any monthly insurance benefits under title II of the Social Security Act for the month in which this Act is enacted or any prior month.

Sec. 5. (a) Paragraph (7) of section 211 (a) of the Social Security Act is amended to read as follows: 42 USC 411.

"(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) of the Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 210 (e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of such Code." 42 USC 410.

(b) Paragraph (8) of section 1402 (a) of the Internal Revenue Code of 1954 is amended to read as follows:

"(8) an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121 (h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States)."

Effective
date.
42 USC 403.

(c) The amendments made by this section shall, except for purposes of section 203 of the Social Security Act, apply only with respect to taxable years ending on or after December 31, 1957. For purposes of section 203 of the Social Security Act (other than subsection (a)), such amendments shall apply only with respect to taxable years beginning after the month in which this Act is enacted. For purposes of subsection (a) of such section 203, such amendments shall apply only with respect to taxable years of the insured individual ending on or after December 31, 1957.

Approved August 30, 1957.

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(Committee reported bill without amendment.)

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(House passed bill as introduced, see Congressional Record, p. 3037 for text.)

C. Director's Bulletin No. 272--*Legislation Passed by the House of Representatives-- March 3, 1958*

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¹Also see legislative history of H.R. 13549 (P.L. 85-840), the Social Security Amendments of 1958--Director's Bulletin No. 288, and October 1958 Social Security Bulletin Articles by Charles Schottland and Robert J. Myers.

SOCIAL SECURITY COVERAGE FOR CERTAIN EMPLOYEES
OF TAX-EXEMPT ORGANIZATIONS WHICH PAID TAX

FEBRUARY 24, 1958.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. MILLS, from the Committee on Ways and Means, submitted the
following

REPORT

[To accompany H. R. 7570]

The Committee on Ways and Means, to whom was referred the bill (H. R. 7570) to amend section 403 of the Social Security Amendments of 1954 to provide social-security coverage for certain employees of tax-exempt organizations which erroneously but in good faith failed to file the required waiver certificate in time to provide such coverage, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

Your committee's bill would amend section 403 of the Social Security Amendments of 1954 to provide that certain employees of nonprofit organizations may receive social-security credit for earnings in the employ of such an organization even though at the time the earnings were reported the organization had not filed the necessary certificate waiving its exemption from social-security taxes.

EXPLANATION OF PROVISIONS

Under present law, any earnings reported for an employee for the years 1951 through 1956 by a nonprofit organization which failed to file a valid waiver certificate before the enactment of the Social Security Amendments of 1956 may be credited for social-security purposes, provided the earnings were reported, and the social-security taxes paid, in good faith; but these earnings may be credited only if they were reported, and the taxes paid, by a nonprofit organization in the mistaken belief that it had filed a valid waiver certificate.

H. R. 7570 would provide similar treatment for certain other nonprofit organization employees whose earnings for the years 1951 through 1956 were reported, and the taxes paid, in good faith. The bill adds as an acceptable reason for reporting earnings for the years 1951 through 1956 without having filed a valid waiver certificate the reason that the nonprofit organization had assumed that it was unnecessary to file such a certificate.

In addition, H. R. 7570 would provide retroactive social-security credit for certain employees of a nonprofit organization that filed a valid waiver certificate before the enactment of the Social Security Amendments of 1956 but (for either of the two reasons indicated above) had previously reported the earnings, and paid the social-security taxes, for these employees. The group of employees affected by this provision are those who had left the employ of the organization before it had filed the certificate. The provision was included in the bill in recognition of the fact that under existing provisions some of the individuals whose employment had terminated could not get social-security credit for their reported earnings and would be unable to meet the insured status requirement for eligibility for old-age and survivors insurance benefits.

While retroactive coverage provisions are ordinarily regarded as undesirable, your committee believes that considerations of equity in this instance justify the retroactive provision of this bill, especially in view of the limited nature of the retroactivity.

A favorable report from the Department of Health, Education, and Welfare was received on this bill, as well as an informative report from the Treasury Department.

Your committee is unanimous in urging enactment of this legislation.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 403 OF THE SOCIAL SECURITY AMENDMENTS OF 1954

SERVICE FOR CERTAIN TAX-EXEMPT ORGANIZATIONS PRIOR TO ENACTMENT OF THE SOCIAL SECURITY AMENDMENTS OF 1956

SEC. 403. (a) In any case in which—

(1) an individual has been employed, at any time subsequent to 1950 and prior to the enactment of the Social Security Amendments of 1956, by an organization which is described in section 501 (c) (3) of the Internal Revenue Code of 1954 and which is exempt from income tax under section 501 (a) of such Code but which [has] (A) failed to file prior to the enactment of the Social Security Amendments of 1956 a valid waiver certificate under section 1426 (l) (1) of the Internal Revenue Code of 1939 or section 3121 (k) (1) of the Internal Revenue Code of 1954, or (B) filed a valid waiver certificate prior to the enactment of the Social Security Amendments of 1956 but after such individual's services for such organization were terminated;

(2) the service performed by such individual as an employee of such organization during the period subsequent to 1950 and prior to 1957 would have constituted employment (as defined in section 210 of the Social Security Act and section 1426 (b) of the Internal Revenue Code of 1939 or section 3121 (b) of the Internal Revenue Code of 1954, as the case may be, at the time such service was performed) is such organization had filed prior to the performance of such service such a certificate accompanied by a list of the signatures of employees who concurred in the filing of such certificate and such individual's signature had appeared on such list;

(3) the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code of 1939 or sections 3101 and 3111 of the Internal Revenue Code of 1954, as the case may be, have been paid with respect to any part of the remuneration paid to such individual by such organization for such service;

(4) part of such taxes have been paid prior to the enactment of the Social Security Amendments of 1956;

(5) so much of such taxes as have been paid prior to the enactment of the Social Security Amendments of 1956 have been paid by such organization in good faith and upon the assumption *that a waiver certificate was not necessary* or that a valid waiver certificate had been filed by it under section 1426 (1) (1) of the Internal Revenue Code of 1939 or section 3121 (k) (1) of the Internal Revenue Code of 1954, as the case may be; and

(6) no refund of such taxes has been obtained, the amount of such remuneration with respect to which such taxes have been paid shall, upon the request of such individual (filed in such form and manner, and with such official, as may be prescribed by regulations under chapter 21 of the Internal Revenue Code of 1954), be deemed to constitute remuneration for employment as defined in section 210 of the Social Security Act and section 1426 (b) of the Internal Revenue Code of 1939 or section 3121 (b) of the Internal Revenue Code of 1954, as the case may be.

**SOCIAL-SECURITY COVERAGE FOR
CERTAIN EMPLOYEES**

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill, H. R. 7570, to amend section 403 of the social security amendments of 1954 to provide social-security coverage for certain employees of tax-exempt organizations which erroneously but in good faith failed to file the required waiver certificate in time to provide such coverage.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 403 (a) (1) of the Social Security Amendments of 1954 is amended—

(1) by striking out "but which has failed to file" and inserting in lieu thereof "but which (A) failed to file"; and

(2) by inserting before the semicolon at the end thereof the following: ", or (B) filed a valid waiver certificate prior to the enactment of the Social Security Amendments of 1956 but after such individual's services for such organization were terminated."

SEC. 2. Section 403 (a) (5) of the Social Security Amendments of 1954 is amended by inserting "that a waiver certificate was not necessary or" after "assumption."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, I ask unanimous consent to extend my remarks at this point.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS. Mr. Speaker, the purpose of H. R. 7570 is to amend section 403 of the Social Security Amendments of 1954 to provide that certain employees of nonprofit organizations may receive social-security credit for earnings in the employ of such an organization even though at the time the earnings were reported the organization had not filed the necessary certificate waiving its exemption from social-security taxes.

Presently, any earnings reported for an employee for the years 1951 through 1956 by a nonprofit organization which failed to file a valid waiver certificate before the enactment of the Social Security Amendments of 1956 may be credited for social-security purposes, provided the

earnings were reported, and the social-security taxes paid, in good faith; but these earnings may be credited only if they were reported, and the taxes paid, by a nonprofit organization in the mistaken belief that it had filed a valid waiver certificate.

H. R. 7570 would provide similar treatment for certain other nonprofit organization employees whose earnings for the years 1951 through 1956 were reported, and the taxes paid, in good faith. In addition, H. R. 7570 would provide retroactive social-security credit for certain employees of a nonprofit organization that filed a valid waiver certificate before the enactment of the Social Security Amendments of 1956 but, for the reasons indicated in the House report on the bill—House Report No. 1376—had previously reported the earnings, and paid the social-security taxes, for these employees.

Your committee was unanimous in urging enactment of this legislation.

Mr. REED. Mr. Speaker, I ask unanimous consent to extend my remarks at this point.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. REED. Mr. Speaker, this legislation would amend section 403 of the Social Security Amendments of 1954 so as to clarify the status of certain employees of tax-exempt organizations under the old age and survivors insurance program. The amendment that would be made in the law by H. R. 7570 would provide that employees of nonprofit organizations could receive social-security credit for earnings in the employ of such organization even though the organization had not executed the necessary waiver certificate at the time the earnings were reported by the organization. In addition the bill would provide OASI credit for employees of tax-exempt organizations that had filed a valid waiver certificate but had previously reported the earnings and paid the social-security taxes for the employees. The Committee on Ways and Means was unanimous in acting favorably on this legislation.

Office Memorandum • UNITED STATES GOVERNMENT

SSA-OASI

14:A:P

DATE: March 3, 1958

TO : Administrative, Supervisory,
and Technical Employees

FROM : Victor Christgau, Director
Bureau of Old-Age and Survivors Insurance

SUBJECT: Director's Bulletin No. 272
Legislation Passed by the House of Representatives

On February 27 the House of Representatives passed two old-age and survivors insurance bills.

The first was H.R. 5411 (introduced by Congressman Kean, R., N.J.), which would provide that a woman who loses entitlement to mother's benefits by remarriage would regain entitlement based on her former husband's earnings if her new husband died within a year. A similar provision for entitlement to aged widow's benefits was included in the 1956 amendments.

The second bill, H.R. 7570 (also introduced by Congressman Kean) would provide social security coverage for certain employees of non-profit organizations which erroneously but in good faith failed to file the required waiver certificate in time to provide such coverage. Under the bill, any earnings reported for an employee for the years 1951 through 1956 by a nonprofit organization which failed to file a valid waiver certificate before enactment of the Social Security Amendments of 1956 may be credited for social security purposes, provided the earnings were reported, and the social security taxes paid, in good faith, if the failure of the organization to file a valid waiver certificate was because the organization had assumed it was unnecessary to file such a certificate. The bill would also provide retroactive coverage for certain employees of a nonprofit organization that filed a valid waiver certificate before the enactment of the Social Security Amendments of 1956, but (either in the belief that a waiver had been filed or was not necessary) had previously reported the earnings, and paid the social security taxes, for these employees. Only those persons who had left the employ of the organization before the valid waiver certificate was filed would be affected by this provision. This provision recognizes that under existing law some of the individuals whose employment had terminated could not get social security credit for their reported earnings and would be unable to meet the insured status requirement for eligibility for old-age and survivors insurance benefits.



Victor Christgau

Calendar No. 2217

85TH CONGRESS }
2d Session }

SENATE }

REPORT
No. 2168

SOCIAL SECURITY COVERAGE FOR CERTAIN EMPLOYEES OF TAX-EXEMPT ORGANIZATIONS WHICH PAID TAX

AUGUST 4, 1958.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 7570]

The Committee on Finance, to whom was referred the bill (H. R. 7570) to amend section 403 of the Social Security Amendments of 1954 to provide social security coverage for certain employees of tax-exempt organizations which erroneously but in good faith failed to file the required waiver certificate in time to provide such coverage, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

H. R. 7570 would liberalize the special conditions under which certain employees of nonprofit organizations may receive social security credit for earnings in the employ of such an organization even though the organization failed to file the necessary certificate waiving its exemption from social security taxes. Under the special provisions in present law, any earnings reported for an employee for the years 1951 through 1956 by a nonprofit organization which failed to file a valid waiver certificate before the enactment of the Social Security Amendments of 1956 may be credited for social security purposes, provided the earnings were reported, and the social security taxes paid, in good faith and in the mistaken belief that the organization had filed a valid waiver certificate. In order to provide credit under other circumstances in which earnings and taxes were reported in good faith, H. R. 7570 would add, as an alternative to the condition that the nonprofit organization must have acted in the mistaken belief that it had filed a valid waiver certificate, the condition that the failure to file a waiver certificate was due to an assumption by the organization that it was unnecessary to file such a certificate.

The bill would also provide social-security credit for certain employees of nonprofit organizations which filed waiver certificates

2 SOCIAL SECURITY FOR EMPLOYEES OF CERTAIN ORGANIZATIONS

before the enactment of the Social Security Amendments of 1956 but after the termination of employment relationship between the organization and such employees.

The Department of Health, Education, and Welfare reported to the House Ways and Means Committee that, although they consider retroactive coverage provisions ordinarily undesirable, it was their belief the cases covered by H. R. 7570 merit retroactive coverage at least as much as those covered by the existing provisions of section 403 of the 1954 amendments. However, since this bill was passed by the House, the Committee on Finance has received a report from Acting Secretary of Health, Education, and Welfare, the Honorable Elliott Richardson, in which he states:

However, since this bill was passed by the House of Representatives, this Department and representatives of the Department of the Treasury have discussed the operation of its provisions in the light of cases which have been presented recently for our review and we have agreed that certain technical changes in H. R. 7570 would be desirable. The changes we are recommending, and the Department of the Treasury concurs in this recommendation, would meet the objective of the bill and would serve the additional purpose of clarifying section 403 of the Social Security Amendments of 1954 as it now applies. Furthermore, this Department and the Department of the Treasury have found that the present wording might be construed under certain circumstances to narrow the conditions under which coverage may now be obtained. Under the changes which we are recommending, section 1 of H. R. 7570 would read: "That section 403 (a) (1) of the Social Security Amendments of 1954 is amended by striking out 'has failed to file prior to the enactment of the Social Security Amendments of 1956' and inserting in lieu thereof the following: 'did not have in effect, during the entire period in which the individual was so employed,'." Section 2 of H. R. 7570 would be redesignated "Sec. 3," and a new section 2 would be added. This new section is required to make section 403 (a) (3) consistent with section 1, worded as recommended above. The new proposed section 2 would read: "That section 403 (a) (3) of the Social Security Amendments of 1954 is amended by inserting 'performed during the period in which such organization did not have a valid waiver certificate in effect' after 'service'."

The bill, if modified in accordance with our recommendations, would provide retroactive social-security credit for certain employees of a nonprofit organization regardless of when the organization filed a valid waiver certificate and regardless of whether the employment involved was terminated. Only if the provisions cover all these conditions fully would we be certain that the present coverage of section 403 would not be narrowed.

We would interpose no objection to the enactment of the bill, modified as suggested above.

Thus the Committee on Finance modified the bill as recommended by the Department of Health, Education, and Welfare and recommends to the Senate that the bill as amended be passed.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

SECTION 403 OF THE SOCIAL SECURITY AMENDMENTS OF 1954, AS AMENDED

SERVICE FOR CERTAIN TAX-EXEMPT ORGANIZATIONS PRIOR TO ENACTMENT OF THE SOCIAL SECURITY AMENDMENTS OF 1956

SEC. 403. (a) In any case in which—

(1) an individual has been employed, at any time subsequent to 1950 and prior to the enactment of the Social Security Amendments of 1956, by an organization which is described in section 501 (c) (3) of the Internal Revenue Code of 1954 and which is exempt from income tax under section 501 (a) of such Code but which [has failed to file prior to the enactment of the Social Security Amendments of 1956] *did not have in effect, during the entire period in which the individual was so employed, a valid waiver certificate under section 1426 (l) (1) of the Internal Revenue Code of 1939 or section 3121 (k) (1) of the Internal Revenue Code of 1954;*

(2) the service performed by such individual as an employee of such organization during the period subsequent to 1950 and prior to 1957 would have constituted employment (as defined in section 210 of the Social Security Act and section 1426 (b) of the Internal Revenue Code of 1939 or section 3121 (b) of the Internal Revenue Code of 1954, as the case may be, at the time such service was performed) if such organization had filed prior to the performance of such service such a certificate accompanied by a list of the signatures of employees who concurred in the filing of such certificate and such individual's signature had appeared on such list;

(3) the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code of 1939 or sections 3101 and 3111 of the Internal Revenue Code of 1954, as the case may be, have been paid with respect to any part of the remuneration paid to such individual by such organization for such service *performed during the period in which such organization did not have a valid waiver certificate in effect;*

(4) part of such taxes have been paid prior to the enactment of the Social Security Amendments of 1956;

(5) so much of such taxes as have been paid prior to the enactment of the Social Security Amendments of 1956 have been paid by such organization in good faith and *without knowledge that a*

4 SOCIAL SECURITY FOR EMPLOYEES OF CERTAIN ORGANIZATIONS

waiver certificate was necessary or upon the assumption that a valid waiver certificate had been filed by it under section 1426 (l) (1) of the Internal Revenue Code of 1939 or section 3121 (k) (1) of the Internal Revenue Code of 1954, as the case may be; and

* * * * *

○

**SOCIAL-SECURITY COVERAGE FOR
CERTAIN EMPLOYEES OF TAX-
EXEMPT ORGANIZATIONS**

The Senate proceeded to consider the bill (H. R. 7570) to amend section 403 of the Social Security Amendments of 1954 to provide social-security coverage for certain employees of tax-exempt organizations which erroneously but in good faith failed to file the required waiver certificate in time to provide such coverage, which had been reported from the Committee on Finance, with amendments, on page 1, line 4, after the word "is", to strike out "amended—

"(1) by striking out 'but which has failed to file' and inserting in lieu thereof 'but which (A) failed to file'; and

"(2) by inserting before the semicolon at the end thereof the following: ', or (B) filed a valid waiver certificate prior to the enactment of the Social Security Amendments of 1956 but after such individual's services for such organization were terminated.'" and in lieu thereof to insert "amended" by striking out 'has failed to file prior to the enactment of the Social Security Amendments of 1956' and inserting in lieu thereof 'did not have

in effect, during the entire period in which the individual was so employed,"; on page 2, after line 8, to strike out:

SEC. 2. Section 403 (a) (5) of the Social Security Amendments of 1954 is amended by inserting "that a waiver certificate was not necessary or" after "assumption".

And in lieu thereof to insert:

SEC. 2. Section 403 (a) (3) of the Social Security Amendments of 1954 is amended by inserting "performed during the period in which such organization did not have a valid waiver certificate in effect" after "service".

And, after line 15, to insert a new section, as follows:

SEC. 3. Section 403 (a) (5) of the Social Security Amendments of 1954 is amended by inserting "without knowledge that a waiver certificate was necessary or" after "in good faith and".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

AMENDMENT OF SECTION 403 OF
SOCIAL SECURITY AMENDMENTS
OF 1954

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7570) to amend section 403 of the Social Security Amendments of 1954 to provide social security coverage for certain employees of tax-exempt organizations which erroneously but in good faith failed to file the required waiver certificate in time to provide such coverage, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, strike out all after "is" over to and including line 4 on page 2 and insert "amended by striking out 'has failed to file prior to the enactment of the Social Security Amendments of 1956,' and inserting in lieu thereof 'did not have in effect, during the entire period in which the individual was so employed'."

Page 2, strike out lines 5, 6, and 7 and insert:

"Sec. 2. Section 403 (a) (3) of the Social Security Amendments of 1954 is amended by inserting 'performed during the period in which such organization did not have a valid waiver certificate in effect' after 'service'."

Page 2, after line 7, insert:

"Sec. 3. Section 403 (a) (5) of the Social Security Amendments of 1954 is amended by inserting 'without knowledge that a waiver certificate was necessary or' after 'in good faith and'."

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, the purpose of H. R. 7570, in the form in which it passed the House of Representatives, was to amend section 403 of the Social Security Amendments of 1954 to provide that certain employees of nonprofit organizations may receive social-security credit for earnings in the employ of such an organization, even though at the time the wages were reported the organization had not filed the necessary certificate waiving its exemption from social-security taxes.

In brief, the purpose of the House bill was to liberalize the strict requirements of the act with respect to this particular area.

After the bill passed the House of Representatives, the Department of Health, Education, and Welfare advised the Senate Finance Committee that, in the light of cases which had recently come to the attention of the Department, it would be advisable to make certain technical amendments to this bill in order that its

basic purposes and objectives might be better achieved.

The Senate Finance Committee, as indicated in its report on the bill, did so amend this bill in accordance with the recommendations of the Department, and in that form the bill passed the Senate. As is explained in the Senate Finance Committee report on the bill, the modifications which were made by the Senate would provide retroactive social-security credit for certain employees of a nonprofit organization, regardless of when the organization filed a valid waiver certificate and regardless of whether the employment involved was terminated. The report stated that only if the provisions of the bill cover all these conditions fully would the Department be certain that the present coverage of section 403 would not be narrowed rather than liberalized. Thus, the amendments which were made by the Senate are technical in nature and designed not only to achieve the basic objectives of the original bill but also to assure that the present coverage of section 403 will not be narrowed.

Mr. REED. Mr. Speaker, it was the purpose of the House-passed version of this legislation to provide social-security coverage for certain employees of tax-exempt organizations which inadvertently failed to file the required waiver certificate in time to provide the intended coverage. H. R. 7570 would permit nonprofit organizations to include its employees under social security where the organization made the good faith assumption that it was not necessary to file a waiver certificate. The Senate in acting on this legislation amended the bill so as to clarify its provisions in conformity with recommendations made by the Department of Health, Education, and Welfare subsequent to the House action on the bill.

Public Law 85-785
85th Congress, H. R. 7570
August 27, 1958

AN ACT

72 Stat. 938.

To amend section 403 of the Social Security Amendments of 1954 to provide social security coverage for certain employees of tax-exempt organizations which erroneously but in good faith failed to file the required waiver certificate in time to provide such coverage.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403 (a) (1) of the Social Security Amendments of 1954 is amended by striking out "has failed to file prior to the enactment of the Social Security Amendments of 1956" and inserting in lieu thereof "did not have in effect, during the entire period in which the individual was so employed,"

SEC. 2. Section 403 (a) (3) of the Social Security Amendments of 1954 is amended by inserting "performed during the period in which such organization did not have a valid waiver certificate in effect" after "service".

SEC. 3. Section 403 (a) (5) of the Social Security Amendments of 1954 is amended by inserting "without knowledge that a waiver certificate was necessary or" after "in good faith and".

Approved August 27, 1958.

Social Security.
Tax-exempt or-
ganizations.
68 Stat. 1098.
26 USC app.
1426 note.
70 Stat. 807.
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DEFINITION OF WAGES FOR PURPOSES OF STATE
AGREEMENTS UNDER SOCIAL SECURITY ACT

JULY 30, 1957.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. COOPER, from the Committee on Ways and Means, submitted
the following

R E P O R T

[To accompany H. R. 8599]

The Committee on Ways and Means, to whom was referred the bill (H. R. 8599) to amend title II of the Social Security Act so as to provide that the exception from "wages" made by section 209 (i) of such act is not applicable to payments to employees of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

H. R. 8599 would amend title II of the Social Security Act to make inapplicable to payments to State and local government employees for employment covered under a Federal-State old-age and survivors insurance coverage agreement the provision of present law (sec. 209 (i)) which excludes, from "wages," payments for periods after the employee reaches retirement age in which he renders no services. While the principal effect of the bill would be to permit inclusion of salary of State and local government employees for periods during which the employee is on sick leave as wages for old-age and survivors insurance purposes after the employee reaches retirement age, it would also apply to any standby payments or other payments to such an employee for periods after retirement age in which he does not work for the employer. The bill would apply prospectively, and also to payments made prior to the enactment of the bill, if the social-security contributions thereon are paid prior to 1959.

EXPLANATION OF PROVISIONS

The Social Security Act Amendments of 1950 included a provision (sec. 209 (i) of the Social Security Act) to exclude from "wages" standby pay and similar payments to inactive employees after the employee reaches retirement age (now age 65 for men and age 62 for women). This provision does not, however, apply to vacation or sick pay. In private employment, the payments affected by section 209 (i) are principally standby pay. In the case of State and local governmental employment, sick-leave payments are also affected.

When section 209 (i) was included in the law, no State or local government employees had yet been covered under old-age and survivors insurance. Your committee has, however, been informed that in some States sick-leave payments are not treated as sick pay because they are paid from regular wage or salary appropriations. Thus, section 209 (i) applies to such payments. The result is that sick-leave payments are treated differently depending on the age of the employee. A number of State officials administering old-age and survivors insurance coverage have stated that their payroll records generally do not show the employee's age or whether he was on sick leave during the pay period. They have indicated that, as a result, they find it difficult to comply with the present requirement that they exclude from their wage reports sick-leave payments to employees who have reached retirement age.

H. R. 8599 would correct this situation with respect to State and local government employees. Under its provisions sick-leave payments, standby pay, and other payments to such employees for periods during which the employees rendered no services would be treated the same for employees past retirement age as they are for the great majority of employees, who of course have not reached retirement age. (These payments would thus be counted as wages both for purposes of securing credit toward benefits and for purposes of section 203 of the Social Security Act under which benefits are withheld because of earnings.)

Your committee has been informed that in a number of cases the States have reported and paid contributions on payments for sick leave. The provision permitting the bill to apply retroactively (as well as prospectively) if the social-security contributions are paid on past sick-leave payments before 1959 would allow sick-leave payments that have been reported to remain to the employees' credit. It would also allow any State that has failed to report sick-leave payments, or has received a refund of contributions on such payments, to secure credit for sick-leave payments for its employees. Credit could not be secured for employees on an individual basis; sick-leave payments would have to be reported and contributions would have to be paid by the State for all members of the coverage group if credit were to be secured for any employee in the group.

Your committee is unanimous in recommending enactment of H. R. 8599

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as intro-

duced, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

PURPOSE OF AGREEMENTS

SEC. 218. (a) (1) The Secretary of Health, Education, and Welfare shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section 210 (a), for the purposes of this title the term "employment" includes any service included under an agreement entered into under this section.

DEFINITIONS

(b) For the purposes of this section—

(1) The term "State" does not include the District of Columbia.

(2) The term "political subdivision" includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term "employee" includes an officer of a State or political subdivision.

(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement. Civilian employees of National Guard units of a State who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U. S. C., 42), and paid from funds allotted to such units by the Department of Defense, shall for purposes of this section be deemed to be employees of the State and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group. For purposes of this section, individuals employed pursuant to an

agreement, entered into pursuant to section 205 of the Agricultural Marketing Act of 1946 (7 U. S. C. 1624) or section 14 of the Perishable Agricultural Commodities Act, 1930 (7 U. S. C. 499n), between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

(6) *The term "wages" means wages as defined in section 209, and shall include remuneration which, if not for service performed in the employ of a State or a political subdivision thereof, would be excluded from wages by section 209 (i).*



There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 218 of the Social Security Act is amended by adding the following paragraph at the end of subsection (b) of such section:

"(6) The term 'wages' means wages as defined in section 209, and shall include remuneration which, if not for service performed in the employ of a State or a political subdivision thereof, would be excluded from wages by section 209 (1)."

SEC. 2. (a) The amendment made by this act shall be applicable with respect to remuneration paid after the enactment of this act, except that it shall be applicable with respect to payments to the members of a coverage group as defined in section 218 (b) (5) of the Social Security Act before enactment if the total of the contributions under section 218 of the Social Security Act with respect to such payments to the members of such coverage group is paid prior to January 1, 1959.

Mr. COOPER. Mr. Speaker, the purpose of H. R. 8599 is to amend title II of the Social Security Act to make inapplicable to payments to State and local government employees for employment covered under a Federal-State old-age and survivors insurance coverage agreement the provision of present law—section 209 (1)—which excludes, from "wages," payments for periods after the employee reaches retirement age in which he renders no services.

When section 209 (1) was included in the amendments of 1950, no State or local government employees had yet been covered under old-age and survivors insurance. Your committee has, however, been informed that in some States sick-leave payments are not treated as sick pay because they are paid from regular wage or salary appropriations. Thus, section 209 (1) applies to such payments. The result is that sick-leave payments are treated differently depending on the age of the employee. A number of State officials administering old-age and survivors insurance coverage have stated that their payroll records generally do not show the employee's age or whether he was on sick leave during the pay period. It is therefore difficult to comply with the present requirement as stipulated in section 209 (1), and your committee has been informed that in a number of cases the States have reported and paid contributions on payments for sick leave.

H. R. 8599 would correct this situation with respect to State and local government employees. Under its provision sick-leave payments, standby pay, and other payments to such employees for periods during which the employees rendered no services would be treated the same for employees past retirement age as they are for the great majority of employees, who of course have not reached retirement age.

The provision permitting the bill to apply retroactively—as well as prospectively—if the social-security contributions are paid on past sick-leave payment before 1959 would allow sick-leave payments that have been reported to remain to the employees' credit. It would also allow any State that has failed to report sick-leave payments, or has received a refund of contributions on

AMENDMENT OF TITLE II OF SOCIAL SECURITY ACT

Mr. COOPER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 8599) to amend title II of the Social Security Act so as to provide that the exception from "wages" made by section 209 (1) of such act is not applicable to payments to employees of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such act, which was unanimously reported favorably by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

such payments, to secure credit for sick-leave payments for its employees, but only if sick-leave payments were reported and contributions were paid by the State for all members of the coverage groups in order that credit could be secured for any employee in the group.

The Committee on Ways and Means is unanimous in recommending enactment of H. R. 8599.

Mr. REED. Mr. Speaker, H. R. 8599 would amend the Social Security Act so as to make inapplicable to payments to State and local government employees the provision of the law which excludes from creditable wages payments for periods after the employee reaches retirement age and in which he rendered no services. Thus under the bill the salary of State and local employees for periods during which an individual is on sick leave or an individual receives a standby payment after reaching retirement age would be included as wages for the purposes of determining OASI benefit entitlement. The Committee on Ways and Means was unanimous in acting favorably on H. R. 8599.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Calendar No. 2218

85TH CONGRESS }
2d Session }

SENATE }

REPORT
No. 2169

DEFINITION OF WAGES FOR PURPOSES OF STATE AGREEMENTS UNDER SOCIAL SECURITY ACT

AUGUST 4, 1958.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 8599]

The Committee on Finance, to whom was referred the bill (H. R. 8599) to amend title II of the Social Security Act so as to provide that the exception from "wages" made by section 209 (1) of such act is not applicable to payments to employees of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such act, having considered the same, report favorably thereon with amendments, and recommend that the bill, as amended, do pass.

GENERAL STATEMENT

H. R. 8599 would amend title II of the Social Security Act to make inapplicable to payments to State and local government employees for employment covered under a Federal-State old-age and survivors insurance coverage agreement the provision of present law (sec. 209 (i)) which excludes, from "wages," payments for periods after the employee reaches retirement age in which he renders no services. While the principal effect of the bill would be to permit inclusion of salary of State and local government employees for periods during which the employee is on sick leave as wages for old-age and survivors insurance purposes after the employee reaches retirement age, it would also apply to any standby payments or other payments to such an employee for periods after retirement age in which he does no work for the employer. The bill would apply prospectively, and also to payments made prior to the enactment of the bill, if the social-security contributions thereon are paid prior to 1959.

AMENDMENTS

The Department of Health, Education, and Welfare advised the Committee on Finance that the present language of section 1 of the House-passed bill was broader in its effect than would be required to meet the problem presented by the States, since it would apply to standby pay and other payments for periods after retirement age in which an employee of a State or local government does no work for the employer as well as to sick-leave payments. At their suggestion section 1 was revised to apply only to State and local government sick-leave payments.

The committee adopted further amendments suggested by the Department of Health, Education, and Welfare revising the language of section 2 making clarifying changes in the effective date of the bill.

The title is amended to read: An Act to amend title II of the Social Security Act so as to provide that the exception from "wages" made by section 209 (i) of such Act shall not be applicable to payments to employees of a State or a political division thereof for periods of absence from work on account of sickness.

The recommendations of the Department of Health, Education, and Welfare are set forth in their letter of June 26, 1958, which follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
June 26, 1958.

HON. HARRY F. BYRD,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in response to your request of August 6, 1957, for a report on H. R. 8599, a bill "To amend title II of the Social Security Act so as to provide that the exception from 'wages' made by section 209 (i) of such Act is not applicable to payments to employees of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such Act."

The bill is designed to meet a problem of the States and their political subdivisions that results from the fact that under present law most of their wage and salary payments for periods when the employee is on sick leave are not treated the same for the few employees who have reached retirement age as they are for the great majority of employees, who, of course, have not reached retirement age. (These sick leave payments are counted as wages until the employee reaches retirement age, but are excluded from wages after retirement age.)

For their own purposes, State and local governments generally do not give different treatment to payments to employees after a specific age, and their payroll records may not show the employee's age. Also, their payroll records may not show whether the employee was on sick leave during the pay period. These employers, therefore, have great difficulty in identifying payments to employees past retirement age who were on sick leave for the entire pay period so that these payments can be omitted from their wage reports under old-age and survivors insurance.

Legislation that would make the treatment of State and local government sick-leave payments the same before and after the employee reaches retirement age is desirable not only as a means of improving administration but also as a matter of principle. The age of the employee ought to have no bearing on the question of whether payments for a period of sickness are wages for old-age and survivors insurance purposes. The treatment of sick pay in private employment is not affected by the employee's age (all sick pay under a plan or system is excluded). We, therefore, favor enactment of legislation such as that proposed by the bill.

We suggest, however, that the language of the bill be revised. We are sending you language that could be substituted.

Our substitute language for section 1 makes a change in section 209 of the Social Security Act, which relates to the conditions under which State and local government employees are covered under old-age and survivors insurance. The present language of section 1 of the bill is broader in its effect than would be required to meet the problem presented by the States, since it would apply to standby pay and other payments for periods after retirement age in which an employee of a State or local government does no work for the employer as well as to sick-leave payments. The program considerations which favor a change with respect to sick-leave payments do not necessarily apply to these other types of payments; the treatment of these payments should not be changed without further study. The revision we suggest would make the change apply only to State and local government sick-leave payments.

Our suggested revision of section 2 makes clarifying changes relating to the effective date of the amendment. One change makes clear that if sick-leave payments to members of a coverage group are covered retroactively such coverage must be retroactive to the effective date of old-age and survivors insurance coverage for the coverage group. The other change is designed to assure that failure, through error or oversight, of a State to pay the full amount of contributions due before January 1, 1959, shall not preclude retroactive coverage.

We recommend that the bill, amended as suggested above, be enacted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your Committee.

Sincerely yours,

E. L. RICHARDSON,
Assistant Secretary.

(The favorable report from the Bureau of the Budget follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., June 24, 1958.

HON. HARRY F. BYRD,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in reply to your letter of August 6, 1957, requesting the views of this office with respect to H. R. 8599, "To amend title II of the Social Security Act so as to provide that

4 DEFINITION OF WAGES FOR PURPOSES OF STATE AGREEMENTS

the exception from 'wages' made by section 209 (i) of such Act is not applicable to payments of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such Act."

In the report which the Secretary of Health, Education, and Welfare is making to your committee on this bill, he is recommending its enactment with certain modifications.

This office defers to the Department of Health, Education, and Welfare with respect to the merits of this proposal.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SECTION 209 OF THE SOCIAL SECURITY ACT

DEFINITION OF WAGES

SEC. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a) * * *

(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains retirement age (as defined in section 216 (a)), if he did not work for the employer in the period for which such payment is made. *As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 218 (b) (2)) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness; or*

* * * * *

○

And in lieu thereof, to insert:

SEC. 2. The amendment made by section 1 shall be applicable to remuneration paid after the enactment of this act, except that, in the case of any coverage group which is included under the agreement of a State under section 218 of the Social Security Act, the amendment made by section 1 shall also be applicable to remuneration for any member of such coverage group with respect to services performed after the effective date, specified in such agreement, for such coverage group, if such State has paid or agrees, prior to January 1, 1959, to pay, prior to such date, the amounts which under section 218 (e) would have been payable with respect to remuneration of all members of such coverage group had the amendment made by section 1 been in effect on and after January 1, 1951. Failure by a State to make such payments prior to January 1, 1959, shall be treated the same as failure to make payments when due under section 218 (e).

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "An act to amend title II of the Social Security Act so as to provide that the exception from 'wages' made by section 209 (i) of such act shall not be applicable to payments to employees of a State or a political subdivision thereof for periods of absence from work on account of sickness."

AMENDMENT OF TITLE II, SOCIAL SECURITY ACT

The Senate proceeded to consider the bill (H. R. 8599) to amend title II of the Social Security Act so as to provide that the exception from "Wages" made by section 209 (i) of such act is not applicable to payments to employees of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such act, which had been reported from the Committee on Finance, with amendments, on page 1, line 3, after the word "That", to strike out "section 218 of the Social Security Act is amended by adding the following paragraph at the end of subsection (b) of such section:

"(6) The term 'wages' means wages as defined in section 209, and shall include remuneration which, if not for service performed in the employ of a State or a political subdivision thereof, would be excluded from wages by section 209 (i)." and, in lieu thereof, to insert "subsection (i) of section 209 of the Social Security Act is amended by inserting immediately before the semicolon a period and the following: 'As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 218 (b) (2)) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness.'"; and, on page 2, after line 10, to strike out:

SEC. 2. (a) The amendment made by this act shall be applicable with respect to remuneration paid after the enactment of this act, except that it shall be applicable with respect to payments to the members of a coverage group as defined in section 218 (b) (5) of the Social Security Act before enactment if the total of the contributions under section 218 of the Social Security Act with respect to such payments to the members of such coverage group is paid prior to January 1, 1959.

Page 2, strike out lines 4 to 12, inclusive, and insert:

"Sec. 2. The amendment made by section 1 shall be applicable to remuneration paid after the enactment of this act, except that, in the case of any coverage group which is included under the agreement of a State under section 218 of the Social Security Act, the amendment made by section 1 shall also be applicable to remuneration for any member of such coverage group with respect to services performed after the effective date, specified in such agreement, for such coverage group, if such State has paid or agrees, prior to January 1, 1959, to pay, prior to such date, the amounts which under section 218 (e) would have been payable with respect to remuneration of all members of such coverage group had the amendment made by section 1 been in effect on and after January 1, 1951. Failure by a State to make such payments prior to January 1, 1959, shall be treated the same as failure to make payments when due under section 218 (e)."

Amend the title so as to read: "An act to amend title II of the Social Security Act so as to provide that the exception from 'wages' made by section 209 (1) of such act shall not be applicable to payments to employees of a State or a political division thereof for periods of absence from work on account of sickness."

make clarifying changes in the effective date of the bill. The Department advised that the language of section 1 of the House-passed bill was broader in its effect than was required to meet the problem presented by the States and, consequently, the bill was amended so as to restrict it to the basic problem.

Mr. REED. Mr. Speaker, H. R. 8599 has as its purpose the amendment of title II of the Social Security Act so as to permit the inclusion of salaries of State and local government employees for periods during which the employee is on sick leave as wages for OASI purposes after the employee reaches retirement age. The object of the House-passed version of this legislation and the Senate-passed version are identical. However, the Senate has made clarifying changes in the bill in conformity with recommendations made by the Department of Health, Education, and Welfare. It is appropriate that the House has agreed to these Senate amendments.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. REED] and I may extend our remarks in connection with each of the bills from the Committee on Ways and Means now being passed.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS. Mr. Speaker, in the form in which it passed the House of Representatives, the purpose of H. R. 8599 was to amend title II of the Social Security Act to make inapplicable to payments to State and local government employees for employment covered under a Federal-State old-age and survivors' insurance coverage agreement the provision of present law which excludes from "wages" payments for periods after the employee reaches retirement age in which he renders no services. The principal effect of the House bill would have been to permit inclusion of salary of State and local government employees for periods during which the employee is on sick leave as wages for OASI purposes after the employee reaches retirement age, and also to apply the same treatment to any standby payments or other payments to such an employee for periods after retirement age in which he does no work for the employer.

The Senate amendments to this bill, according to the explanation made in the Senate Finance Committee report, were adopted at the suggestion of the Department of Health, Education, and Welfare and revised the language so as to make it apply only to State and local government sick-leave payments, and to

AMENDMENT OF TITLE II OF SOCIAL SECURITY ACT

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8599) to amend title II of the Social Security Act so as to provide that the exception from "wages" made by section 209 (1) of such act is not applicable to payments to employees of a State or a political subdivision thereof for employment covered under voluntary agreements pursuant to section 218 of such act, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, strike out all after "That" over to and including line 3 on page 2 and insert "subsection (1) of section 209 of the Social Security Act is amended by inserting immediately before the semicolon a period and the following: 'As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in sec. 218 (b) (2)) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness.'"

Public Law 85-786
85th Congress, H. R. 8599
August 27, 1958

AN ACT

72 Stat. 938.

To amend title II of the Social Security Act so as to provide that the exception from "wages" made by section 209 (1) of such Act shall not be applicable to payments to employees of a State or a political subdivision thereof for periods of absence from work on account of sickness.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (i) of section 209 of the Social Security Act is amended by inserting immediately before the semicolon a period and the following: "As used in this subsection, the term 'sick pay' includes remuneration for service in the employ of a State, a political subdivision (as defined in section 218 (b) (2)) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness." Social Security Act, amendment. 49 Stat. 625. 42 USC 409. 42 USC 418.

SEC. 2. The amendment made by section 1 shall be applicable to remuneration paid after the enactment of this Act, except that, in the case of any coverage group which is included under the agreement of a State under section 218 of the Social Security Act, the amendment made by section 1 shall also be applicable to remuneration for any member of such coverage group with respect to services performed after the effective date, specified in such agreement, for such coverage group, if such State has paid or agrees, prior to January 1, 1959, to pay, prior to such date, the amounts which under section 218 (e) would have been payable with respect to remuneration of all members of such coverage group had the amendment made by section 1 been in effect on and after January 1, 1951. Failure by a State to make such payments prior to January 1, 1959, shall be treated the same as failure to make payments when due under section 218 (e).

Approved August 27, 1958.

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AUTHORIZING MASSACHUSETTS TO DIVIDE ITS RETIRE-
MENT SYSTEM FOR SOCIAL SECURITY PURPOSES

MARCH 19, 1958.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. MILLS, from the Committee on Ways and Means, submitted the
following

REPORT

[To accompany H. R. 11346]

The Committee on Ways and Means, to whom was referred the bill (H. R. 11346) to amend title II of the Social Security Act to include Massachusetts among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

H. R. 11346 would amend title II of the Social Security Act, as amended in 1956, to include the State of Massachusetts under the provision of present law which permits specified States to divide a retirement system into two parts and provide social-security coverage for the part consisting of the positions of those employees who desire such coverage. Coverage agreements or modifications entered into prior to 1960 could be made effective with respect to services performed at any time after December 31, 1955, by employees obtaining coverage under the provisions in the bill.

EXPLANATION OF COVERAGE EXTENSION

The Social Security Amendments of 1956 included a provision permitting the States of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii to divide a State or local government retirement system into two parts for purposes of old-age and survivors insurance cover-

age, one part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. Services performed by the members in the part consisting of the positions of members who desire coverage may then be covered under old-age and survivors insurance, and, once these services are covered, the services of all persons who in the future become members of the retirement system must also be covered. This provision was made applicable to the eight specified States and the Territory of Hawaii at their request. Public Law 85-227, approved August 30, 1957, added four additional States to this group—California, Connecticut, Rhode Island, and Minnesota. Your committee's bill would add one additional State, Massachusetts, to this group of States.

POSTPONEMENT OF DEADLINE FOR OBTAINING RETROACTIVE COVERAGE

Under a provision enacted in 1954, coverage provided under an agreement between a State and the Department of Health, Education, and Welfare could take effect as early as January 1, 1955, if the coverage was agreed to before January 1, 1958. In connection with Public Law 85-227, which added the 4 additional States to the list of States permitted to divide their retirement systems, in order to assure sufficient time for those 4 States to make arrangements for covering employees pursuant to the provisions of that act, provisions were included in Public Law 85-227 so that agreements or modifications applicable to services to which the act applied, if entered into prior to 1960, might be made effective with respect to such services performed as early as January 1, 1956.

Under your committee's bill, by reason of section 218 (f) (3) of the Social Security Act as amended by Public Law 85-226 (also approved August 30, 1957), Massachusetts will be in the same position as the four States contained in Public Law 85-227 with respect to this postponement of deadline for obtaining retroactive coverage.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 218 (d) (6) OF THE SOCIAL SECURITY ACT

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

SEC. 218. (a) (1) * * *
 * * * * *

Positions covered by retirement systems

(d) (1) * * *
 * * * * *

(6) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this paragraph, the term "institutions of higher learning" includes junior colleges and teachers' colleges. For the purposes of this subsection, any retirement system established by the State of California, Connecticut, Florida, Georgia, *Massachusetts*, Minnesota, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision of any such State or Territory, which, on, before, or after the date of enactment of this sentence is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State or Territory so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. The position of any individual which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of such sentence or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii which covers positions of employees of such State or Territory who are compensated in whole or in part from grants made to such State or Territory under title III, there shall be deemed to be, if such State or Territory so desires, a separate retirement system with respect to any of the following: (A) the positions of such employees; (B) the positions of all employees of such State or Territory covered by such retirement system who are employed in the department of such State or Territory in which the employees referred to in clause (A) are employed; or (C) employees of such State or Territory covered by such retirement system who are employed in such department of such State or Territory in positions other than those referred to in clause (A).

add the State of Massachusetts to the list of States to which permission has been given to divide their retirement systems into two parts and to provide social-security coverage for that part consisting of the positions of employees who desire such coverage. The 1956 amendments to the Social Security Act contained a provision permitting approximately eight States to divide their retirement systems. Those States had specifically requested this action. In 1957 the Congress added four additional States to the list. Again, those States had requested such action. The instant bill will add the additional State of Massachusetts to the list.

Coverage agreements or modifications entered into prior to 1960 could be made effective with respect to services performed at any time after December 31, 1955, by employees obtaining coverage under the provisions in the bill.

The Committee on Ways and Means was unanimous in urging enactment of this legislation.

Mr. REED. Mr. Speaker, it will be recalled that the social security amendments of 1956 included a provision permitting certain designated States to divide a State or local retirement system into two parts for purposes of old-age and survivors insurance coverage. The one part would be composed of those positions held by members of the retirement system who do not wish to be covered by OASI. The second part would be composed of positions of members who desire such coverage. This legislation would add the State of Massachusetts to the list of States presently enumerated in the law. The bill also contains a provision providing a postponement of the deadline for obtaining retroactive coverage.

Mr. Speaker, the Committee on Ways and Means was unanimous in favorably reporting on this legislation.

Mr. McCORMACK. Mr. Speaker, I introduced H. R. 11346, which has just passed the House. The enactment of this bill will benefit many of our State and local employees in the Commonwealth of Massachusetts. This bill, which I have introduced, would amend title II of the Social Security Act to include Massachusetts among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage.

The Social Security Act amendments of 1956 included a provision which permitted certain States to divide their State or local retirement systems into two parts for purposes of old-age and survivors insurance coverage, one part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. In the last session of this Congress this provision of the law was further amended to add several additional States to the list. In each instance, when legislation of this nature is enacted which applies only to certain States under the Social Security

AUTHORIZING MASSACHUSETTS TO DIVIDE ITS RETIREMENT SYSTEM FOR SOCIAL-SECURITY PURPOSES

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 11346) to amend title II of the Social Security Act to include Massachusetts among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the fourth sentence of section 218 (d) (6) of the Social Security Act is amended by inserting "Massachusetts," before "Minnesota."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the author of this bill, the distinguished gentleman from Massachusetts [Mr. McCORMACK], may extend his remarks on this bill.

The SPEAKER pro tempore. Without objection, it is so ordered. There was no objection.

Mr. MILLS. Mr. Speaker, the purpose of H. R. 11346, which was introduced by our distinguished colleague, the Democratic majority leader in the House, the Honorable JOHN W. McCORMACK, is to

Act, it has been done in accordance with the request of the States themselves. I am now advised that officials in the State of Massachusetts and our State and local employees in Massachusetts desire that Massachusetts be accorded this privilege which has heretofore been extended to certain States, as I have outlined above. I therefore have introduced this bill, the enactment of which will benefit many of our State and local employees in the great Commonwealth of Massachusetts.

Under the bill I have introduced, services performed by the members in the part of the State or local retirement system consisting of the positions of members who desire coverage may be covered under old-age and survivors insurance, and those persons serving in positions who do not desire coverage will not be covered. In other words, Mr. Speaker, my bill is designed to make it possible, if they desire it, for more of our State and local employees in the great Commonwealth of Massachusetts to become eligible for and to participate in our Federal social-security program.

I appreciate the action of the members of the Ways and Means Committee in reporting this bill and particularly in acting thereon with such speed.

Mr. DONOHUE. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DONOHUE. Mr. Speaker, the legislation which the House has just taken favorable action on, and which was introduced by the gentleman from Massachusetts [Mr. McCORMACK] will be of material benefit to many of the State and local employees in the Commonwealth of Massachusetts. As has been explained by our distinguished colleague, Chairman WILBUR D. MILLS of the Committee on Ways and Means, and by the majority leader, the purpose of this bill is to add Massachusetts to the list of States which are permitted to divide their retirement systems into two parts and thereby to extend coverage to the employees in the part consisting of positions of employees who desire such coverage. As stated at the time when this bill was introduced, officials in the State of Massachusetts and our State and local employees in Massachusetts have expressed their desire that Massachusetts be accorded this privilege which has heretofore been extended to certain States.

I was very happy to support this legislation. I am confident that it will be of benefit to many of our State and local employees in the Commonwealth of Massachusetts.

Calendar No. 2257

85TH CONGRESS }
2d Session }

SENATE

} REPORT
No. 2206

AUTHORIZING MASSACHUSETTS AND VERMONT TO DIVIDE THEIR RETIREMENT SYSTEMS FOR SOCIAL SECURITY PURPOSES

AUGUST 5, 1958.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 11346]

The Committee on Finance, to whom was referred the bill (H. R. 11346) to amend title II of the Social Security Act to include Massachusetts among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

I. PURPOSE OF BILL

H. R. 11346, as passed by the House of Representatives, would add the State of Massachusetts to the list of States permitted to extend coverage under the old age, survivors, and disability insurance provisions of the Social Security Act to only those members of a retirement system who desire such coverage, provided all persons who later become members are covered.

Your committee has amended the bill in two respects. First, Vermont would also be added to this list of States. Second, the bill has been amended to accord to those persons not originally choosing coverage under this provision of the law an additional opportunity to elect such coverage.

II. GENERAL EXPLANATION OF COMMITTEE BILL

The Social Security Amendments of 1956 included a provision permitting eight States (Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, and Wisconsin) and the Territory of Hawaii to divide their retirement systems into two parts so as to obtain old-age, survivors, and disability insurance coverage, under

2 RETIREMENT SYSTEMS OF MASSACHUSETTS AND VERMONT

the States' coverage agreements with the Department of Health, Education, and Welfare, for only those State and local government employees who desire such coverage, provided all future entrants into the retirement system are covered under old-age, survivors, and disability insurance. In 1957 this provision was extended to four additional States (California, Connecticut, Minnesota, and Rhode Island) and to all interstate instrumentalities.

Your committee's bill would extend this provision to the States of Massachusetts and Vermont.

Under present law, when a State or local government retirement system is divided to provide social-security coverage for those members who want coverage, the members who fail to choose coverage do not get a second chance to obtain it. Your committee believes that there is a need for legislation which would allow individuals not initially in the group desiring coverage to have a limited additional period of time to consider, or reconsider, whether they wish to come under old-age, survivors, and disability insurance. Problems have arisen in some instances because individuals who would have expressed a desire for coverage if they had an opportunity to do so did not have this opportunity for various reasons, such as absence from work because of illness. In other cases, persons who indicated that they did not desire social-security coverage later changed their minds.

Your committee added an amendment to the bill which would afford an additional opportunity for obtaining social-security coverage to individuals who were included in the group of persons not desiring coverage. Under this amendment, a State would be permitted to modify its coverage agreement with the Department of Health, Education, and Welfare at any time before 1960, or, if later, within 1 year after coverage is approved for the group in question, to transfer these people to the group desiring coverage. Such a transfer would be made only in the case of individuals who filed a written request with the State before the date of approval by the Secretary of the modification proposing the transfer:

The report of the Department of Health, Education, and Welfare on the latter amendment as originally introduced follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, August 5, 1958.

HON. HARRY S. BYRD,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN. This letter is in response to your request of May 26, 1958, for a report on amendment (5-22-58-A) to H. R. 11346, a bill to amend title II of the Social Security Act to include Massachusetts among the States which are permitted to divide their retirement systems into two parts so as to obtain social-security coverage under State agreements, for only those State and local employees who desire such coverage.

This amendment would modify the provision of the Social Security Act which permits a State to extend old-age and survivors insurance coverage to only those members of a retirement system who desire such coverage. As you know, the Social Security Act permits 12 specified States, the Territory of Hawaii, and any interstate instrumentality to divide a retirement system into two parts and provide

social-security coverage for the part consisting of the positions of members who desire such coverage. Services performed by the members who desire coverage may then be covered under old-age and survivors insurance; and once these services are covered, the services of all persons who in the future become members of the retirement system must also be covered. The proposed amendment would have the effect of permitting a second opportunity to obtain old-age and survivors insurance coverage for certain individuals who originally were in the group of persons not desiring coverage. The amendment would permit a State to modify its coverage agreement with the Department of Health, Education, and Welfare at any time before December 31, 1959, to transfer additional persons to the group desiring old-age and survivors insurance coverage. An individual could be thus transferred only if he files with the State agency before the date of approval of such modification a written request for such transfer.

There appears to be a need for legislation which would allow individuals not initially in the group desiring coverage to have a limited additional period of time to consider, or reconsider, whether they wish to come under old-age and survivors insurance. Problems have arisen in some instances because individuals who would have expressed a desire for coverage if they had an opportunity to do so did not have this opportunity for various reasons, such as illness, or absence from their home. In other cases persons who initially indicated that they would not desire old-age and survivors insurance coverage later came to feel that they had made an error of judgment (based in some cases on erroneous information or on a lack of information) and would like to have another opportunity to secure old-age and survivors insurance coverage.

While we favor the objective of this amendment we wish to suggest two changes for consideration by your committee. Under present law, only persons who are actually members of a State or local retirement system may secure old-age and survivors insurance coverage under the provisions which permit certain States to provide old-age and survivors insurance coverage for only those retirement system members who desire such coverage. Thus, under present law, individuals who are eligible for membership in the State or local system but who have not actually become members of the system cannot secure old-age and survivors insurance coverage under this provision. Moreover, such persons cannot secure old-age and survivors insurance coverage as a member of a nonretirement system coverage group. It appears that the amendment might permit these persons to secure old-age and survivors insurance coverage at the time that a second opportunity to come under old-age and survivors insurance is afforded the members of the system who did not avail themselves of the first opportunity. We believe that it would be desirable to permit persons who are eligible for membership in a State or local retirement system but are not members of such system to secure old-age and survivors insurance coverage under the provisions in question. It seems anomalous, however, to permit these individuals to secure old-age and survivors insurance under an arrangement which is intended to afford a second opportunity to choose coverage if they are not permitted to secure old-age and survivors insurance coverage when the retirement system is originally divided to provide coverage for the individuals

4 RETIREMENT SYSTEMS OF MASSACHUSETTS AND VERMONT

desiring it. Accordingly, we suggest that the amendment be changed to provide that where a retirement system is divided in order to provide coverage for persons under the system who desire such coverage, the option of coming under social security be given not only to members of the retirement system but also to persons who are eligible for membership in the system but who have not elected to become members.

The second change we suggest concerns the time limitation (December 31, 1959) provided for completion of action taken pursuant to the amendment. It is to be expected that situations like those that the amendment is intended to remedy will occur after 1959. Accordingly, we suggest that the amendment be modified to provide that a modification of a State-Federal coverage agreement to include additional persons in the group desiring coverage could be made at any time before January 1, 1960, or before the end of 1 year after the date on which the coverage for the group in question was approved, whichever date is later.

We would favor the enactment of the provisions of the amendment to H. R. 11346, if it is modified as we suggest.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

ELLIOT L. RICHARDSON,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SECTION 218 OF THE SOCIAL SECURITY ACT

Voluntary Agreements for Coverage of State and Local Employees

Purpose of Agreement

SEC. 218. (a) * * *

Positions Covered by Retirement Systems

(d) (1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on the date of enactment of the succeeding paragraph of this subsection (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of enactment of such succeeding paragraph, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5) (A)). The preceding sentence shall not be applicable to any

service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5) (A)) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is hereby declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(3) Notwithstanding paragraph (1), an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system, and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this title to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

6 RETIREMENT SYSTEMS OF MASSACHUSETTS AND VERMONT

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this title has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c) (3) (C)).

(5) (A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this title to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c), and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3) (C) of such subsection, such exclusion may not include any services to which such paragraph (3) (C) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this paragraph, the term "institutions of higher learning" includes junior colleges and teachers' colleges. For the purposes of this subsection, any retirement system established by the State of California, Connecticut, Florida, Georgia, *Massachusetts*, Minnesota, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, *Vermont*, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision of any such State or Territory, which, on, before, or after the date of enactment of this sentence is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions

of members of such system who do not desire such coverage, shall, if the State or Territory so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. The position of any individual which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of such sentence or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. *In the case of any retirement system divided pursuant to the fourth sentence of this paragraph, the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1960 or, if later, the expiration of one year after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer.* For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii which covers positions of employees of such State or Territory who are compensated in whole or in part from grants made to such State or Territory under title III, there shall be deemed to be, if such State or Territory so desires, a separate retirement system with respect to any of the following: (A) the positions of such employees; (B) the positions of all employees of such State or Territory covered by such retirement system who are employed in the department of such State or Territory in which the employees referred to in clause (A) are employed; or (C) employees of such State or Territory covered by such retirement system who are employed in such department of such State or Territory in positions other than those referred to in clause (A).

* * * * *



The Finance Committee added an amendment to the bill which would afford an additional opportunity for obtaining social-security coverage to individuals who were included in the group of persons not desiring coverage. Under this amendment, a State would be permitted to modify its coverage agreement with the Department of Health, Education, and Welfare at any time before 1960, or if later, within 1 year after coverage is approved for the group in question, to transfer these people to the group desiring coverage. Such a transfer would be made only in the case of individuals who filed a written request with the State before the date of approval by the Secretary of the modification proposing the transfer.

The Department of Health, Education, and Welfare favors enactment of the bill as reported by the Committee on Finance.

The **PRESIDING OFFICER**. The amendment of the Committee on Finance will be stated.

The **LEGISLATIVE CLERK**. It is proposed to strike out all after the enacting clause, and to insert:

That the fourth sentence of section 218 (d) (6) of the Social Security Act is amended by inserting "Massachusetts," before "Minnesota," and by inserting "Vermont," before "Washington."

SEC. 2. Such section 218 (d) (6) is amended by inserting after the fifth sentence the following new sentence: "In the case of any retirement system divided pursuant to the fourth sentence of this paragraph, the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means to the Secretary prior to 1960 or, if later, the expiration of 1 year after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended, so as to read: "An act to amend title II of the Social Security Act to include Massachusetts and Vermont among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage, and to permit individuals who have decided against such coverage to change their decision within a year after the division of the system".

Mr. AIKEN subsequently said: Mr. President, did Calendar No. 2257, House bill 11346, go over?

The **PRESIDING OFFICER**. No; Calendar No. 2257, House bill 11346, has been passed.

Mr. AIKEN. I thank the Chair for that information, which is very gratefully received.

INCLUSION OF MASSACHUSETTS AMONG STATES TO DIVIDE THEIR RETIREMENT SYSTEMS

The Senate proceeded to consider the bill (H. R. 11346) to amend title II of the Social Security Act to include Massachusetts among the States which are permitted to divide their retirement systems in 2 parts so as to obtain social security coverage, which had been reported from the Committee on Finance with an amendment.

Mr. CLARK. Mr. President, it is my understanding that the present occupant of the Chair desired to have a brief explanation of the bill printed in the RECORD. Is that correct?

The **PRESIDING OFFICER** (Mr. FEAR in the chair). Yes.

Mr. CLARK. Mr. President, I send to the desk, and ask unanimous consent to have printed at this point in the RECORD, an explanation of the bill, together with a statement that the bill has the approval of the Department of Health, Education, and Welfare.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ANALYSIS OF H. R. 11346

The social security amendments of 1956 included a provision permitting 8 States (Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, and Wisconsin) and the Territory of Hawaii to divide their retirement systems into two parts so as to obtain old-age, survivors, and disability insurance coverage, under the States' coverage agreements with the Department of Health, Education, and Welfare, for only those State and local government employees who desire such coverage, provided all future entrants into the retirement system are covered under old-age, survivors, and disability insurance. In 1957 this provision was extended to four additional States (California, Connecticut, Minnesota, and Rhode Island) and to all interstate instrumentalities.

The Finance Committee's bill would extend this provision to the States of Massachusetts and Vermont.

The Clerk read the Senate amendments, as follows:

Strike out lines 3, 4, and 5, and insert "That the fourth sentence of section 218 (d) (6) of the Social Security Act is amended by inserting 'Massachusetts,' before 'Minnesota,' and by inserting 'Vermont,' before 'Washington.'"

After line 5, insert:

"Sec. 2. Such section 218 (d) (6) is amended by inserting after the fifth sentence the following new sentence: 'In the case of any retirement system divided pursuant to the fourth sentence of this paragraph, the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1960 or, if later, the expiration of 1 year after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer.'"

Amend the title so as to read: "An act to amend title II of the Social Security Act to include Massachusetts and Vermont among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage, and to permit individuals who have decided against such coverage to change their decision within a year after the division of the system."

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. NICHOLSON. Reserving the right to object, Mr. Speaker, will the gentleman explain this matter?

Mr. MILLS. Mr. Speaker, the Senate added two substantive amendments to this bill. First, the Senate included in addition to the State of Massachusetts, which was in the House bill, the State of Vermont, in a list of States which are permitted to divide their retirement systems into two parts. Second, the bill was amended to accord a second opportunity to individuals in States with a divided system to obtain coverage. We are advised that the Representative from Vermont feels that the amendment is acceptable. We have checked with the majority leader, the gentleman from Massachusetts [Mr. McCORMACK], who is the author of the bill, and he says the amendments are acceptable to him.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, the purpose of H. R. 11346, in the form in which it passed the House of Representatives was to amend title II of the Social Security Act, as amended in 1956, to include the State of Massachusetts under the provision of present law which permits specified States to divide a retirement

AMENDING TITLE II OF THE SOCIAL SECURITY ACT

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 11346) to amend title II of the Social Security Act to include Massachusetts among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

system into two parts and provide social security coverage for the part consisting of the positions of those employees who desire such coverage.

The Senate added two substantive amendments to this bill. First, it also included, in addition to the State of Massachusetts, the State of Vermont in the list of States which are permitted to divide their retirement systems into two parts. Second, the bill was amended to accord to those persons not originally choosing coverage under this provision of the law an additional opportunity to elect such coverage. Under this amendment a State would be permitted to modify its coverage agreement with the Department of Health, Education, and Welfare at any time before 1960, or, if later, within 1 year after coverage is approved for the group in question to transfer these people to the group desiring coverage. Such a transfer would be made only in the case of individuals who filed a written request with the State before the date of approval by the Secretary of the modification proposing the transfer.

I might point out that, with regard to the second amendment, the Committee on Ways and Means had two bills pending before it on this subject which were introduced by our colleagues on the committee, the Honorable HERMAN P. EBERHARTER and the Honorable JOHN W. BYRNES, and I should further point out that the Committee on Ways and Means acted favorably on the substance of these bills by including the provisions in the major social security bill which passed the House on July 31, 1958.

Mr. REED. Mr. Speaker, the House-passed version of H. R. 11346 had as its purpose the addition of the State of Massachusetts to the list of those States that are permitted to extend old-age and survivors insurance coverage to only those members of a retirement system who desire such coverage. The Senate, in its action on this legislation, has added the State of Vermont to this list and has in addition accorded to those persons not originally favoring coverage under this provision of the law an additional opportunity to elect such coverage.

Public Law 85-787
85th Congress, H. R. 11346
August 27, 1958

AN ACT

72.Stat. 939.

To amend title II of the Social Security Act to include Massachusetts and Vermont among the States which are permitted to divide their retirement systems into two parts so as to obtain social security coverage, under State agreement, for only those State and local employees who desire such coverage, and to permit individuals who have decided against such coverage to change their decision within a year after the division of the system.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fourth sentence of section 218 (d) (6) of the Social Security Act is amended by inserting "Massachusetts," before "Minnesota", and by inserting "Vermont," before "Washington".

Social Security
Act, amend-
ments.
70 Stat. 825.
42 USC 418.

SEC. 2. Such section 218 (d) (6) is amended by inserting after the fifth sentence the following new sentence: "In the case of any retirement system divided pursuant to the fourth sentence of this paragraph, the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1960 or, if later, the expiration of one year after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer."

Approved August 27, 1958.

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²IV. Public Law

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¹Also see legislative history on H.R. 7570 (P.L. 85-785), Director's Bulletin No. 272.

²Also see legislative history on H.R. 13549 (P.L. 85-840), Social Security Amendments of 1958--Director's Bulletin No. 288 and October 1958 Social Security Bulletin Articles by Schottland and Myers.

MOTHER'S INSURANCE BENEFITS

FEBRUARY 13, 1958.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLS, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. R. 5411]

The Committee on Ways and Means, to whom was referred the bill (H. R. 5411) to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such remarriage, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, strike out line 12, and insert:

(iii) the month following the month in which this paragraph is enacted.

GENERAL STATEMENT

H. R. 5411, as amended, would reinstate rights to mother's insurance benefits that were terminated by remarriage in the case of a widow or former wife divorced whose new husband dies before she can qualify as his widow for old-age and survivors insurance purposes. In such cases the remarriage would be deemed not to have occurred and the widow would regain her rights to mother's benefits based on the earnings record of her former husband.

EXPLANATION OF PROVISIONS

Under present law, a widow's remarriage permanently terminates her rights to mother's benefits based on her former husband's earnings record and she is not able to qualify for monthly survivors' benefits based on her new husband's earnings record unless the marriage has lasted a full year or the couple has a natural or adopted child. Your

committee believes that the requirement is not justified in the case of a woman who already has had survivor benefit rights, who has given up those rights on remarrying, and whose new husband dies within a year.

The gap in protection which occurs under these circumstances can be bridged by providing that the widow will be reentitled to benefits based on the earnings record of her former husband. Such protection against benefit loss has already been provided for aged widows. Under the 1956 social-security amendments, a woman who gives up rights to widow's benefits (payable at and after age 62) by remarrying and whose new husband dies within a year regains her eligibility to receive widow's benefits based on the earnings record of her former husband. Those amendments did not provide similar protection for a mother of young children whose new husband dies within a year—she is left without current rights to monthly benefits on either husband's account. Your committee believes the change provided in the bill is proper since it would give mothers protection equal to that accorded widows under similar circumstances, and so would further the purpose for which mother's benefits are provided—to help make it possible for a mother to remain at home to care for her young children.

Benefits to remarried widows or former wives divorced who become entitled to mother's insurance benefits under the amendment made by the bill would not be payable for any month prior to the latest of (1) the month in which the new husband died, (2) the 12th month before the month in which the widow or former wife divorced files application for mother's insurance benefits under the new provision, or (3) the month following the month in which the bill is enacted.

Your committee is unanimous in recommending enactment of H. R. 5411.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 202 (G) OF THE SOCIAL SECURITY ACT

Mother's Insurance Benefits

(g) (1) The widow and every former wife divorced (as defined in section 216 (d) of an individual who died a fully or currently insured individual after 1939, if such widow or former wife divorced—

(A) has not remarried,

(B) is not entitled to a widow's insurance benefit,

(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's insurance benefits, or was entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which he died,

(E) at the time of filing such application has in her care a child of such individual entitled to a child's insurance benefit, and

(F) (i) in the case of a widow, was living with such individual at the time of his death, or (ii) in the case of a former wife divorced, was receiving from such individual (pursuant to agreement or court order) at least one-half of her support at the time of his death, and the child referred to in clause (E) is her son, daughter, or legally adopted child and the benefits referred to in such clause are payable on the basis of such individual's wages and self-employment income,

shall be entitled to a mother's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow or former wife divorced becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she becomes entitled to a widow's insurance benefit, she remarries, or she dies. Entitlement to such benefits shall also end, in the case of a former wife divorced, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such former wife divorced is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

(2) Such mother's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) *In the case of any widow or former wife divorced of an individual—*

(A) who marries another individual, and

(B) whose marriage to the individual referred to in subparagraph

(A) is terminated by his death but she is not his widow as defined in section 216 (c),

the marriage to the individual referred to in clause (A) shall, for the purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph, or (iii) the month following the month in which this paragraph is enacted.



MOTHER'S INSURANCE BENEFITS

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 5411) to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such remarriage.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 202 (g) of the Social Security Act (relating to mother's insurance benefits) is hereby amended by adding at the end thereof the following new paragraph:

"(3) In the case of any widow or former wife divorced of an individual—

"(A) who marries another individual, and

"(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death but she is not his widow as defined in section 216 (c),

the marriage to the individual referred to in clause (A) shall, for the purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) The month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the 12th month before the month in which such widow or former wife divorced files application for purposes of this paragraph, or (iii) (month following month and year of enactment)."

With the following committee amendment:

Page 2, strike out line 12 and insert:

"(iii) the month following the month in which this paragraph is enacted."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS. Mr. Speaker, under the provisions of title II of the Social Security Act a widow's remarriage permanently terminates her rights to mother's benefits based on her former husband's earnings record and she is not able to

qualify for monthly survivors' benefits based on her new husband's earnings record unless the marriage has lasted a full year or the couple has a natural or adopted child.

This bill, H. R. 5411, as amended by your committee, would reinstate rights to mother's insurance benefits that were terminated by remarriage in the case of a widow or former wife divorced whose new husband dies before she can qualify as his widow for old-age and survivors' insurance purposes. In such cases the remarriage would be deemed not to have occurred and the widow would regain her rights to mother's benefits based on the earnings record of her former husband.

Your committee was unanimous in urging enactment of this legislation.

Mr. REED. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. REED. Mr. Speaker, this legislation would reinstate entitlement to mother's insurance benefits under the old-age and survivors insurance program where such benefits had been terminated due to the remarriage of the benefit recipient in instances where the new husband dies before the mother can qualify as his widow for old-age and survivors insurance purposes. The Congress has already enacted legislation that provides for the reestablishment of a benefit entitlement in the case of a widow's benefit and this legislation would merely accord similar treatment to recipients of the mother's benefit payable under title II of the Social Security Act.

Calendar No. 2216

85TH CONGRESS }
2d Session }

SENATE }

REPORT
No. 2167

MOTHER'S INSURANCE BENEFITS

August 4, 1958.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 5411]

The Committee on Finance, to whom was referred the bill (H. R. 5411) to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such remarriage, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

AMENDMENTS

The bill is amended to permit any instrumentality of two or more States to obtain social security coverage, under its agreement, for those of its employees who are in policemen's or firemen's positions covered by a retirement system and who desire such coverage.

The title of the bill is amended to read:

An Act to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within one year of such remarriage, and to provide that interstate instrumentalities may secure coverage for policemen and firemen in positions under a retirement system of the instrumentality,

GENERAL STATEMENT OF BILL

H. R. 5411, as amended, would reinstate rights to mother's insurance benefits that were terminated by remarriage in the case of a widow or former wife divorced whose new husband dies before she can qualify as his widow for old-age and survivors insurance purposes. In such cases, the remarriage would be deemed not to have occurred and the widow would regain her rights to mother's benefits based on the earnings record of her former husband.

Under present law, a widow's remarriage permanently terminates her rights to mother's benefits based on her former husband's earnings record and she is not able to qualify for monthly survivors' benefits based on her new husband's earnings record unless the marriage has lasted a full year or the couple has a natural or adopted child. Your committee believes that the requirement is not justified in the case of a woman who already has had survivor benefit rights, who has given up those rights on remarrying, and whose new husband dies within a year.

The gap in protection which occurs under these circumstances can be bridged by providing that the widow will be reentitled to benefits based on the earnings record of her former husband. Such protection against benefit loss has already been provided for aged widows. Under the 1956 social-security amendments, a woman who gives up rights to widow's benefits (payable at and after age 62) by remarrying and whose new husband dies within a year regains her eligibility to receive widow's benefits based on the earnings record of her former husband. Those amendments did not provide similar protection for a mother of young children whose new husband dies within a year—she is left without current rights to monthly benefits on either husband's account. Your committee believes the change provided in the bill is proper since it would give mothers protection equal to that accorded widows under similar circumstances, and so would further the purpose for which mother's benefits are provided—to help make it possible for a mother to remain at home to care for her young children.

Benefits to remarried widows or former wives divorced who become entitled to mother's insurance benefits under the amendment made by the bill would not be payable for any month prior to the latest of (1) the month in which the new husband died, (2) the 12th month before the month in which the widow or former wife divorced files application for mother's insurance benefits under the new provision, or (3) the month following the month in which the bill is enacted.

The favorable report on the bill from the Department of Health, Education, and Welfare follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, April 17, 1958.

HON. HARRY FLOOD BYRD,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of March 3, 1958, for a report on H. R. 5411, a bill to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such remarriage.

The bill would reinstate rights to mother's insurance benefits which were terminated by remarriage in the case of a widow or former wife divorced whose new husband dies before she can qualify as his widow for old-age and survivors insurance purposes. In such cases the remarriage would be deemed not to have occurred and the widow would regain her rights to mother's benefits based on the earnings record of her former husband. Under present law, a widow's remarriage permanently terminates her rights to mother's benefits based on her former husband's earnings record and she is not able to qualify for monthly survivors benefits based on her new husband's earnings

record unless the marriage has lasted a full year or the couple has a natural or adopted child.

One way to bridge the gap in protection which occurs under these circumstances is to provide that the widow will again be entitled to benefits based on the earnings record of her former husband. Such protection against benefit loss has already been provided for aged widow's benefits. Under the 1956 social security amendments, a woman who gives up rights to widow's benefits (payable at end after age 62) by remarrying and whose new husband dies within a year regains her eligibility to receive widow's benefits based on the earnings record of her former husband. Those amendments did not provide similar protection for a mother of young children whose second husband dies within a year—she is left without current rights to monthly benefits on either husband's account. The change provided in the bill seems only proper since it would give mothers protection equal to that accorded widows under similar circumstances. The cost of the change proposed would be negligible (less than 0.01 percent of payroll).

We would therefore recommend that the bill be enacted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

ELLIOTT L. RICHARDSON,
Acting Secretary.

GENERAL STATEMENT ON AMENDMENTS

The committee has amended the bill to permit interstate instrumentalities to secure old-age and survivors insurance coverage for policemen and firemen who are employed by such instrumentalities and who are in positions covered under a retirement system. Under present law coverage for policemen and firemen in positions covered under a retirement system is available only to 10 named States and the Territory of Hawaii; it is not available to any interstate instrumentalities.

Under this amendment, policemen and firemen who are employees of interstate instrumentalities and who are in positions covered by a retirement system could obtain old-age and survivors insurance coverage through the referendum procedure provided in the present law. Under this procedure coverage of the retirement system group is contingent upon a favorable vote by a majority of the members. Coverage would also be available under the provisions of the present law permitting any interstate instrumentality to divide a retirement system into two parts for the purpose of extending old-age and survivors insurance coverage only to those retirement system members who desire such coverage. Under either approach, policemen or firemen (or both together) could be treated as being in a separate retirement system even though they are, in fact, included in a retirement system with other employees.

The Department of Health, Education, and Welfare favors the adoption of this committee amendment.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

SECTION 202 OF THE SOCIAL SECURITY ACT

Old-Age and Survivors Insurance Benefit Payments**Old-Age Insurance Benefits**

SEC. 202. (a) * * *

* * * * *

Mother's Insurance Benefits

(g) (1) The widow and every former wife divorced (as defined in section 216 (d)) of an individual who died a fully or currently insured individual after 1939, if such widow or former wife divorced—

(A) has not remarried,

(B) is not entitled to a widow's insurance benefit,

(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's insurance benefits, or was entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which he died,

(E) at the time of filing such application has in her care a child of such individual entitled to a child's insurance benefit, and

(F) in the case of a former wife divorced, was receiving from such individual (pursuant to agreement or court order) at least one-half of her support at the time of his death, and the child referred to in subparagraph (E) is her son, daughter, or legally adopted child and the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income.

shall be entitled to a mother's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow or former wife divorced becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she becomes entitled to a widow's insurance benefit, she remarries, or she dies. Entitlement to such benefits shall also end, in the case of a former wife divorced, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such former wife divorced is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

(2) Such mother's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) *In the case of any widow or former wife divorced of an individual—*

(A) *who marries another individual, and*

(B) *whose marriage to the individual referred to in subparagraph*

(A) *is terminated by his death but she is not his widow as defined in section 216 (c),*

the marriage to the individual referred to in clause (A) shall, for the purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph, or (iii) the month following the month in which this paragraph is enacted.

* * * * *

SECTION 218 OF THE SOCIAL SECURITY ACT

Voluntary Agreements for Coverage of State and Local Employees

Purpose of Agreement

SEC. 218. (a) * * *

* * * * *

Instrumentalities of Two or More States

(k) (1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended, then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such

division or part. The position of any employee of any such instrumentality which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of this paragraph or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) (and consisting of the positions of members who desire coverage under such agreement).

(3) Any agreement with any instrumentality of two or more States entered into pursuant to this Act may, notwithstanding the provisions of subsection (d) (6) (A) and the references thereto in subsections (d) (1) and (d) (3), apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d) (3). For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

* * * * *



concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be."

The amendment was agreed to.

Mr. CLARK. Mr. President, on behalf of the senior Senator from Washington [Mr. MAGNUSON], I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. At the end of the bill, it is proposed to add a new section, as follows:

POLICEMEN AND FIREMEN IN STATE OF
WASHINGTON

SEC. 3. Section 218 (p) of the Social Security Act (relating to policemen and firemen in certain States) is amended by inserting "Washington," immediately after "Tennessee."

Mr. CLARK. Mr. President, the amendment has been approved by the Committee on Finance, and, I understand, has been cleared with the minority leader.

Mr. FREAR. Mr. President, on behalf of the chairman of the Committee on Finance [Mr. BYRD], I may say that he will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Pennsylvania [Mr. CLARK] on behalf of the senior Senator from Washington [Mr. MAGNUSON].

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (H. R. 5411) was read the third time, and passed.

**AMENDMENT OF SOCIAL SECURITY
ACT—INSURANCE BENEFITS BY
REMARRIAGE**

The Senate proceeded to consider the bill (H. R. 5411) to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such marriage which has been reported from the Committee on Finance, with an amendment, on page 2, after line 13, to insert a new section, as follows:

SEC. 2. Subsection (k) of section 218 of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) Any agreement with any instrumentality of two or more States entered into pursuant to this act may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d) (3). For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality

pursuant to this act may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d) (3). For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be."

Page 8, after line 13, insert:

"POLICEMEN AND FIREMEN IN STATE OF WASHINGTON

"SEC. 3. Section 218 (p) of the Social Security Act (relating to policemen and firemen in certain States) is amended by inserting 'Washington,' immediately after 'Tennessee.'"

Amend the title so as to read: "An act to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such remarriage, to provide that interstate instrumentalities may secure coverage for policemen and firemen in positions under a retirement system of the instrumentality."

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, the purpose of this bill, as it passed the House of Representatives, was to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such remarriage.

The Senate added two amendments to this bill. First, a provision was added to permit any instrumentality of two or more States to obtain social security coverage, under its agreement, for those of its employees who are in policemen's or firemen's positions covered by a retirement system and who desire such coverage. Second, the State of Washington is added to the list of States contained in subsection (p) of section 218 of the act which are permitted to make coverage available to policemen and firemen.

Mr. REED. Mr. Speaker, I have joined in urging House concurrence in the Senate amendments to H. R. 5411. That legislation as it passed the House provided for the reinstatement of rights to mothers' insurance benefits under the Social Security Act that were terminated by remarriage under circumstances where the new husband dies prior to the surviving spouse qualifying as his widow for old-age and survivors insurance purposes. The change provided in the House bill gave to mothers protection that is similar to that accorded widows under similar circumstances.

The substantive amendment added by the Senate has as its purpose the authorization for interstate instrumentalities to secure OASI coverage for policemen and firemen who are employed by such instrumentalities and who are in positions covered under a retirement system.

AMENDMENT OF TITLE II OF SOCIAL SECURITY ACT

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 5411) to amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within 1 year of such remarriage, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, after line 13, insert:

"Sec. 2. Subsection (k) of section 218 of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) Any agreement with any instrumentality of two or more States entered into

Public Law 85-798
85th Congress, H. R. 5411
August 28, 1958

AN ACT

To amend title II of the Social Security Act to provide that a widow or former wife divorced who loses mother's insurance benefits by remarriage may again become entitled if her husband dies within one year of such remarriage, to provide that interstate instrumentalities may secure coverage for policemen and firemen in positions under a retirement system of the instrumentality.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 202 (g) of the Social Security Act (relating to mother's insurance benefits) is hereby amended by adding at the end thereof the following new paragraph:

"(3) In the case of any widow or former wife divorced of an individual—

"(A) who marries another individual, and

"(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death but she is not his widow as defined in section 216 (c),

the marriage to the individual referred to in clause (A) shall, for the purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph, or (iii) the month following the month in which this paragraph is enacted."

SEC. 2. Subsection (k) of section 218 of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) Any agreement with any instrumentality of two or more States entered into pursuant to this Act may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d) (3). For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be."

Social Security.
Mother's insurance benefits.
64 Stat. 485;
71 Stat. 519.
42 USC 402.
Widow or divorcee.

64 Stat. 510.

64 Stat. 514.
42 USC 418.

Policemen and firemen.

72 Stat. 964.
72 Stat. 965.

POLICEMEN AND FIREMEN IN STATE OF WASHINGTON

SEC. 3. Section 218 (p) of the Social Security Act (relating to policemen and firemen in certain States) is amended by inserting "Washington," immediately after "Tennessee,".

Approved August 28, 1958.

70 Stat. 826.
42 USC 418.

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 - B. Director's Bulletin, No. 303, Enactment of Two Social Security Bills--*September 22, 1959*

SOCIAL SECURITY COVERAGE FOR NONPROFESSIONAL
SCHOOL DISTRICT EMPLOYEES

FEBRUARY 24, 1959.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. MILLS, from the Committee on Ways and Means, submitted
the following

R E P O R T

[To accompany H.R. 213]

The Committee on Ways and Means to whom was referred the bill (H.R. 213) to provide that certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees without regard to the existing limitations upon the time within which such a modification may be made, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, before the period in line 4, insert:
and inserting in lieu thereof "prior to January 1, 1962,"

Amend the title so as to read:

A bill to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees.

PURPOSE

The purpose of H.R. 213 is to provide an additional period of time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees.

GENERAL STATEMENT

Your committee's bill would reinstate, until January 1, 1962, a provision of the Social Security Amendments of 1956 under which eight specified States and the Territory of Hawaii could provide old-

age, survivors, and disability insurance coverage for certain nonprofessional school district employees without a referendum and as a group separate from the professional employees who are in positions under the same retirement system. The provision, which was enacted into law on August 1, 1956, and which expired on July 1, 1957, made an exception to the general requirement that an extension of old-age, survivors, and disability insurance coverage to a retirement system group must be applicable to all employees in positions under the retirement system, and the provision was intended to facilitate old-age, survivors, and disability insurance coverage for nonprofessional school district employees included under staff retirement systems. The provision, however, was in effect for less than a year and your committee has been advised that at least some of the States named in the provision did not secure the desired coverage before the provision expired. Your committee is of the opinion that because of the relative shortness of the period during which the provision was in effect, and because the objectives of the legislation were not accomplished during that period, it is desirable that a temporary reinstatement of this provision be made in order to give the specified States additional time in which to obtain coverage under the provision. Your committee recognizes that some of the specified States may need State enabling legislation in order to obtain coverage under the provision, and that the legislative bodies of almost all of these States meet only in odd-numbered years. The committee bill would, therefore, reinstate the provisions until January 1, 1962.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman):

SECTION 104(f) OF THE SOCIAL SECURITY AMENDMENTS OF 1956

Certain Nonprofessional School District Employees

(f) Notwithstanding the provisions of subsection (d) of section 218 of the Social Security Act, any agreement under such section entered into prior to the date of enactment of this Act by the State of Florida, Nevada, New Mexico, Minnesota, Oklahoma, Pennsylvania, Texas, Washington, or the Territory of Hawaii shall if the State or Territory concerned so requests, be modified [prior to July 1, 1957,] so as to apply to services performed by employees of the respective public school districts of such State or Territory who, on the date such such agreement is made applicable to such services, are not in positions the incumbents of which are required by State or Territorial law or regulation to have valid State or Territorial teachers' or administrators' certificates in order to receive pay for their services. The provisions of this subsection shall not apply to services of any such employees to which any such agreement applies without regard to this subsection.

H. R. 213

[Report No. 66]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1959

Mr. PATMAN introduced the following bill; which was referred to the Committee on Ways and Means

FEBRUARY 24, 1959

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

[Insert the part printed in italic]

A BILL

To provide that certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees without regard to the existing limitations upon the time within which such a modification may be made.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 104 (f) of the Social Security Amendments of
4 1956 is amended by striking out "prior to July 1, 1957,"
5 and inserting in lieu thereof "prior to January 1, 1962,".

Amend the title so as to read: "A bill to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to

Union Calendar No. 16

80TH CONGRESS
1ST SESSION

H. R. 213

[Report No. 66]

A BILL

To provide that certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees without regard to the existing limitations upon the time within which such a modification may be made.

By Mr. PATMAN

JANUARY 7, 1959

Referred to the Committee on Ways and Means

FEBRUARY 24, 1959

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

consideration of the bill (H.R. 213) to provide that certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees without regard to the existing limitations upon the time within which such a modification may be made.

The Clerk read the title of the bill.

There being no objection the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 104(f) of the Social Security Amendments of 1956 is amended by striking out "prior to July 1, 1957."

With the following committee amendment:

Page 1, before the period in line 4, insert "and inserting in lieu thereof 'prior to January 1, 1962.'"

The committee amendment was agreed to.

Mr. MILLS. Mr. Speaker, the purpose of H.R. 213, which was introduced by our colleague, the gentleman from Texas [Mr. PATMAN], is to provide an additional period of time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees. This bill would reinstate, until January 1, 1962, a provision of the Social Security Amendments of 1956 under which eight specified States and the Territory of Hawaii could provide old-age, survivors, and disability insurance coverage for certain nonprofessional school district employees without a referendum and as a group separate from the professional employees who are in positions under the same retirement system. The provision in question was in effect for less than a year and the Committee on Ways and Means has been advised that at least some of the States named in the provision did not secure the desired coverage before the provision expired. Because of the relative shortness of the period during which the provision was in effect, and because the objectives of the legislation were not accomplished during that period, it is desirable that a temporary reinstatement of this provision be made in order to give the specified States additional time in which to obtain coverage under the provision. Since some of the specified States may need State enabling legislation in order to obtain coverage under the provision, and since the legislative bodies of almost all of these States meet only in odd-numbered years, the bill would reinstate the provisions until January 1, 1962.

Mr. SIMPSON of Pennsylvania. Mr. Speaker, this legislation, H.R. 213, would allow the modification of certain State agreements entered into with the Secretary of Health, Education, and Welfare so as to provide old-age and survivors insurance coverage for nonprofessional school district employees. This would be accomplished by providing an additional period of time for the modification of these agreements. The prior authority for such modification was in effect for less than a year and expired on July 1, 1957 with the result that certain

States did not take timely action to achieve this extension of coverage to the school district employees affected. To provide sufficient time the bill which has just received favorable House consideration would extend the modification authority until January 1, 1962.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

The title of the bill was amended to read: "A bill to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees."

**SOCIAL SECURITY COVERAGE FOR
CERTAIN SCHOOL EMPLOYEES**

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate

**SOCIAL SECURITY COVERAGE OF CERTAIN NONPROFESSIONAL
SCHOOL DISTRICT EMPLOYEES; AND POLICEMEN AND FIRE-
MEN IN OKLAHOMA AND VERMONT**

APRIL 10, 1959.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 213]

The Committee on Finance, to whom was referred the bill (H.R. 213) to provide that certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for non-professional school district employees without regard to the existing limitations upon the time within which such a modification may be made, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

PURPOSE

The purpose of H.R. 213 is to provide an additional period of time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees.

GENERAL STATEMENT

The House-passed bill would reinstate, until January 1, 1962, a provision of the Social Security Amendments of 1956 under which eight specified States and the Territory of Hawaii could provide old-age, survivors, and disability insurance coverage for certain non-professional school district employees without a referendum and as a group separate from the professional employees who are in positions under the same retirement system. The provision, which was enacted into law on August 1, 1956, and which expired on July 1, 1957, made an exception to the general requirement that an extension of old-age, survivors, and disability insurance coverage to a retirement system group must be applicable to all employees in positions under

the retirement system, and the provision was intended to facilitate old-age, survivors, and disability insurance coverage for nonprofessional school district employees included under staff retirement systems. The provision, however, was in effect for less than a year and the Committee on Finance has been advised that at least some of the States named in the provision did not secure the desired coverage before the provision expired. The Committee on Finance is of the opinion that because of the relative shortness of the period during which the provision was in effect, and because the objectives of the legislation were not accomplished during that period, it is desirable that a temporary reinstatement of this provision be made in order to give the specified States additional time in which to obtain coverage under the provision. It is recognized that some of the specified States may need State enabling legislation in order to obtain coverage under the provision, and that the legislative bodies of almost all of these States meet only in odd-numbered years. The committee bill would, therefore, reinstate the provisions until January 1, 1962.

COMMITTEE AMENDMENT

The Committee on Finance has added to the bill an amendment which would make applicable to the States of Oklahoma and Vermont the provision in present law which permits 12 specified States to extend old-age and survivors insurance coverage (under their agreements with the Secretary of Health, Education, and Welfare) to services performed by employees of any such State (or of any political subdivision thereof) in any policeman's or fireman's position covered by a State or local retirement system. The 12 States in which policemen and firemen covered by a State and local retirement system are now permitted to come under the old-age and survivors insurance program are: Alabama, Florida, Georgia, Maryland, New York, North Carolina, Oregon, South Carolina, South Dakota, Tennessee, Washington, and Hawaii. Existing law provides adequate assurance that old-age and survivors insurance coverage will be extended only to groups of policemen or firemen who want such coverage. Under the present referendum provisions of the Social Security Act, members of a State or local government retirement system group have a voice in any decision to cover them under old-age and survivors insurance. In addition existing law contains a declaration that it is the policy of the Congress that the protection afforded members of a State or local government retirement system not be impaired as a result of the extension of old-age and survivors insurance coverage to members of the system.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 104(f) OF THE SOCIAL SECURITY AMENDMENTS OF 1956

CERTAIN NONPROFESSIONAL SCHOOL DISTRICT EMPLOYEES

(f) Notwithstanding the provisions of subsection (d) of section 218 of the Social Security Act, any agreement under such section entered into prior to the date of enactment of this Act by the State of Florida, Nevada, New Mexico, Minnesota, Oklahoma, Pennsylvania, Texas, Washington, or the Territory of Hawaii shall if the State or Territory concerned so requests, be modified **[**prior to July 1, 1957,**]** *prior to January 1, 1962*, so as to apply to services performed by employees of the respective public school districts of such State or Territory who, on the date such agreement is made applicable to such services, are not in positions the incumbents of which are required by State or Territorial law or regulation to have valid State or Territorial teachers' or administrators' certificates in order to receive pay for their services. The provisions of this subsection shall not apply to services of any such employees to which any such agreement applies without regard to this subsection.

* * * * *

SECTION 218(P) OF THE SOCIAL SECURITY ACT

POLICEMEN AND FIREMEN IN CERTAIN STATES

(p) Any agreement with the State of Alabama, Florida, Georgia, Maryland, New York, North Carolina, *Oklahoma*, Oregon, South Carolina, South Dakota, Tennessee, *Vermont*, Washington, or Territory of Hawaii entered into pursuant to this section prior to the date of enactment of this subsection may, notwithstanding the provisions of subsection (d)(5)(A) and the references thereto in subsections (d)(1) and (d)(3), be modified pursuant to subsection (c)(4) to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after the date of the enactment of this subsection, but only upon compliance with the requirements of subsection (d)(3). For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

H. R. 213

[Report No. 159]

IN THE SENATE OF THE UNITED STATES

MARCH 24, 1959

Read twice and referred to the Committee on Finance

APRIL 10, 1959

Reported by Mr. BYRD of Virginia, with amendments

[Insert the part printed in italic]

AN ACT

To provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 104 (f) of the Social Security Amendments of
4 1956 is amended by striking out "prior to July 1, 1957,"
5 and inserting in lieu thereof "prior to January 1, 1962,".
6 *SEC. 2. Subsection (p) of section 218 of the Social*
7 *Security Act is amended by inserting "Oklahoma," after*
8 *"North Carolina," and "Vermont," after "Tennessee,".*

Amend the title so as to read: "An Act to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, and to permit the States of Oklahoma and Vermont to obtain social security coverage, under State agreement, for policemen and firemen in positions covered by a retirement system."

Passed the House of Representatives March 23, 1959.

Attest:

RALPH R. ROBERTS,

Clerk.

Calendar No. 146

86TH CONGRESS
1ST SESSION

H. R. 213

[Report No. 159]

AN ACT

To provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees.

MARCH 24, 1959

Read twice and referred to the Committee on Finance

APRIL 10, 1959

Reported with amendments

apply to services performed by any individual employed by such State (or any political subdivision thereof) in any policeman's position covered by a retirement system in effect on the date of enactment of this Act if (1) in the case of an individual performing such services on such date, such individual is ineligible to become a member of such retirement system, or, in the case of an individual who prior to such date has ceased to perform such services, such individual was, on the last day he did perform such services, ineligible to become a member of such retirement system, and (2) such State has, prior to 1959, paid to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, the sums prescribed pursuant to subsection (e) (1) of such section 218. Notwithstanding the provisions of subsection (f) of such section 218, such modification shall be effective with respect to (1) all service performed by such individual in any such position on or after the date of enactment of this Act, and (ii) all such services, performed before such date, with respect to which such State has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e) of such section 218, at the time or times established pursuant to such subsection.

SECURITY COVERAGE FOR NONPROFESSIONAL SCHOOL DISTRICT EMPLOYEES

Mr. MANSFIELD. Mr. President, I move that the pending business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 146, H.R. 213.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the Senate proceeded to consider the bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, which had been reported from the Committee on Finance, with an amendment, after line 5, to insert a new section, as follows:

SEC. 2. Subsection (p) of section 218 of the Social Security Act is amended by inserting "Oklahoma," after "North Carolina," and "Vermont," after "Tennessee."

Mr. KERR. Mr. President, I offer an amendment to the committee amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. Beginning with "Oklahoma," in line 7, strike out all through "and" in line 8, and at the end of the bill add the following new section:

SEC. 3. Notwithstanding the provisions of subsection (d) (5) (A) of section 218 of the Social Security Act and the references thereto in subsections (d) (1) and (d) (3) of such section 218, the agreement with the State of Oklahoma heretofore entered into pursuant to such section 218 may, at any time prior to 1962, be modified pursuant to subsection (c) (4) of such section 218 so as to

Mr. President, I received a telegram from the Kansas Peace Officers' Association requesting that Kansas be included in the bill with the other States now included under this provision. I ask unanimous consent that the telegram be printed in the RECORD as a part of my remarks.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

WICHITA, KANS., June 17, 1959.

Senator FRANK CARLSON,
Senate Office Building,
Washington, D.C.:

Kansas Peace Officers Association, through its board of governors, recommend and approve an amendment to House bill 213, Senate Calendar No. 146, permitting police in the State of Kansas to be included under social-security coverage for certain nonprofessional school district employee and police. Present bill covers Oklahoma and Vermont only. Will appreciate your assistance in this matter.

Lt. CHARLES FROWSE,
Wichita Police Department, President,
Kansas Peace Officers Association.

Mr. KERR. Mr. President, the purpose of the amendment to H.R. 213, offered by the senior Senator from Oklahoma, is to validate social security contributions made erroneously by certain employees of municipalities in Oklahoma and the municipalities.

As the Senate well knows, employees of State and local governments already covered by a retirement system are not eligible for social security coverage, unless the Social Security Act is specifically amended to permit it.

It has been brought to the attention of the Senator from Oklahoma that some cities have erroneously extended social security coverage to individual members of their police departments, who have elected not to come under their policemen retirement system because they thought they were covered by social security. They have had social security payments deducted from their wages, and the cities have made employer contributions. However, it has been brought to light that unless the amendment offered by the Senator from Oklahoma is adopted these people will lose their social security benefits. Of course, their contributions will be refunded, but that is of small comfort when we realize they will have no retirement benefits.

The amendment would not apply to any policemen hired in the future and is a temporary measure because the authority to modify the agreement between the Social Security Administration and the State of Oklahoma to cover such employees, expires December 31, 1961.

I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oklahoma [Mr. KERR] to the committee amendment.

The amendment to the amendment was agreed to.

Mr. CARLSON. Mr. President, I wish to offer an amendment. At the proper place in section 2, the committee amendment, insert the word "Kansas."

Mr. CARLSON. Mr. President, I have discussed this matter with the senior Senator from Kansas [Mr. SCHOEPPLE]. We are unanimous in requesting this action.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kansas [Mr. CARLSON], to the committee amendment.

The amendment to the amendment was agreed to.

Mr. YOUNG of North Dakota. Mr. President, I should like to call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 1, line 7, in the committee amendment it is proposed to insert, after the amendment just agreed to, the words "North Dakota."

Mr. YOUNG. Mr. President, I should like to make a few brief comments. I understand this action will make the policemen and firemen of my State eligible for social security benefits. It would not obligate them to accept the program. Each unit would have an opportunity to approve or disapprove.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the committee amendment offered by the Senator from North Dakota.

The amendment to the amendment was agreed to.

Mr. KUCHEL. Mr. President, I suggest the absence of a quorum.

Mr. KERR. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. KERR. Has the bill been passed?

The ACTING PRESIDENT pro tempore. No; the bill has not been passed. The question is on agreeing to the committee amendment, as amended.

Mr. KUCHEL. Mr. President, I have an amendment I desire to offer to the amendment.

The **ACTING PRESIDENT** pro tempore. The amendment will be stated for the information of the Senate.

Mr. KUCHEL. Mr. President, I offer an amendment to add the word "California" to the list of States recognized in the pending bill.

The objective of this amendment is to include California within those States where the benefits of social security may be extended to policemen and firemen employed by the State or any political subdivision thereof on a voluntary basis.

The State Legislature of California has recently enacted legislation, approved by Governor Brown, to permit this extension of social security to policemen and firemen within our State. My amendment is designed to effectuate this State legislation.

This amendment will be beneficial to all the people of California in ultimately providing uniform and reasonable retirement benefits to those serving the public selflessly. It will not impair any of the rights of those directly affected. Before coverage is extended to any group, a secret vote of the employees involved must be held and a majority must favor inclusion. The law specifically protects any rights already acquired under an existing retirement system.

I ask unanimous consent to have printed in the *RECORD*, following my remarks, a telegram from Gov. Edmund Brown of California, urging the adoption of this amendment.

There being no objection, the telegram was ordered to be printed in the *RECORD*, as follows:

SACRAMENTO, CALIF., July 22, 1959.

Hon. THOMAS H. KUCHEL,
U.S. Senator, Senate Office Building,
Washington, D.C.:

Understand H.R. 213 has reached Senate floor. This bill includes Senate Finance Committee amendment which would make applicable to Oklahoma and Vermont the provision in present law which permits 12 States to extend old-age and survivors insurance coverage to policemen and firemen already covered by local retirement systems. Existing State and Federal laws contain adequate guarantees that even if California is added to H.R. 213, old-age and survivors insurance coverage will be extended only to California policemen and firemen who elect to obtain such coverage. I have just signed assembly bill 1969 which will amend California law to permit social-security coverage to policemen and firemen already covered by local retirement systems provided Federal law is amended to include California in such coverage. I urge you to secure amendment to H.R. 213 to include California in the group of States where such coverage is permitted.

EDMUND G. BROWN,
Governor.

The **ACTING PRESIDENT** pro tempore. The question is on agreeing to the amendment offered by the Senator from California [Mr. KUCHEL] to the committee amendment.

The amendment to the amendment was agreed to.

Mr. AIKEN. Mr. President, if all the amendments have been acted upon I should like to ask: Is "Vermont" still in the bill in the proper place?

The **ACTING PRESIDENT** pro tempore. That is a question properly ad-

ressed to the senior Senator from Oklahoma.

Mr. KERR. The answer is "Yes."

Mr. AIKEN. Mr. President, if there should be any grammatical errors in the bill as finally amended, is it in order to request unanimous consent to authorize the Secretary to put the bill in its proper grammatical form?

The **ACTING PRESIDENT** pro tempore. It is.

Mr. AIKEN. Mr. President, I ask unanimous consent that that be authorized.

The **ACTING PRESIDENT** pro tempore. Is there objection to the request of the Senator from Vermont? The Chair hears none, and it is so ordered.

The question is on agreeing to the committee amendment, as amended.

The amendment, as amended, was agreed to.

The **ACTING PRESIDENT** pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 213) was read the third time and passed.

The title was amended so as to read: "An act to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, and to permit the States of California, Kansas, North Dakota, Oklahoma, and Vermont to obtain social security coverage, under State agreement, for policemen and firemen in positions covered by a retirement system."

Mr. KUCHEL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. YOUNG of North Dakota. Mr. President, I move to lay that motion on the table.

The **ACTING PRESIDENT** pro tempore. The question is on agreeing to the motion of the Senator from North Dakota to lay on the table the motion of the Senator from California to reconsider.

The motion to lay on the table was agreed to.

hears none, and appoints the following conferees: Messrs. MILLS, FORAND, KING of California, SIMPSON of Pennsylvania, and MASON.

**PROVIDING ADDITIONAL TIME
WITHIN WHICH CERTAIN STATE
AGREEMENTS UNDER SECTION 218
OF THE SOCIAL SECURITY ACT
MAY BE MODIFIED**

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, with Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? [After a pause.] The Chair

**ADDITIONAL TIME FOR MODIFICA-
TION OF CERTAIN STATE AGREE-
MENTS UNDER SOCIAL SECURITY
ACT**

The **PRESIDING OFFICER** laid before the Senate a message from the House of Representatives announcing its disagree-

ment to the amendments of the Senate to the bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BYRD of Virginia. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BYRD of Virginia, Mr. KERR, Mr. FREAR, Mr. WILLIAMS of Delaware, and Mr. CARLSON conferees on the part of the Senate.

SOCIAL SECURITY COVERAGE FOR CERTAIN STATE AND
LOCAL EMPLOYEES

SEPTEMBER 1, 1959.—Ordered to be printed

Mr. MILLS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 213]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

W. D. MILLS,
AIME J. FORAND,
CECIL R. KING,
RICHARD M. SIMPSON,
NOAH M. MASON,

Managers on the Part of the House.

HARRY F. BYRD,
ROBT. S. KERR,
J. ALLEN FREAR,
By R. S. K.

JOHN J. WILLIAMS,
FRANK CARLSON,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment to the text of the bill added a new section 2, amending section 218(p) of the Social Security Act so as to include California, Kansas, North Dakota, and Vermont among the States (listed in such section 218(p)) which are permitted to extend old-age, survivors, and disability insurance coverage (under their agreements with the Secretary of Health, Education, and Welfare) to services performed by State and local employees in policemen's and firemen's positions covered by State or local retirement systems. This amendment does not require the coverage of policemen or firemen in the four newly specified States, of course, or automatically bring any of them within the old-age, survivors, and disability insurance program; coverage under such program would still require appropriate action by the State government and acceptance by the members of the retirement system involved. The House recedes.

The Senate amendment to the text of the bill also added a new section 3, permitting the agreement entered into with the State of Oklahoma under section 218 of the Social Security Act to be modified (at any time before 1962) so as to make it applicable to services performed in policemen's positions under a State or local retirement system by individuals who are ineligible on the date of enactment of the bill (or, if earlier, when last employed in such positions) to be members of such system, where the State before 1959 has made payments to the Treasury (representing amounts equivalent to employment taxes, as provided for under sec. 218(e)(1)) with respect to some part of the services performed in such positions by the individuals involved. Any such modification would apply to all services performed by such an individual after the date of enactment of the bill, as an employee of a city or other political subdivision to which the modification applies, in a policeman's position covered by a retirement system of which he is ineligible (at the time he performs such services) to become a member (and subject to the right of the State under sec. 218(c)(7) to designate whether or not his coverage shall continue in the event he subsequently becomes eligible for membership in such a system). The modification would also apply to any such services performed before the date of enactment of the bill, to the extent that payments to the Treasury under section 218(e)(1) were made (including payments which were returned to the State before the date of enactment of the bill or the

date the modification was entered into, if the State repays the refunded amounts to the Treasury within the normal reporting period prescribed under sec. 218(e) for additional payments resulting from modifications of State agreements) with respect to such services at the time or times established pursuant to law. The House recedes.

The Senate amendment to the title of the bill was designed to reflect in the title the changes made by the amendment to the text of the bill discussed above. In view of the action taken by the conferees on the latter amendment, the House recedes.

W. D. MILLS,
AIME J. FORAND,
CECIL R. KING,
RICHARD M. SIMPSON,
NOAH M. MASON,

Managers on the Part of the House.

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ADDITIONAL TIME WITHIN WHICH
CERTAIN STATE AGREEMENTS
UNDER SOCIAL SECURITY ACT
MAY BE MODIFIED—CONFERENCE
REPORT

Mr. PROXMIRE. Mr. President, I ask unanimous consent to yield to the Senator from Virginia [Mr. BYRD] without losing my right to the floor.

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

Mr. BYRD of Virginia. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 213) to provide additional time within which certain State agreements under section 219 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses, as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

HARRY F. BYRD,
of Virginia,
ROBERT S. KERR,
J. ALLEN FREAR,
JOHN J. WILLIAMS,
of Delaware,
FRANK CARLSON.

Managers on the Part of the Senate.

W. D. MILLS,
AIME J. FORAND,
CECIL R. KING,
of California,
RICHARD M. SIMPSON,
of Pennsylvania,
NOAH M. MASON,

Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the report was considered and agreed to.

**SOCIAL SECURITY COVERAGE FOR
CERTAIN STATE AND LOCAL EM-
PLOYEES**

Mr. MILLS. Mr. Speaker, I call up the conference report on the bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT (H. REPT. No. 1107)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

W. D. MILLS,
AIME J. FORAND,
CECIL R. KING,
RICHARD M. SIMPSON,
NOAH M. MASON,

Managers on the Part of the House.

HARRY F. BYRD,
ROBT. S. KERR,
J. ALLEN FREAR,
JOHN J. WILLIAMS,
FRANK CARLSON,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 213) to provide additional time within which certain State agreements under section 218 of the Social

Security Act may be modified to secure coverage for nonprofessional school district employees, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment to the text of the bill added a new section 2, amending section 218(p) of the Social Security Act so as to include California, Kansas, North Dakota, and Vermont among the States (listed in such section 218(p)) which are permitted to extend old-age, survivors, and disability insurance coverage (under their agreements with the Secretary of Health, Education, and Welfare) to services performed by State and local employees in policemen's and firemen's positions covered by State or local retirement systems. This amendment does not require the coverage of policemen or firemen in the four newly specified States, of course, or automatically bring any of them within the old-age, survivors, and disability insurance program; coverage under such a program would still require appropriate action by the State government and acceptance by the members of the retirement system involved. The House recedes.

The Senate amendment to the text of the bill also added a new section 3, permitting the agreement entered into with the State of Oklahoma under section 218 of the Social Security Act to be modified (at any time before 1962) so as to make it applicable to services performed in policemen's positions under a State or local retirement system by individuals who are ineligible on the date of enactment of the bill (or, if earlier, when last employed in such positions) to be members of such system, where the State before 1959 has made payments to the Treasury (representing amounts equivalent to employment taxes, as provided for under section 218(e)(1)) with respect to some part of the services performed in such positions by the individuals involved. Any such modification would apply to all services performed by such an individual after the date of enactment of the bill, as an employee of a city or other political subdivision to which the modification applies, in a policeman's position covered by a retirement system of which he is ineligible (at the time he performs such services) to become a member (and subject to the right of the State under section 218(c)(7) to designate whether or not his coverage shall continue in the event he subsequently becomes eligible for membership in such a system). The modification would also apply to any such services performed before the date of enactment of the bill, to the extent that payments to the Treasury under section 218(e)(1) were made (including payments which were returned to the State before the date of enactment of the bill or the date the modification was entered into, if the State repays the refunded amounts to the Treasury within the normal reporting period prescribed under section 218(e) for additional payments resulting from modifications of State agreements) with respect to such services at the time or times established pursuant to law. The House recedes.

The Senate amendment to the title of the bill was designed to reflect in the title the changes made by the amendment to the text of the bill discussed above. In view of the action taken by the conferees on the latter amendment, the House recedes.

W. D. MILLS,
AIME J. FORAND,
CECIL R. KING,
RICHARD M. SIMPSON,
NOAH M. MASON,

Managers on the Part of the House.

Mr. MILLS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to. A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS. Mr. Speaker, as may be recalled the House passed H.R. 213 unanimously on March 23, 1959, and in the form in which it passed the House the purpose of the bill was to provide an additional period of time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees.

The Senate amended this bill in several respects, and the conferees, as is indicated by the statement of the managers on the part of the House, concluded that the Senate amendment should be agreed to.

The amendments are as follows:

California, Kansas, North Dakota, and Vermont would be added to the list of States in section 218(p) of the Social Security Act which are permitted to extend old-age, survivors, and disability insurance coverage under agreements with the Department of Health, Education, and Welfare to policemen and firemen in positions covered by State and local retirement systems. As the Members know, this coverage can only be extended by a written referendum wherein the persons affected vote in favor of such coverage.

Another amendment would permit the agreement entered into with the State of Oklahoma under section 218 to be modified so as to make it applicable to services performed in policemen's positions under a State or local retirement system by individuals who are ineligible on the date of enactment of the bill or when last employed in such positions to be members of such retirement systems. This provision would apply only in those cases where the State before 1959 has made payments to the Treasury with respect to part of the services performed by such individuals.

Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. SIMPSON] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. SIMPSON of Pennsylvania. Mr. Speaker, I have joined with the able chairman of the Committee on Ways and Means in urging the House to agree to the conference report on the bill H.R. 213.

It will be recalled that as this legislation passed the House its purpose was to allow the modification of certain State agreements entered into with the Secretary of Health, Education, and Welfare to provide for old-age and survivors insurance coverage for nonprofessional school district employees. The House-

passed legislation allowed an additional period of time in which the agreements could be modified to accomplish this purpose.

The Senate has amended this legislation to include the States of Oklahoma, Kansas, North Dakota, and Vermont in the list of States which are allowed to extend old-age and survivors insurance coverage to services performed by employees of such State or political subdivisions thereof in any policemen's or firemen's positions covered by a State or local retirement system. Under present law there are 12 States which are permitted to extend coverage to policemen and firemen; the list includes Alabama, Florida, Georgia, Maryland, New York, North Carolina, Oregon, South Carolina, South Dakota, Tennessee, Washington, and Hawaii. It should be made clear that the coverage extended to policemen and firemen in any of these States only becomes available after a referendum and a vote in favor of such coverage by the employees affected.

The House conferees have concurred in this Senate amendment.

Public Law 86-284
86th Congress, H. R. 213
September 16, 1959

AN ACT

73 STAT. 566.

To provide additional time within which certain State agreements under section 218 of the Social Security Act may be modified to secure coverage for nonprofessional school district employees, and to permit the States of California, Kansas, North Dakota, and Vermont to obtain social security coverage, under State agreement, for policemen and firemen in positions covered by a retirement system.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 104(f) of the Social Security Amendments of 1956 is amended by striking out "prior to July 1, 1957," and inserting in lieu thereof "prior to January 1, 1962,".

SEC. 2. Subsection (p) of section 218 of the Social Security Act is amended by inserting "California," after "Alabama,"; "Kansas," after "Georgia,"; "North Dakota," after "North Carolina," and "Vermont," after "Tennessee,".

SEC. 3. Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Oklahoma heretofore entered into pursuant to such section 218 may, at any time prior to 1962, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed by any individual employed by such State (or any political subdivision thereof) in any policeman's position covered by a retirement system in effect on the date of enactment of this Act if (1) in the case of an individual performing such services on such date, such individual is ineligible to become a member of such retirement system, or, in the case of an individual who prior to such date has ceased to perform such services, such individual was, on the last day he did perform such services, ineligible to become a member of such retirement system, and (2) such State has, prior to 1959, paid to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, the sums prescribed pursuant to subsection (e)(1) of such section 218. Notwithstanding the provisions of subsection (f) of such section 218, such modification shall be effective with respect to (i) all services performed by such individual in any such position on or after the date of enactment of this Act, and (ii) all such services, performed before such date, with respect to which such State has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e) of such section 218, at the time or times established pursuant to such subsection.

Approved September 16, 1959.

Social Security.
School employ-
ees, coverage.
70 Stat. 826.
42 USC 418
note.
42 USC 418.

DIRECTOR'S

Bulletin

SSA-OASI

No. 303

September 22, 1959

Enactment of Two Social Security Bills

**TO: Administrative, Supervisory
and Technical Employees**

On September 16 the President signed H.R. 213 (Public Law 86-284), legislation amending the provisions for old-age, survivors, and disability insurance coverage of employees of State and local governments.

One provision of the new legislation reinstates, until January 1, 1962, a provision of the 1956 amendments under which nine States (Florida, Hawaii, Minnesota, Nevada, New Mexico, Oklahoma, Pennsylvania, Texas, and Washington) could provide OASDI coverage for nonprofessional school district employees without a referendum and as a group separate from professional employees. The 1956 provision was in effect less than a year, and its temporary reinstatement will give the specified States additional time in which to make use of the provision.

Another provision permits OASDI coverage of policemen and firemen in positions under a retirement system in California, Kansas, North Dakota, and Vermont. Such coverage is now available in 16 States and all interstate instrumentalities. The legislation also makes special provision for the coverage of a few Oklahoma policemen.

The only provision of Public Law 86-284 which is incorporated in the Social Security Act is the one making coverage available to policemen and firemen in four additional States.

Administrative, Supervisory
and Technical Employees--9/22/59

On August 18, the President approved S. 1512 (Public Law 86-168) which is designed to bring about more grower-borrower ownership and control of the units of the Farm Credit Administration. As one of a series of laws to accomplish this objective, the new law transfers certain responsibilities from the Farm Credit Administration to the 37 Federal land banks, Federal intermediate credit banks, and banks for cooperatives. Generally speaking, the law makes the civil service laws, regulations, and requirements inapplicable to the employees of these banks. The Civil Service Retirement Act will not be applicable to services performed for the banks by new employees hired after December 31, 1959, and these employees will be covered under social security. Present employees of the banks who on that date are under the civil service retirement system will continue under that system. Persons who have been covered by civil service retirement while employed by the banks and who, after a break in service, are re-employed may elect to continue under civil service retirement rather than be covered by social security. The legislation also provides that each bank may, subject to the approval of the Farm Credit Administration, establish either separately or jointly a retirement system for its officers and employees. It is intended that these retirement plans, together with social security, should provide the new employees with substantially the same protection which other employees have under civil service retirement.



Victor Christgau

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UNEMPLOYMENT COMPENSATION FOR FEDERAL EM-
PLOYEES—TREATMENT OF ACCRUED ANNUAL LEAVE

FEBRUARY 25, 1959.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. MILLS, from the Committee on Ways and Means, submitted
the following

REPORT

[To accompany H.R. 3472]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3472) to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, after line 6, insert:

SEC. 2. Section 1511(f) of the Social Security Act (42 U.S.C. 1371(f)) is amended by striking out "section 1505 applies" and inserting in lieu thereof "section 1505 continues (without regard to its repeal) to apply".

The committee amendment is a technical amendment the purpose of which is to insure that the bill, as reported, will make no change in the rules for determining "Federal service" and "Federal wages" for purposes of the ex-servicemen's unemployment compensation program. This program was enacted into law (Public Law 85-848, approved Aug. 28, 1958) after the committee last year reported the bill H.R. 11908, 85th Congress (a bill similar to H.R. 3472).

PURPOSE

The purpose of H.R. 3472 is to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal civilian employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws.

2 UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

GENERAL STATEMENT

Title XV of the Social Security Act, which established the Federal employees' unemployment insurance program, provides for the administration of that program by the States under agreements with the Federal Government. However, under section 1505 no compensation may be paid to a Federal employee during a period subsequent to separation from Federal service when he is being paid for accrued annual leave. Your committee's bill, by repealing section 1505, would make the award of unemployment compensation to a separated Federal civilian employee while he has accrued annual leave depend upon the provisions of the appropriate State unemployment compensation law.

Unemployment compensation payments, on the one hand, and sums paid for accrued annual leave, on the other hand, are made for entirely different reasons. The unemployment compensation system, which is based upon insurance principles, is intended to maintain purchasing power during limited periods of unemployment for insured employees who have earned wage credits under the program. Its purpose is to assist in preserving the economic security of the individual and in sustaining the economic stability of the Nation. Annual leave is based on the concept that employees earn vacation rights as a result of their work. These remain vacation rights whether the employees take actual leave from their work or receive compensation in lieu of taking actual leave. The concept of insurance, unemployment, and maintenance of purchasing power are not involved with respect to the matter of annual leave. Thus, your committee is of the opinion that there is no inconsistency in the payment of both unemployment compensation and a sum for accrued annual leave to the same person for the same period of time. Your committee's bill, therefore, would repeal section 1505, thereby permitting the provisions of State law to determine the eligibility of a Federal civilian employee to unemployment compensation while he has accrued annual leave. The Federal civilian worker would then be treated in exactly the same manner as workers in private industry who receive similar annual leave payments upon separation.

Your committee received favorable reports on similar legislation last year from the Departments of Labor, Treasury, and Health, Education, and Welfare, as well as an informative report from the U.S. Civil Service Commission.

Your committee was unanimous in recommending enactment of this legislation.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets):

SECTION 1505 OF THE SOCIAL SECURITY ACT

【TREATMENT OF ACCRUED ANNUAL LEAVE

【SEC. 1505. For the purposes of this title, in the case of a Federal employee who is performing Federal service at the time of his separation from employment by the United States or any instrumentality thereof, (1) the Federal service of such employee shall be considered as continuing during the period, subsequent to such separation, with respect to which he is considered as having received payment of accumulated and current annual or vacation leave pursuant to any Federal law, and (2) subject to regulations of the Secretary concerning allocation over the period, such payment shall constitute Federal wages.】

○

bill what the attitude of the committee is in reference to it.

Mr. MILLS. Mr. Speaker, the purpose of H.R. 3472, which was introduced by our colleague on the Committee on Ways and Means, the gentleman from Rhode Island, the Honorable ARME J. FORAND, is to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal civilian employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws.

Title XV of the Social Security Act, which established the Federal employees' unemployment insurance program, provides for the administration of that program by the States under agreements with the Federal Government. Section 1505 of this title, however, presently provides that no compensation may be paid to a Federal employee during a period subsequent to separation from Federal service when he is being paid for accrued annual leave. This bill, by repealing section 1505, would make the award of unemployment compensation to a separated Federal civilian employee while he has accrued annual leave depend upon the provisions of the appropriate State unemployment compensation law.

The Federal civilian worker would then be treated in exactly the same manner as workers in private industry who receive similar annual leave payments upon separation.

Favorable reports on similar legislation last year were received from the Departments of Labor, Treasury, and Health, Education, and Welfare, as well as an informative report from the U.S. Civil Service Commission.

This bill was unanimously reported by the Committee on Ways and Means.

The committee reached the conclusion it did about the bill because the Federal civilian worker would then, under this bill, be treated exactly in the same manner, with respect to annual leave payments, as workers in private industry who receive similar annual leave payment upon separation.

Mr. MARSHALL. Can the gentleman tell me whether or not in some States employees are eligible to collect annual leave and unemployment compensation for the same period of time?

Mr. MILLS. There are some States that provide that a worker who is not a separated civil service employee of the Federal Government but who is a worker in private industry may receive unemployment compensation during the time he is receiving his annual leave payments; that is, upon separation from his private employment. Section 1505 of the Social Security Act prevents a Federal civilian employee, in a State where this may occur with respect to private employees, from receiving the same treatment as the employee in private industry. We were trying to equalize the situation between private and Federal employment in those States where private employees receive this treatment.

Mr. MARSHALL. Will not this make it possible for inequities in the treat-

ment of Federal employees as between the different States of the union?

Mr. MILLS. Now, the gentleman from Minnesota recognizes, I am sure, that unemployment compensation is largely based upon State statutes. It operates in each and every State upon the basis of the State statutes, and the State statutes in the several States vary with respect to many points. Now, some States do allow this separated private employee to receive these benefits while his accrued leave is coming to him. In those States we thought it was fair, since the State law is controlling—because we want to leave the responsibility on the States—that we let our Federal employees be treated just as other employees are presently being treated and that we not prohibit by Federal statute this benefit from being received for this limited period of time by the Federal civilian employees.

Mr. MARSHALL. Is there any possibility that this may lead to a wholesale transfer of Federal employees in order that they may be transferred into States in order to collect their unemployment compensation and annual leave on the same basis?

Mr. MILLS. The gentleman's judgment on that point I would have to take, because I have no information whatsoever that leads me to believe that the Federal Government would precipitously transfer an individual in Washington or some other State into one State just in order for him to receive unemployment compensation at an earlier date than he would otherwise receive it. Now, the period we are talking about, annual leave, the gentleman from Minnesota knows, is not for an extended period at best.

Mr. MARSHALL. Could the distinguished chairman tell me about how much it is anticipated that this will cost the Federal Government?

Mr. MILLS. We asked that question when we had this matter in the committee. We did not get a firm estimate of the cost. It could only involve that period of time for which the individual, the separated Federal civilian employee, is drawing annual leave. He would get his benefits for a certain duration under State law, anyway. Now, if the State law provided for him to receive 26 weeks of benefits, let us say, at \$30 a week, he would generally get that amount if he remained unemployed whether we enact this provision or not. This action here does not mean that he would get any more than \$30 for that number of weeks. That is all he can get. That is determined by State law. It is just a question of whether or not the commencement of the benefit payment under State law for the prescribed duration period will begin while he is receiving annual leave or whether it will commence after he has exhausted his annual leave. I do not see that it could add any material amount, because we are not extending it. We are not saying that the Federal Government will pay more. We are just saying that the State can begin this payment at perhaps an earlier date than it would under the provisions of existing law, in the light of section 1505.

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES— TREATMENT OF ACCRUED ANNUAL LEAVE

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3472) to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas [Mr. MILLS]?

Mr. MARSHALL. Mr. Speaker, reserving the right to object, I would like to ask a few questions about this bill.

I wonder if the chairman could tell me in connection with this particular

Mr. FORAND. Mr. Speaker, will the gentleman yield?

Mr. MARSHALL. I yield to the gentleman from Rhode Island.

Mr. FORAND. I would like to emphasize that this is not separation pay, but it is annual leave accrued to the individual to which he has a right. If he takes a vacation, all right, his time is used up. If, instead, he continues to work but has accrued that vacation period credit, he is entitled to that whether he is receiving unemployment compensation or not. The two are separate and distinct. The point we are trying to clear up is the discrimination now existing against Federal employees who live in States where the State recognizes that an individual in private employment is entitled to unemployment compensation, whereas the same kind of treatment should apply to a Federal employee.

Mr. MARSHALL. I appreciate what the gentleman from Rhode Island is trying to do and I am sympathetic to a certain extent with what he is trying to do. It seems to me that the problem we face on this proposition is that this is a matter of Federal employees getting a different interpretation as between the different States. I realize that some of that is beyond the gentleman's control, because it is a State matter. But there is another feature that is not being considered here, but is tied in to it. In a number of States we are now paying unemployment compensation to Federal employees who are collecting their annuities. That is costing us up into the millions of dollars. It seems to me that that is decidedly unfair. I appreciate that that is separate from what the gentleman is trying to do here. But it does seem to me that this does create some discrepancy.

It was my intention today to point the matter up as far as the Congress is concerned in order that we may have a clearer understanding of it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective only with respect to benefit years which begin more than thirty days after the date of enactment of this Act, section 1505 of the Social Security Act (42 U.S.C. 1365) is hereby repealed.

With the following committee amendment:

Page 1, after line 6, insert:
 "Sec. 2. Section 1511(f) of the Social Security Act (42 U.S.C. 1371 (f)) is amended by striking out 'section 1505 applies' and inserting in lieu thereof 'section 1505 continues (without regard to its repeal) to apply'."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. SIMPSON of Pennsylvania. Mr. Speaker, H.R. 3472 would amend the Social Security Act so that accrued an-

nual leave for Federal civilian employees would be treated in accordance with State law in determining the employee's eligibility for unemployment compensation.

The Committee on Ways and Means was unanimous in approving this legislation. It is an appropriate amendment to the law because unemployment compensation is intended to maintain in part an employee's purchasing power during a period of temporary unemployment whereas the accrued annual leave of the employee is predicated on the concept that employees earn vacation rights as a result of their employment.

I am happy to have joined in supporting the favorable House action just taken on this legislation.

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the authors of these various bills just passed have permission to extend their remarks in the Record following the passage of each bill.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Calendar No. 1193

86TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 1154

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES—TREATMENT OF ACCRUED ANNUAL LEAVE

MARCH 2 (legislative day, FEBRUARY 15), 1960.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 3472]

The Committee on Finance, to whom was referred the bill (H.R. 3472) to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

PURPOSE

The purpose of H.R. 3472 is to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal civilian employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws.

GENERAL STATEMENT

Title XV of the Social Security Act, which established the Federal employees' unemployment insurance program, provides for the administration of that program by the States under agreements with the Federal Government. However, under section 1505 no compensation may be paid to a Federal employee during a period subsequent to separation from Federal service when he is being paid for accrued annual leave. Your committee's bill, by repealing section 1505, would make the award of unemployment compensation to a separated Federal civilian employee while he has accrued annual leave depend upon the provisions of the appropriate State unemployment compensation law.

2 UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

Unemployment compensation payments, on the one hand, and sums paid for accrued annual leave, on the other hand, are made for entirely different reasons. The unemployment compensation system, which is based upon insurance principles, is intended to maintain purchasing power during limited periods of unemployment for insured employees who have earned wage credits under the program. Its purpose is to assist in preserving the economic security of the individual and in sustaining the economic stability of the Nation. Annual leave is based on the concept that employees earn vacation rights as a result of their work. These remain vacation rights whether the employees take actual leave from their work or receive compensation in lieu of taking actual leave. The concept of insurance, unemployment, and maintenance of purchasing power are not involved with respect to the matter of annual leave. Thus, your committee is of the opinion that there is no inconsistency in the payment of both unemployment compensation and a sum for accrued annual leave to the same person for the same period of time. Your committee's bill, therefore, would repeal section 1505, thereby permitting the provisions of State law to determine the eligibility of a Federal civilian employee to unemployment compensation while he has accrued annual leave. The Federal civilian worker would then be treated in exactly the same manner as workers in private industry who receive similar annual leave payments upon separation.

COMMITTEE AMENDMENT

Section 3 of the bill, which was added by your committee, is intended to make a technical correction necessary to prevent undue hardship and injustice.

The present law provides that a quarter of coverage under OASI is based on the quarter in which wages are paid. Originally Congress provided that coverage should be based on the period when the covered work was performed, and the retirement test is still based on this concept.

An illustration of hardship that can arise can be illustrated by this hypothetical case: The claimant attained age 65 on January 31, 1955. The claimant has the following wages or self-employment income in covered employment:

Period ending—	Amount of wages	Quarters of coverage
Mar. 31, 1956.....	\$895.00	1
June 30, 1956.....	300.00	1
Dec. 31, 1956.....	750.00	1
Mar. 31, 1957.....	396.99	1
June 30, 1957.....	458.98	1

The claimant worked in covered employment in September 1956, earned \$90 in wages, and it seems only reasonable that he should be credited with one quarter of coverage for the quarter ending September 30, 1956. Both claimant and employer agreed that the claimant was paid his wages for services performed in September 1956, on October 2, 1956, so that under existing law he is not given credit for a quarter of coverage for the quarter ending September 30, 1956.

This claimant could qualify if he had six quarters of coverage in 1955, 1956, and the first 6 months of 1957. During that period of time, claimant has five quarters of coverage. Therefore, he does not meet the earnings requirements of the law. He would have had a sixth quarter of coverage except that for his employment in the third quarter of 1956 he was paid on the 2d day of October, but he would have qualified had he drawn his pay on September 30. This claimant is physically unable to perform any further work. This technicality, which deprives him of benefits, would be corrected by this amendment.

This amendment is limited in scope to individuals who did not die prior to January 1, 1955, and who attained retirement age or died before January 1, 1957, so as to give protection to the large groups of individuals who were covered by the program for the first time in 1955. It is also limited to coverage acquired in the first year that the individual was in covered employment since in such periods there is often a lag involved between when actual employment occurs and when wages are actually paid, thus possibly resulting in the loss of a needed quarter of coverage. The amendment would be effective for monthly benefits in respect to months after June 1957, if application therefor is filed within about 1 year after the month of enactment.

DEPARTMENTAL VIEWS

Favorable reports on H.R. 3472 were received from the Departments of Labor and Treasury, and the Bureau of the Budget.

The amendment adopted by your committee has been redrafted so as to be limited in application as recommended by the Secretary of Health, Education, and Welfare. The estimated cost of this amendment is negligible.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

THE SOCIAL SECURITY ACT

[TREATMENT OF ACCRUED ANNUAL LEAVE

[SEC. 1505. For the purposes of this title, in the case of a Federal employee who is performing Federal service at the time of his separation from employment by the United States or any instrumentality thereof, (1) the Federal service of such employee shall be considered as continuing during the period, subsequent to such separation, with respect to which he is considered as having received payment of accumulated and current annual or vacation leave pursuant to any Federal law, and (2) subject to regulations of the Secretary concerning allocation over the period, such payment shall constitute Federal wages.]

* * * * *

4 UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

EX-SERVICEMEN'S UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 1511. (a) The provisions of this title, except where inconsistent with the provisions of this section, apply, with respect to weeks of unemployment ending after the sixtieth day after the date of the enactment of this section, to individuals who have had Federal service as defined in subsection (b).

(b) For the purposes of this section, the term "Federal service" means active service (including active duty for training purposes) in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States if—

(1) such service was continuous for ninety days or more, or was terminated earlier by reason of an actual service-incurred injury or disability; and

(2) with respect to such service, the individual (A) has been discharged or released under conditions other than dishonorable, and (B) was not given a bad conduct discharge, or, if an officer, did not resign for the good of the service.

No individual shall be treated as having Federal service within the meaning of the preceding sentence unless he has a period of such service which either begins after January 31, 1955, or terminates after the sixtieth day after the date of the enactment of this section.

(c) For the purposes of this section, the term "Federal wages" means remuneration for the periods of service covered by subsection (b), computed on the basis of remuneration for the individual's pay grade at the time of his discharge or release from the latest period of such service as specified in the schedule applicable at the time of filing of his first claim for compensation for the benefit year. The Secretary shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the remuneration for each pay grade of servicemen covered by this section, which shall reflect representative amounts for appropriate elements of such remuneration (whether in cash or in kind).

(d) (1) Any Federal department or agency shall, when designated by the Secretary, make available to the appropriate State agency or to the Secretary, as the case may be, such information (including findings in the form and manner prescribed by the Secretary by regulation) as the Secretary may find practicable and necessary for the determination of an individual's entitlement to compensation by reason of this section.

(2) Subject to correction of errors and omissions as prescribed by the Secretary by regulation, the following shall be final and conclusive for the purposes of sections 1502(c) and 1503(c):

(A) Any finding by a Federal department or agency, made in accordance with paragraph (1), with respect to (i) whether an individual has met any condition specified in subsection (b), (ii) the individual's periods of Federal service as defined in subsection (b), and (iii) the individual's pay grade at the time of his discharge or release from the latest period of such Federal service.

(B) The schedules of remuneration issued by the Secretary under subsection (c).

(e) Notwithstanding the provisions of section 1504, all Federal service and Federal wages covered by this section, not previously assigned, shall be assigned to the State, or Puerto Rico or the Virgin Islands, as the case may be, in which the claimant first files his claim for unemployment compensation after his most recent discharge or release from such Federal service. This assignment shall constitute an assignment under section 1504 for all purposes of this title.

(f) Payments made under section 4(c) of the Armed Forces Leave Act of 1946 (37 U.S.C. 33(c)) at the termination of Federal service covered by this section shall be treated for determining periods of Federal service as payments of annual leave to which [section 1505 applies] *section 1505 continues (without regard to its repeal)* to apply.

(g) An individual who is eligible to receive a mustering-out payment under title V of the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. 1011 et seq.) shall not be eligible to receive compensation under this title with respect to weeks of unemployment completed within thirty days after his discharge or release if he receives \$100 in such mustering-out payments; within sixty days after his discharge or release if he receives \$200 in such mustering-out payment; or within ninety days after his discharge or release if he receives \$300 in such mustering-out payment.

(h) No payment shall be made by reason of this section to an individual for any period with respect to which he receives an education and training allowance under subsection (a), (b), (c), or (d) of section 232 of the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. 942), a subsistence allowance under part VII or part VIII of Veterans Regulation Numbered 1(a), as amended, or an educational assistance allowance under the War Orphans' Educational Assistance Act of 1956 (38 U.S.C. 1031 et seq.).

(i) Any individual—

(1) who meets the wage and employment requirements for compensation under the law of the State to which his Federal service and Federal wages as defined in this section have been assigned (or, in the case of Puerto Rico or the Virgin Islands, the law of the District of Columbia) but would not meet such requirements except by the use of such Federal service and Federal wages, or

(2) whose weekly benefit amount computed according to the law of such State (or the law of the District of Columbia, as the case may be) is increased by the use of such Federal service and Federal wages,

shall not thereafter be entitled to unemployment compensation under the provisions of title IV of the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. 991 et seq.).

* * * * *

6 UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

QUARTER AND QUARTER OF COVERAGE

DEFINITIONS

SEC. 213. (a) For the purpose of this title—

(1) The term “quarter”, and the term “calendar quarter”, means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2)(A) The term “quarter of coverage” means, in the case of any quarter occurring prior to 1951, a quarter in which the individual has been paid \$50 or more in wages, except that no quarter any part of which was included in a period of disability (as defined in section 216(i)), other than the initial quarter of such period, shall be a quarter of coverage. In the case of any individual who has been paid, in a calendar year prior to 1951, \$3,000 or more in wages, each quarter of such year following his first quarter of coverage shall be deemed a quarter of coverage, excepting any quarter in such year in which such individual died or became entitled to a primary insurance benefit and any quarter succeeding such quarter in which he died or became so entitled, and excepting any quarter any part of which was included in a period of disability, other than the initial quarter of such period.

(B) The term “quarter of coverage” means, in the case of a quarter occurring after 1950, a quarter in which the individual has been paid \$50 or more in wages (except wages for agriculturéal labor paid after 1954) or for which he has been credited (as determined under section 212) with \$100 or more of self-employment income, except that—

(i) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to any individual in any calendar year equal \$3,600 in the case of a calendar year after 1950 and before 1955, or \$4,200 in the case of a calendar year after 1954 and before 1959, or \$4,800 in the case of a calendar year after 1958, each quarter of such year shall (subject to clause (i)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals \$3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or \$4,200 in the case of a taxable year ending after 1954 and before 1959, or \$4,800 in the case of a taxable year ending after 1958, each quarter any part of which falls in such year shall (subject to clause (i)) be a quarter of coverage;

(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954, then, subject to clause (i), (a) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed \$100 but are less than \$200; (b) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such

wages equal or exceed \$200 but are less than \$300; (c) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$300 but are less than \$400; and (d) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are \$400 or more; and

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter.

If, in the case of any individual who has attained retirement age or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954, the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. *If, in the case of an individual who did not die prior to January 1, 1955, and who attained retirement age or died before July 1, 1957, the requirements for insured status in section 214(a)(3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.*

CREDITING OF WAGES PAID IN 1937

(b) With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than \$100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than \$100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

* * * * *



Mr. President, I ask unanimous consent that the Senate reconsider the vote by which it passed Calendar No. 1193, House bill 3472.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the vote by which the bill was passed is reconsidered.

Mr. BYRD of Virginia. Mr. President, the purpose of H.R. 3472 is to repeal section 1505 of the Social Security Act so that, in determining eligibility of Federal civilian employees for unemployment compensation, their accrued annual leave shall be treated in accordance with State laws.

The Federal employees' unemployment insurance program is administered by the States under agreements with the Federal Government. However, under section 1505 of the Social Security Act no compensation may be paid to a Federal employee during a period subsequent to separation from Federal service when he is being paid for accrued annual leave. The committee's bill, by repealing section 1505, would make the award of unemployment compensation to a separated Federal civilian employee while he has accrued annual leave depend upon the provisions of the appropriate State unemployment compensation law.

COMMITTEE AMENDMENT

Section 3 of the bill, which was added by the committee, is intended to make a technical correction necessary to prevent undue hardship and injustice.

The present law provides that a quarter of coverage under OASI is based on the quarter in which wages are paid. Originally Congress provided that coverage should be based on the period when the covered work was performed, and the retirement test is still based on this concept.

The purpose of this amendment is to qualify for social security benefits certain workers who have worked in covered employment for the required number of quarters, but who are unable to establish such eligibility due to this method now being used by the Social Security Administration in determining the insured status on the basis of the periods in which the wages were paid, instead of the periods during which the wages were earned.

May I state a hypothetical case to illustrate a resultant hardship: A claimant who attained age 65 on January 31, 1955, had worked in covered employment for the minimum requirement of six quarters—ending March 31, 1956, June 30, 1956, September 30, 1956, December 31, 1956, March 31, 1957, and June 30, 1957. His employer paid his wages for the quarter ending September 30, 1956, on October 2, 1956; so they were credited in the next quarter, leaving him with no credit for the quarter in question. This claimant is physically unable to perform any further work and should not be deprived of his earned benefits because of this technicality.

As recommended by the Secretary of Health, Education, and Welfare, the amendment is limited in scope to individuals who did not die prior to January 1, 1955, and who attained retirement age

or died before January 1, 1957, so as to give protection to the large group of individuals who were covered by the program for the first time in 1955. It is also limited to coverage acquired in the first year that the individual was in covered employment, since in such periods there is often a lag involved between when actual employment occurs and when wages are actually paid, thus possibly resulting in the loss of a needed quarter of coverage. The amendment would be effective for monthly benefits in respect to months after June 1957, if application therefor is filed within about 1 year after the month of enactment.

It was approved by the Department of Health, Education, and Welfare.

Mr. MORSE. Mr. President, will the Senator yield for a question?

Mr. BYRD of Virginia. I yield.

Mr. MORSE. This is obviously a very complicated bill, when we start considering it in connection with specific cases.

It may be that the hypothetical question I am now going to state to the Senator, for an answer, is not at all applicable, but I am worried about this hypothetical situation. Let us consider a Federal employee who is separated from the Federal service. Because the employee is separated from the Federal service he is entitled to certain accrued benefits which flow to him after separation from the service, which he in fact has earned under our annuity system.

Would this bill provide that because the person is getting those benefits he cannot be considered for unemployment insurance benefits in accordance with some State law, on the ground that he is getting some income from the Federal Government?

Mr. BYRD of Virginia. The State laws would govern that matter. In other words, in determining the eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State law, as is true with respect to other matters relating to this.

Mr. MORSE. If that means anything it means, I suppose, that under the present situation the accrued annual benefits are not now so treated. In other words, is the bill an amendment which makes a concession to the States, so that the States can, in effect, use the payments from the Federal Government as the basis for making an employee ineligible for unemployment insurance benefits under the State law?

Mr. BYRD of Virginia. By repealing section 1505 the bill would make the award of unemployment compensation to a separated Federal civilian employee while he has accrued annual leave depend upon the provisions of the appropriate State unemployment compensation law. As the Senator well knows, the benefits are fixed by the States, in respect to unemployment compensation.

Mr. MORSE. If it is true that the bill would not make any difference at all, then why is it necessary?

I should like to find out what I shall be doing if I vote for the bill. Will I be putting the separated Federal employee in a position where he would be

DETERMINATION OF ELIGIBILITY OF FEDERAL EMPLOYEES FOR UNEMPLOYMENT COMPENSATION

The Senate proceeded to consider the bill (H.R. 3472) to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws, and for other purposes, which had been reported from the Committee on Finance, with an amendment, on page 2, after line 2, to insert a new section, as follows:

SEC. 3. Section 213(a)(2)(B) of the Social Security Act is amended by adding at the end thereof the following language: "If, in the case of an individual who did not die prior to January 1, 1955, and who attained retirement age or died before July 1, 1957, the requirements for insured status in section 214(a)(3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned."

This amendment shall be applicable in the case of monthly benefits under title II of the Social Security Act for months after June 1957, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month; the requirements for filing applications for such benefits and payments within certain time limits, as prescribed in sections 202(i) and 202(j) of such title, shall not apply if an application is filed within the one-year period beginning with the first day of the month after the month in which this Act is enacted.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. MORSE. Mr. President, I was giving heed to another matter when Calendar No. 1193, House bill 3472, was passed. I should like to have the Senate return to it for the purpose of receiving an explanation of it, and possibly so that I may ask some questions with respect to it. I am concerned with one problem which may be connected with it, which an explanation may remove.

less protected than he is now? I know that some of our State unemployment insurance benefit laws are shockingly inadequate. We are dealing with this very problem in the Committee on the District of Columbia now, in respect to unemployment insurance benefits in the District of Columbia. This has caused me to make a rather thorough study of the unemployment insurance benefits in our several States. They are pretty sad. I do not want to vote this afternoon for some bill which is going to make them worse.

Let me put it this way: I do not want to vote for a bill which is going to put the States in a position to take further advantage of unemployed Federal employees who have been separated from the Federal service than they now do.

Mr. BYRD of Virginia. I think the intention of the committee was to liberalize the provisions to a certain extent.

Under section 1505, which would be repealed by the bill, it is provided that no compensation may be paid to a Federal employee during a period subsequent to separation from Federal service when he is being paid for accrued annual leave.

Mr. MORSE. I do not know why he should be.

Mr. BYRD of Virginia. That is the law.

Mr. MORSE. That is income. That is as much income as he would get from a stock dividend.

I am sure the Senator from Virginia will not take any offense if I ask for time to study the bill.

Mr. BYRD of Virginia. The Senator from Oregon did not understand me. The bill would repeal that section and provide that the separated Federal employee could get unemployment insurance while receiving accrued annual leave.

Mr. MORSE. He could get it?

Mr. BYRD of Virginia. He could get it.

Mr. MORSE. Then there is no question, under the amendment.

Mr. BYRD of Virginia. The committee bill, by repealing section 1505, would make possible the award of unemployment compensation to a separated Federal civilian employee while he has accrued annual leave coming to him.

Mr. MORSE. Then we are of one mind. I am glad I asked the question. I thank the Senator. I misunderstood the import of the bill.

With that understanding, I have no objection.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (H.R. 3472) was passed.

UNEMPLOYMENT COMPENSATION
FOR FEDERAL EMPLOYEES—
TREATMENT OF ACCRUED AN-
NUAL LEAVE

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3472) to repeal section 1505 of the Social Security Act so that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws, and for other purposes, with Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

After line 10, insert:

"Sec. 3. Section 213(a)2(B) of the Social Security Act is amended by adding at the end thereof the following language: 'If, in the case of an individual who did not die prior to January 1, 1955, and who attained retirement age or died before July 1, 1957, the requirements for insured status in section 214(a) (3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage

in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.

"This amendment shall be applicable in the case of monthly benefits under title II of the Social Security Act for months after June 1957, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month; the requirements for filing applications for such benefits and payments within certain time limits, as prescribed in section 202(1) and 202(j) of such title, shall not apply if an application is filed within the one-year period beginning with the first day of the month after the month in which this Act is enacted."

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS. Mr. Speaker, this bill deals with eligibility of Federal civilian employees for unemployment compensation during periods after separation covered by accrued annual leave. Present law prohibits payment of unemployment compensation benefits during this period. The bill removes this prohibition and leaves the matter to the unemployment compensation laws of the States. Some State laws recognize that these two payments are made for different reasons and, therefore, permit employment benefits to be paid during the period after dismissal covered by accrued annual leave.

The Senate amendment amends the coverage provisions of the Social Security Act. In general an individual has OASI coverage if he receives wages in covered employment for 6 quarters immediately prior to retirement. The amendment extends coverage to certain individuals who would have received coverage under this provision except that the actual receipt of wages happened to fall entirely into 5 quarters while the employment itself was spread over 6 quarters. The amendment is limited in application to certain individuals who attained retirement age before January 1, 1957.

Mr. BYRNES of Wisconsin. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. BYRNES of Wisconsin. Mr. Speaker, H.R. 3472 as approved by the House of Representatives last year provided that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave would be treated in accordance with State law.

The Senate in acting on this legislation added a meritorious amendment which was designed to correct an undue hardship resulting from a technical provision of title II of the Social Security Act. Under existing law in determining eligibility for OASI benefits a quarter of coverage is based on the quarter in which wages are paid. This Senate amendment would make it clear that with respect to qualification for social security benefits the mere fact that wages are paid a few days after the quarter of actual employment will not keep that quarter from being taken into account in determining eligibility. This Senate amendment was concurred in by the Department of Health, Education, and Welfare, and it is appropriate that the House has just acted to accept the Senate amendment.

Public Law 86-442
86th Congress, H. R. 3472
April 22, 1960

AN ACT

To repeal section 1505 of the Social Security Act so that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective only with respect to benefit years which begin more than thirty days after the date of enactment of this Act, section 1505 of the Social Security Act (42 U.S.C. 1365) is hereby repealed.

Social Security Act.
Repeal and amendments.

68 Stat. 1133.

SEC. 2. Section 1511(f) of the Social Security Act (42 U.S.C. 1371(f)) is amended by striking out "section 1505 applies" and inserting in lieu thereof "section 1505 continues (without regard to its repeal) to apply".

72 Stat. 1089.

74 STAT. 81.

74 STAT. 82.

42 USC 413.

SEC. 3. Section 213(a)2(B) of the Social Security Act is amended by adding at the end thereof the following language: "If, in the case of an individual who did not die prior to January 1, 1955, and who attained retirement age or died before July 1, 1957, the requirements for insured status in section 214(a) (3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned."

42 USC 414.

This amendment shall be applicable in the case of monthly benefits under title II of the Social Security Act for months after June 1957, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month; the requirements for filing applications for such benefits and payments within certain time limits, as prescribed in sections 202(i) and 202(j) of such title, shall not apply if an application is filed within the one-year period beginning with the first day of the month after the month in which this Act is enacted.

42 USC 401-425.

42 USC 402.

Approved April 22, 1960.

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MICHAEL D. OVENS

JUNE 3, 1957.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H. R. 4992]

The Committee on the Judiciary to whom was referred the bill (H. R. 4992), for the relief of Michael D. Ovens, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The proposed legislation would provide that for the purposes of sections 202 (d) and 216 (e) of the Social Security Act, the minor child Michael D. Ovens shall be held and considered to have been legally adopted by Verne E. Ovens and Elizabeth Ovens on February 20, 1954, and the child shall be entitled to child's insurance benefits under section 202 (d) on the basis of the wages and self-employment income of Verne E. Ovens beginning as of August 1954 if he is otherwise qualified for the benefits and a new application is filed by him or for him within 6 month's of the bill's enactment.

STATEMENT

On February 20, 1954, Verne E. Ovens and Elizabeth Ovens, his wife, entered into an agreement with the Milwaukee County Department of Public Welfare under which the child named in the bill, Michael D. Ovens, was placed with them on a conditional basis with a view to their ultimately adopting the child. Under the agreement the child could be removed if the home was found to be detrimental to the child's welfare. The husband, Verne E. Ovens, died on August 22, 1954, when the child had been in the home for more than 6 months, but before the formal adoption of the child had been effected. The child continued to live with the widow, and the adoption of the child

was carried through in accordance with the original intent of the couple. The decree of adoption was entered on April 13, 1955.

As is outlined in the report of the Department of Health, Education, and Welfare on this bill, child's benefits under the Social Security Act were refused the adopted child because the adoption had not been completed prior to the husband's death, and the law did not make provision for a child adopted under the circumstances of this case.

We do not doubt but that this is a correct statement of the law, but feel that this is a case where legislative relief is appropriate. The facts demonstrate that the couple had agreed to adopt the child, and had the child in their home for a considerable time prior to the husband's death. The widow went forward with the adoption as her husband and she had planned, and in accordance with their agreement with the welfare agency. We feel that it would be only right to recognize the actual situation by taking favorable action on the bill, and recommend its favorable consideration.

The different documents referred to in Mrs. Ovens' affidavit are in the committee files and not included in this report.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, July 20, 1956.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of March 12, 1956, for a report on H. R. 9796, a bill for the relief of Michael D. Ovens.

The bill provides that for purposes of child's benefits under the old-age and survivors insurance program Michael D. Ovens (born Dennis Lee DuVal on July 18, 1953) should be considered to have been legally adopted by Mr. and Mrs. Verne E. Ovens on February 20, 1954. The bill would permit the payment of survivor child's benefits to this child based on the old-age and survivors insurance account of Mr. Ovens for months beginning with August 1954, the month of the latter's death. The bill would also bar denial of these benefits by reason of the formal adoption of the child by Mrs. Ovens after the wage-earner's death. The Social Security Act requires the termination of child's benefits when the child is adopted, except where the adoption occurs after the death of the worker and is by the child's stepparent, grandparent, aunt, or uncle.

On February 20, 1954, Mr. and Mrs. Ovens entered into an agreement with the Milwaukee County Department of Public Welfare pursuant to which the child was placed with them conditionally for adoption purposes. Under this agreement, the child could be removed if conditions in their home not known at the time of placement proved detrimental to the child's welfare. The wage earner died before the adoption was effected. Mrs. Ovens has since adopted the child.

Section 202 (d) of the Social Security Act provides for payment of child's benefits to the child, stepchild, or adopted child of a deceased insured individual. Section 216 (e) of the act states that the "term 'child' means (1) the child of an individual, and * * * (3) in the case of a deceased individual, * * * an adopted child." In addition, section 216 (h) (1) of the act provides that a child shall be deemed to

be the child of an insured person for old-age and survivors insurance benefit purposes if he would be so considered in determining the devolution of intestate personal property in the State of the wage earner's domicile. The State of domicile in this particular case was Wisconsin.

In some States the courts have held that an individual may qualify as a child for the purpose of inheriting intestate personal property if he had been "equitably adopted"—that is, if there had been a contract to adopt him and if he had performed as a child for such a length of time that failure to permit him to take property as if he had been legally adopted would operate as a fraud upon him. The Supreme Court of Wisconsin, however, recently declared that it had not been following these courts and would continue not to follow them. (In re *Cheaney's Estate* (64 N. W. (2d) 408).) Therefore it is clear that the State of Wisconsin would not give Michael D. Ovens inheritance rights as a child by virtue of the agreement to adopt. Under these circumstances, it is not possible to hold that Michael D. Ovens has the status of a child of Mr. Verne E. Ovens for the purpose of inheriting intestate personal property. Neither is he the legally adopted child nor the stepchild of Verne E. Ovens. He therefore cannot be found to be eligible for benefits on the earnings record of Verne E. Ovens.

Under most State laws final sanction to an adoption is given only after a waiting period during which the child lives with the adoptive parents. During such waiting period the court, through the supervising agency, if one is involved, is given an opportunity to decide whether the adoptive parents and child have made a satisfactory adjustment to each other. If the individual dies before the adoption is completed, the court may find the family situation sufficiently changed to make the adoption unsuitable, or the widow may decide that she does not wish to keep the child. The above-mentioned requirements of the Social Security Act are intended to assure that child's benefits will be paid only where the dependency of the child upon the insured individual is firmly established and is not merely a temporary arrangement or one designed solely to obtain benefit payments.

In the specific case under consideration, of course, Mrs. Ovens, by completing the adoption after her husband's death, did assume permanent responsibility for the support of the child. It could therefore be concluded, in this specific case, that in all likelihood the child would have been dependent on Mr. Ovens if the latter had not died, and that the considerations cited above that make the adoption requirement a generally appropriate and necessary one do not apply here. Nevertheless we do not think that enactment of a bill providing benefits for Michael D. Ovens is desirable. Such a bill would provide benefits for one individual under conditions identical with those under which benefits would be denied to another. We believe that, as stated by the President in his veto message on H. R. 1334, 83d Congress (H. Doc. No. 177), special legislation of this nature is "undesirable and contrary to sound principles of equity and justice."

For these reasons, we recommend that H. R. 9796 not be enacted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

M. B. FOLSOM, *Secretary.*

STATE OF ILLINOIS:

County of Cook, ss:

RE: H. R. 4992

AFFIDAVIT

Elizabeth Ovens, being first duly sworn on oath deposes and states:

That she is making the following affidavit to induce the House Judiciary Committee to pass H. R. 4992.

Affiant states that she was married once and then to Verne E. Ovens, on the 5th day of April 1943. That attached hereto is a photostat of her marriage certificate.

That previous to the adoption of Michael Ovens, she adopted a girl, who is presently being raised by your affiant.

That Michael Ovens was born on the 18th day of July 1953, and was delivered to her and her husband on the 21st day of January 1954, by the Milwaukee Cook County Department of Public Welfare.

That your affiant's husband died on the 22d of August 1954 in the Milwaukee County Hospital, and the decree of adoption, a copy of which is attached hereto, was entered on the 13th day of April 1955; that Michael has been maintained and resides with your affiant since the 21st day of January 1954 to the present date.

Michael has been treated as a natural child since the 21st day of January 1954, and is being raised with his sister, and all of the formalities that followed the date of Michael's entry into your affiant's home were merely formalizing the contract which your affiant made the day that Michael was carried to her home.

That attached hereto is a recent decision of the United States Court of Appeals in a similar case, which shows the extent to which a contract of adoption may be carried.

ELIZABETH OVENS.

Subscribed and sworn to before me this 16th day of May, A. D. 1957.

[SEAL]

DANIEL J. MCCARTHY,
Notary Public.

○

MICHAEL D. OVENS

The Clerk called the bill (H. R. 4992) for the relief of Michael D. Ovens.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of sections 202 (d) and 216 (e) of the Social Security Act, the minor child, Michael D. Ovens, shall be held and considered to have been legally adopted by Verne E. Ovens and Elizabeth H. Ovens, of Milwaukee, Wis., on February 20, 1954; and the said Michael D. Ovens shall be entitled to child's insurance benefits under such section 202 (d) on the basis of the wages and self-employment income of the said Verne E. Ovens, beginning with the month of August 1954, if he is otherwise qualified for such benefits and a new application for such benefits is filed by him or on his behalf within 6 months after the date of the enactment of this act. For purposes of the preceding sentence and such section 202 (d), the formal adoption of the said Michael D. Ovens effected by the said Elizabeth H. Ovens after the death of the said Verne E. Ovens shall not operate to prevent payment of such benefits to the said Michael D. Ovens or terminate his entitlement to such benefits.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MICHAEL D. OVENS

—————
AUGUST 22, 1957.—Ordered to be printed
—————

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H. R. 4992]

The Committee on the Judiciary, to which was referred the bill (H. R. 4992) for the relief of Michael D. Ovens, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The proposed legislation would provide that for the purposes of sections 202 (d) and 216 (e) of the Social Security Act, the minor child Michael D. Ovens shall be held and considered to have been legally adopted by Verne E. Ovens and Elizabeth Ovens on February 20, 1954, and the child shall be entitled to child's insurance benefits under section 202 (d) on the basis of the wages and self-employment income of Verne E. Ovens beginning as of August 1954 if he is otherwise qualified for the benefits and a new application is filed by him or for him within 6 months of the bill's enactment.

STATEMENT

On February 20, 1954, Verne E. Ovens and Elizabeth Ovens, his wife, entered into an agreement with the Milwaukee County Department of Public Welfare under which the child named in the bill, Michael D. Ovens, was placed with them on a conditional basis with a view to their ultimately adopting the child. Under the agreement the child could be removed if the home was found to be detrimental to the child's welfare. The husband, Verne E. Ovens, died on August

22, 1954, when the child had been in the home for more than 6 months, but before the formal adoption of the child had been effected. The child continued to live with the widow, and the adoption of the child was carried through in accordance with the original intent of the couple. The decree of adoption was entered on April 13, 1955.

As is outlined in the report of the Department of Health, Education, and Welfare on this bill, child's benefits under the Social Security Act were refused the adopted child because the adoption had not been completed prior to the husband's death, and the law did not make provision for a child adopted under the circumstances of this case.

We do not doubt but that this is a correct statement of the law, but feel that this is a case where legislative relief is appropriate. The facts demonstrate that the couple had agreed to adopt the child, and had the child in their home for a considerable time prior to the husband's death. The widow went forward with the adoption as her husband and she had planned, and in accordance with their agreement with the welfare agency. We feel that it would be only right to recognize the actual situation by taking favorable action on the bill, and recommend its favorable consideration.

The committee notes in the letter set forth below, giving the views of the Department of Health, Education, and Welfare with respect to this bill, that attention is invited to the veto message of the President on a private bill of the 83d Congress relating to social-security benefits.

The committee does not believe that the facts in this case are analogous to those in the bill vetoed by the President, particularly since the latter bill related to the payment of benefits retroactively in a situation where neither the widow nor the child was aware of the father's death until 5 years after the event took place.

The committee believes that the claimant is entitled to the relief sought in this bill and recommends favorable consideration by the Senate.

Attached hereto for the information of the Senate is the letter from the Department of Health, Education, and Welfare dated July 20, 1956, and an affidavit from Mrs. Elizabeth Ovens, mother of the claimant, dated May 16, 1957.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, July 20, 1956.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in response to your request of March 12, 1956, for a report on H. R. 9796, a bill for the relief of Michael D. Ovens.

The bill provides that for purposes of child's benefits under the old-age and survivors insurance program Michael D. Ovens (born Dennis Lee DuVal on July 18, 1953) should be considered to have been legally adopted by Mr. and Mrs. Verne E. Ovens on February 20, 1954. The bill would permit the payment of survivor child's benefits to this child based on the old-age and survivors insurance account of Mr. Ovens for months beginning with August 1954, the month of the latter's death. The bill would also bar denial of these benefits by reason of the formal adoption of the child by Mrs. Ovens after the wage

earner's death. The Social Security Act requires the termination of child's benefits when the child is adopted, except where the adoption occurs after the death of the worker and is by the child's stepparent, grandparent, aunt, or uncle.

On February 20, 1954, Mr. and Mrs. Ovens entered into an agreement with the Milwaukee County Department of Public Welfare pursuant to which the child was placed with them conditionally for adoption purposes. Under this agreement, the child could be removed if conditions in their home not known at the time of placement proved detrimental to the child's welfare. The wage earner died before the adoption was effected. Mrs. Ovens has since adopted the child.

Section 202 (d) of the Social Security Act provides for payment of child's benefits to the child, stepchild, or adopted child of a deceased insured individual. Section 216 (e) of the act states that the "term 'child' means (1) the child of an individual, and * * * (3) in the case of a deceased individual, * * * an adopted child." In addition, section 216 (h) (1) of the act provides that a child shall be deemed to be the child of an insured person for old-age and survivors insurance benefit purposes if he would be so considered in determining the devolution of intestate personal property in the State of the wage earner's domicile. The State of domicile in this particular case was Wisconsin.

In some States the courts have held that an individual may qualify as a child for the purpose of inheriting intestate personal property if he had been "equitably adopted"—that is, if there had been a contract to adopt him and if he had performed as a child for such a length of time that failure to permit him to take property as if he had been legally adopted would operate as a fraud upon him. The Supreme Court of Wisconsin, however, recently declared that it had not been following these courts and would continue not to follow them. (In re *Cheaney's Estate* (64 N. W. (2d) 408.) Therefore it is clear that the State of Wisconsin would not give Michael D. Ovens inheritance rights as a child by virtue of the agreement to adopt. Under these circumstances, it is not possible to hold that Michael D. Ovens has the status of a child of Mr. Verne E. Ovens for the purpose of inheriting intestate personal property. Neither is he the legally adopted child nor the stepchild of Verne E. Ovens. He therefore cannot be found to be eligible for benefits on the earnings record of Verne E. Ovens.

Under most State laws final sanction to an adoption is given only after a waiting period during which the child lives with the adoptive parents. During such waiting period the court, through the supervising agency, if one is involved, is given an opportunity to decide whether the adoptive parents and child have made a satisfactory adjustment to each other. If the individual dies before the adoption is completed, the court may find the family situation sufficiently changed to make the adoption unsuitable, or the widow may decide that she does not wish to keep the child. The above-mentioned requirements of the Social Security Act are intended to assure that child's benefits will be paid only where the dependency of the child upon the insured individual is firmly established and is not merely a temporary arrangement or one designed solely to obtain benefit payments.

In the specific case under consideration, of course, Mrs. Ovens, by completing the adoption after her husband's death, did assume per-

manent responsibility for the support of the child. It could therefore be concluded, in this specific case, that in all likelihood the child would have been dependent on Mr. Ovens if the latter had not died, and that the considerations cited above that make the adoption requirement a generally appropriate and necessary one do not apply here. Nevertheless we do not think that enactment of a bill providing benefits for Michael D. Ovens is desirable. Such a bill would provide benefits for one individual under conditions identical with those under which benefits would be denied to another. We believe that, as stated by the President in his veto message on H. R. 1334, 83d Congress (H. Doc. No. 177), special legislation of this nature is "undesirable and contrary to sound principles of equity and justice."

For these reasons, we recommend that H. R. 9796 not be enacted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

M. B. FOLSOM, *Secretary.*

AFFIDAVIT

RE H. R. 4992.

STATE OF ILLINOIS:

County of Cook, ss:

Elizabeth Ovens, being first duly sworn on oath deposes and states:

That she is making the following affidavit to induce the House Judiciary Committee to pass H. R. 4992.

Affiant states that she was married once and then to Verne E. Ovens, on the 5th day of April 1943. That attached hereto is a photostat of her marriage certificate.

That previous to the adoption of Michael Ovens, she adopted a girl, who is presently being raised by your affiant.

That Michael Ovens was born on the 18th day of July 1953, and was delivered to her and her husband on the 21st day of January 1954, by the Milwaukee Cook County Department of Public Welfare.

That your affiant's husband died on the 22d of August 1954 in the Milwaukee County Hospital, and the decree of adoption, a copy of which is attached hereto, was entered on the 13th day of April 1955; that Michael has been maintained and resides with your affiant since the 21st day of January 1954 to the present date.

Michael has been treated as a natural child since the 21st day of January 1954, and is being raised with his sister, and all of the formalities that followed the date of Michael's entry into your affiant's home were merely formalizing the contract which your affiant made the day that Michael was carried to her home.

That attached hereto is a recent decision of the United States Court of Appeals in a similar case, which shows the extent to which a contract of adoption may be carried.

ELIZABETH OVENS.

Subscribed and sworn to before me this 16th day of May A. D. 1957.

[SEAL]

DANIEL J. MCCARTHY.
Notary Public.

MICHAEL D. OVENS

The bill (H. R. 4992) for the relief of Michael D. Ovens was considered, ordered to a third reading, read the third time, and passed.

Private Law 85-337
85th Congress, H. R. 4992
September 7, 1957

AN ACT

For the relief of Michael D. Ovens.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 202 (d) and 216 (e) of the Social Security Act, the minor child, Michael D. Ovens, shall be held and considered to have been legally adopted by Verne E. Ovens and Elizabeth H. Ovens, of Milwaukee, Wisconsin, on February 20, 1954; and the said Michael D. Ovens shall be entitled to child's insurance benefits under such section 202 (d) on the basis of the wages and self-employment income of the said Verne E. Ovens, beginning with the month of August 1954, if he is otherwise qualified for such benefits and a new application for such benefits is filed by him or on his behalf within six months after the date of the enactment of this Act. For purposes of the preceding sentence and such section 202 (d), the formal adoption of the said Michael D. Ovens effected by the said Elizabeth H. Ovens after the death of the said Verne E. Ovens shall not operate to prevent payment of such benefits to the said Michael D. Ovens or terminate his entitlement to such benefits.

Approved September 7, 1957.

September 7, 1957

James C. Hagerty, Press Secretary to the President

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have today approved H.R. 4992, "For the relief of Michael D. Ovens."

This bill would require that, for the purpose of determining entitlement to child's benefits under the Federal Old Age and Survivors' Insurance program, Michael D. Ovens (born Dennis Lee Du Val on July 18, 1953) be deemed to have been legally adopted by Mr. and Mrs. Verne E. Ovens of Milwaukee, Wisconsin, on February 20, 1954, although adoption was not completed on that date.

On February 20, 1954, Mr. and Mrs. Verne E. Ovens entered into an agreement under which the child was placed with them on a conditional basis with a view to eventual adoption. Before the adoption could be completed, Mr. Ovens died. The child continued to live with Mrs. Ovens and his adoption was carried through in accordance with the original intent of the couple.

Under the Social Security Act, an individual who is not the natural child of a deceased wage earner may, nevertheless, be considered a "child" for purposes of the Old Age and Survivors' Insurance program if at the time of the wage earner's death the individual was an adopted child, i.e., a child legally adopted by him, or if, under the law of the decedent's domicile, the individual "would have the same status relative to taking intestate personal property as a child."

Michael D. Ovens clearly was not a legally adopted child of the decedent at the time of his death. Moreover, under the intestacy law of Wisconsin, which is applicable here, he did not have the same status as a child of the decedent.

Ordinarily I would not be inclined to approve special legislation which not only sets aside a provision of general law, but also calls for payment from a trust fund. However, I agree with the Congress that application of the existing law to this situation tends to defeat the purpose of the program. This case seems to me to illustrate the need for reconsideration of the strict criteria of the Social Security Act. It is my hope that next year the rule on adoption in the Social Security Act may be modified to permit all children like Michael to receive the benefits which should be theirs.

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II. Reported to and Passed Senate

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MRS. CLARE M. ASH

MARCH 3, 1959.—Committed to the Committee of the Whole House and ordered
to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the
following

R E P O R T

[To accompany H.R. 3240]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3240) for the relief of Mrs. Clare M. Ash, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

An identical bill was favorably reported by the committee and passed the House in the 85th Congress, but no action taken by the Senate.

The facts will be found fully set forth in House Report No. 2572, 85th Congress, 2d session, which is appended hereto and made a part of this report. Therefore, your committee concur in the prior recommendation.

[H. Rept. 2572, 85th Cong., 2d sess.]

The purpose of the proposed legislation is to have Mrs. Clare M. Ash, of Sturtevant, Wis., considered to have been lawfully married to Frank S. Ash during the period from October 11, 1922, to August 13, 1956, the date of his death.

STATEMENT OF FACTS

In affidavit submitted by Mrs. Ash, she states that she met Mr. Ash after World War I, when he visited his mother in Troy, N.Y., and in about 1 year thereafter he returned to Troy and began courting her and on October 11, 1922, they were married. She further states that she told him that she had been married and he said "so have I." The subject was dropped and never mentioned again. She thought and took it for granted that he was free to remarry, and from 1922 until his death in 1956, a period of 34 years, they lived happily together. Affidavits in the file from neighbors verify this statement.

In the Department report there is a question about the date of his first marriage as being 1926; from the evidence in the file this date should have been 1916 instead of 1926 for the reason he married the present Mrs. Ash in 1922. The committee agrees that the position taken by the Department of Health, Education, and Welfare is commendable in that they insist upon enforcement of the general law. However, the committee cannot conceive of another case arising out of the same or similar circumstances, or based upon the same set of facts and, therefore concludes that the case is unique and that the widow, now 71 years of age, who lived with the deceased in good faith for a period of 34 years should be entitled to the relief sought in this bill.

Your committee disagrees with the conclusion made by HEW, in which it is stated that it was contrary to sound principles of equity and justice. As to equity and justice this is a case most meritorious, and therefore, your committee recommends favorable consideration of the bill.

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE,
Washington, July 17, 1958.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of July 12, 1957, for a report on H.R. 8619, a bill for the relief of Mrs. Clare M. Ash.

The bill would provide that for the purpose of qualifying for widow's insurance benefits under section 202(e) of the Social Security Act, Mrs. Clare M. Ash would be considered to be the widow of Frank S. Ash.

Under the Social Security Act, the question whether an applicant is the widow of an insured individual for benefit purposes must be determined under the law of the latter's State of domicile at the time when he died.

In June 1957, the Bureau of Old-Age and Survivors Insurance determined that Mrs. Clare M. Ash was not the legal widow of Frank S. Ash. Subsequently, a hearing was held before a referee of the Social Security Administration, who reaffirmed the original decision that Clare M. Ash is not entitled to widow's benefits. The facts developed are as follows:

The applicant married Mr. Ash in 1922. She alleged that she understood at that time that he had been previously married and divorced. Under the law of the State of Wisconsin, there is no presumption of the validity of a second marriage; the validity of such a marriage is determined upon all the facts and circumstances in a given case and from the reasonable inferences drawn from such facts and circumstances. In a statement signed by Mr. Ash on July 31, 1956, he stated that he was divorced from his first wife in 1926, which would be subsequent to his second marriage in 1922. After clarification had been requested by the Bureau of Old-Age and Survivors Insurance, Mrs. Ash, on the day following Mr. Ash's death revised this "1926" date to read "1916," alleging that the "1926" figure was in error. Although there was evidence of the first marriage, Mrs. Ash was unable to furnish evidence that that marriage had

been terminated. A wide search of records in areas where Mr. Ash and his first wife are known to have lived, conducted by the Bureau of Old-Age and Survivors Insurance, has failed to disclose any record of a divorce or annulment secured by either Frank Ash or his first wife. The latter's whereabouts following the separation have been unknown.

In consideration of these facts, Mrs. Clare M. Ash was found not to be Mr. Ash's legal widow under State law and hence not entitled to widow's benefits based on his earnings record.

Section 216(h)(1) was amended effective September 1957. Under the provision as amended, a woman can qualify as the widow of an insured individual if the courts of the State in which he was domiciled at the time of his death would find that they were validly married at that time, or if under the law of that State governing the devolution of intestate personal property she has the same status as a widow. (Prior to the amendment, the law did not contain the provision referring to the validity of the marriage.) The change in section 216(h)(1) does not affect Mrs. Ash's claim for widow's benefits since the validity of her marriage to Mr. Ash at the time of his death has not been established and since under Wisconsin law she therefore does not have the status of his widow for purposes of participating in the devolution of intestate personal property.

Mrs. Ash requested and was granted a hearing on her case before a referee of the Department. (Referees are independent of the Bureau.) In his decision, dated February 21, 1958, the referee sustained the determination of the Bureau. The referee's decision would appear to be final because the claimant failed to request review of the appeals council within the time allowed (60 days) or to request an extension of time for requesting review and the appeals council did not review the decision on its own motion within the time such action could be taken. Since she failed to exhaust her administrative remedies the Department's decision is final and not subject to judicial review (*Coy v. Folsom*, 228 F. 2d 276, C.A. 3, 1955).

In these circumstances, we believe that enactment of this private relief bill would be inappropriate for two reasons. In the first place, if the bill, in providing that Mrs. Ash "shall be held and considered to be the widow (as defined in sec. 216 (c) of [the Social Security] Act) of Frank S. Ash," is intended as a legislative decision as to the factual and legal issues involved, the bill is unsound in that it would substitute an ad hoc congressional determination of questions of fact and law (including questions of State law) for the orderly process of administrative and judicial adjudication provided for by general law in such cases, and this, moreover, in a case in which the claimant had failed to exhaust the administrative and judicial remedies made available to her by general law. If, on the other hand, notwithstanding its language, the bill were to be viewed as excepting Mrs. Ash from an eligibility requirement—or from the application of State law which the basic act requires to be used as a basis for such a requirement—imposed by the Social Security Act for benefits of the kind claimed, the bill would be objectionable as conferring a special benefit under the basic act in circumstances identical with those in which benefits would be denied to others. In either event, we believe, such private relief legislation would be undesirable and contrary to sound principles of equity and justice.

For these reasons we recommend against enactment of this bill. The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

ELLIOT L. RICHARDSON,
Assistant Secretary.

JULY 12, 1958.

I, Clare Ash, do hereby declare that the facts herein stated are the truth. I met Mr. Frank Ash after World War I. He came to Troy, N.Y., to visit his mother. He went back to Palmyra, N.Y., and came back about a year later. Then I started going out with him. He never mentioned a wife until he asked me to marry him. I said I had something to tell you, I have been married and divorced. He said so have I. The subject dropped at that. We never brought up the past, that is something I wanted to forget and I thought he did too, so we married October 11, 1922. I took it for granted he was as free as I to remarry, and from 1922 to 1956—34 years—we had a very happy life. We came to Racine October 7, 1945, he went to work at Western Printing & Lithographing Co. October 15, 1945, and worked there until July 4, 1955, when he had to have his left leg amputated due to cancer. He passed away August 13, 1956.

CLARE ASH:

STATE OF WISCONSIN,
County of Racine, ss:

Subscribed and sworn to before me this 12th day of July A. D. 1958.

[SEAL]

HAROLD CHRISTENSEN,
Notary Public, Racine County, Wis.

My commission expires May 13, 1962.

JULY 14, 1958.

I, Florence Hagie, do herein state that I have known Mrs. Frank Ash (Clare Ash), for the past 25 years, and know her to be honest and truthful.

I, Florence Hagie, do further state that Mr. Frank Ash, prior to his death, introduced Clare Ash as his wife at all times, and I had no reason whatsoever to doubt his word.

(Signed) FLORENCE HAGIE.

Subscribed and sworn to me this 14th day of July 1958.

[SEAL]

DONALD G. STEELE,
Notary Public, Racine County, Wis.

My commission expires March 27, 1960.

AFFIDAVIT

STATE OF WISCONSIN,
County of Racine, ss:

The undersigned affiant, Leo J. Sauld, age 56, a U.S. citizen, residing at 304 Island Avenue, Racine, Wis., has been employed at the Western Printing & Lithographing Co. of Racine, Wis., for a period of the last 12 years.

During such employment he became acquainted with Mr. Frank Ash who also was employed at the Western Printing & Lithographing Co., Racine, Wis. The affiant further knows of his own knowledge that Mr. Frank Ash and his wife, Clara Ash, lived as man and wife and resided at 1301 North Wisconsin Street, Racine, Wis., for a period of at least 10 years.

LEO J. SAULD.

Dated at Racine, Wis., this 14th day of July 1958 A.D.

The affiant, Leo J. Sauld, personally appeared before me this 14th day of July 1958 A.D., and signed the foregoing affidavit.

[SEAL]

W. VERNON CLARK,
Notary Public, Racine, County, Wis.

My commission expires April 1, 1962 A.D.

○

MRS. CLARE M. ASH

The Clerk called the bill (H.R. 3240) for the relief of Mrs. Clare M. Ash.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of section 202(3) of the Social Security Act, Mrs. Clare M. Ash, of Racine, Wisconsin, shall be held and considered to be the widow (as defined in section 216(c) of such Act) of Frank S. Ash (social security account number 074-10-8532).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Calendar No. 810

86TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 798

MRS. CLARE M. ASH

August 21, 1959.—Ordered to be printed

Mr. WILEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 3240]

The Committee on the Judiciary, to which was referred the bill (H.R. 3240) for the relief of Mrs. Clare M. Ash, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide that for the purposes of section 202(e) of the Social Security Act, Mrs. Clare M. Ash of Racine, Wis., shall be held and considered to be the widow of Frank S. Ash.

STATEMENT

Records of the Department of Health, Education, and Welfare disclose that the claimant was born on February 19, 1887. She filed an application on August 22, 1956, for widow's insurance benefits and the lump-sum death payment as the alleged widow of the late Frank S. Ash. The Bureau of Old-Age and Survivors Insurance denied Mrs. Ash's application on the ground that she was not the legal widow of Frank S. Ash. Subsequently, a hearing was held before a referee of the Social Security Administration who reaffirmed the original decision that Clare M. Ash was not entitled to widow's benefits. Mr. Ash, the wage earner, died domiciled in Wisconsin on August 13, 1956. Under the Social Security Act the question of whether an applicant is the widow of an insured individual for benefit purposes must be determined under the law of the latter's State of domicile at the time of his death.

The records further reveal that Frank S. Ash entered into a ceremonial marriage with Ann Rose in Rochester, N.Y., on June 13, 1916. The claimant herein, Clare Patnode, married Herbert Adams on Sep-

tember 18, 1908, this marriage having been dissolved on April 1, 1919, by a divorce decree granted by the Supreme Court, county of Rensselaer, State of New York, in an action in which the claimant was the defendant. On October 11, 1922, the said Frank S. Ash and Clare, while domiciled in New York, married each other ceremonially in Bristol, Vt. In a statement signed by Mr. Ash on July 31, 1956, he stated that he was divorced from his first wife in 1926, which would be subsequent to his second marriage in 1922. After clarification had been requested by the Bureau of Old-Age and Survivors Insurance, Mrs. Ash on the day following Mr. Ash's death revised this 1926 date to read 1916, alleging that the 1926 was in error. Although there was evidence of the first marriage, Mrs. Ash was unable to furnish evidence that the marriage had been terminated. A wide search of records in areas where Mr. Ash and his first wife are known to have lived conducted by the Bureau of Old-Age and Survivors Insurance, failed to disclose any record of a divorce or annulment secured by either Frank Ash or his first wife. The latter's whereabouts are unknown. On the basis of these facts, Mrs. Clare M. Ash was determined not to be Mr. Ash's legal widow under State law, and hence not entitled to widow's benefits based on his earnings record.

In affidavit submitted by Mrs. Ash, she states that she met Mr. Ash after World War I, when he visited his mother in Troy, N.Y., and in about 1 year thereafter he returned to Troy and began courting her, and on October 11, 1922, they were married. She further states that she told him that she had been married and he said "so have I." The subject was dropped and never mentioned again. She thought, and took it for granted, that he was free to remarry, and from 1922 until his death in 1956, a period of 34 years, they lived happily together. Affidavits in the file from neighbors verify this statement.

Mrs. Ash requested and was granted a hearing on her case before a referee of the Department of Health, Education, and Welfare. Referees are independent of the Bureau of Old-Age and Survivors Insurance. In a decision dated February 21, 1958, the referee sustained the determination of the Bureau.

The subcommittee of the Committee on the Judiciary of the House of Representatives made an exhaustive study into the facts surrounding this claim, and after great consideration that subcommittee and the House Judiciary Committee concluded that the claimant should be entitled to the relief sought in the bill. In the course of its consideration, the House committee was in agreement that the position taken by the Department of Health, Education, and Welfare was commendable in that they insist upon enforcement of the general law. However, the House committee concluded that they could not conceive of another case arising out of the same or similar circumstances or based upon the same set of facts, and therefore, concluded that the case is unique; and that the widow, now 71 years of age who lived with the deceased in good faith for a period of 34 years, should be entitled to relief.

The Department of Health, Education, and Welfare, in submitting a report to this committee on S. 599, a bill identical to H.R. 3240, stated in part as follows:

In its report on an identical bill, H.R. 3240, the Committee on the Judiciary of the House of Representatives states that "the committee cannot conceive of another case arising out of the same or similar circumstances." While we do not have any figures on the number of

cases that are similar, claims by 841 aged widows and widowers and 1,033 widowed mothers in 1957 were disallowed because the applicant was not the spouse under State law. We know that a significant number of these cases involved persons who thought a prior marriage had been terminated by a divorce. Although the cases represent a very small percentage of all cases, we have been concerned about them, and we are examining several proposals to protect widows in such circumstances. However, there are many problems involved in establishing definitions of family relationships that could be used as alternatives to definitions in State laws.

In the absence of general legislation enactment of a bill permitting the payment of widow's benefits to Mrs. Ash would be special legislation giving an advantage to one person that under identical conditions is denied to another. We believe that special legislation of this nature is undesirable and contrary to sound principles of equity and justice.

The committee notes that the Department of Health, Education, and Welfare points out that while they do not have any figures on the number of cases that are similar, they do have a number of claims by aged widows and widowers which were disallowed because the applicant was not the spouse under State law. They further point out that this case represents a very small percentage of all cases and that they have been so concerned about them that that Department is studying several proposals to protect widows in such circumstances. The committee does not believe it equitable to penalize this needy widow to await action by the Department of Health, Education, and Welfare proposing general legislation or proposals to protect widows in such circumstances. This claimant needs help now and general legislation may be too late. Therefore, the committee concurs in the action taken by the House Judiciary Committee that this claim be given favorable consideration.

Accordingly, the committee recommends favorable consideration of H.R. 3240, without amendment.

Attached hereto and made a part hereof is the report submitted by the Department of Health, Education, and Welfare on a similar Senate bill.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
May 28, 1959.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of February 4, 1959, for a report on S. 599, a bill for the relief of Mrs. Clare M. Ash. The views expressed in this report apply, also, to an identical bill, H.R. 3240, which is now under consideration by your committee.

The bill would provide that for the purpose of qualifying for widow's insurance benefits under section 202(e) of the Social Security Act, Mrs. Clara M. Ash would be considered to be the widow of Frank S. Ash.

Under the Social Security Act, the question whether an applicant is the widow of an insured individual for benefit purposes must be determined under the law of the latter's State of domicile at the time when he died.

In June 1957, the Bureau of Old-Age and Survivors Insurance determined that Mrs. Clare M. Ash was not the legal widow of Frank S. Ash. Subsequently a hearing was held before a referee of the Social Security Administration, who reaffirmed the original decision that Clare M. Ash is not entitled to widow's benefits. The facts developed are as follows:

The applicant married Mr. Ash in 1922. She alleged that she understood at that time that he had been previously married and divorced. Under the law of the State of Wisconsin, there is no presumption of the validity of a second marriage; the validity of such a marriage is determined upon all the facts and circumstances in a given case and from the reasonable inferences drawn from such facts and circumstances. In a statement signed by Mr. Ash on July 31, 1956, he stated that he was divorced from his first wife in 1926, which would be subsequent to his second marriage in 1922. After clarification had been requested by the Bureau of Old-Age and Survivors Insurance, Mrs. Ash, on the day following Mr. Ash's death, revised this "1926" date to read "1916," alleging that the "1926" figure was in error. Although there was evidence of the first marriage, Mrs. Ash was unable to furnish evidence that that marriage had been terminated. A wide search of records in areas where Mr. Ash and his first wife are known to have lived, conducted by the Bureau of Old-Age and Survivors Insurance, has failed to disclose any record of a divorce or annulment secured by either Frank Ash or his first wife. The latter's whereabouts following the separation have been unknown.

In consideration of these facts Mrs. Clare M. Ash was found not to be Mr. Ash's legal widow under State law and hence not entitled to widow's benefits based on his earnings record.

Section 216(h)(1) was amended effective September 1957. Under the provision as amended, a woman can qualify as the widow of an insured individual if the courts of the State in which he was domiciled at the time of his death would find that they were validly married at that time, or if under the law of that State governing the devolution of intestate personal property she has the same status as a widow. (Prior to the amendment, the law did not contain the provision referring to the validity of the marriage.) The change in section 216(h)(1) does not affect Mrs. Ash's claim for widow's benefits since the validity of her marriage to Mr. Ash at the time of his death has not been established and since under Wisconsin law she therefore does not have the status of his widow for purposes of participating in the devolution of intestate personal property.

Mrs. Ash requested and was granted a hearing on her case before a referee of the Department. (Referees are independent of the Bureau.) In a decision, dated February 21, 1958, the referee sustained the determination of the Bureau. The referee's decision would appear to be final because the claimant failed to request review of the appeals council within the time allowed (60 days) or to request an extension of time for requesting review and the appeals council did not review the decision on its own motion within the time such action could be taken. Since she failed to exhaust her administrative remedies the Department's decision is final and not subject to judicial review (*Coy v. Folsom*, 228 F. 2d 276, C.A. 3, 1955).

In its report on an identical bill, H.R. 3240, the Committee on the Judiciary of the House of Representatives states that "the committee cannot conceive of another case arising out of the same or similar circumstances." While we do not have any figures on the number of cases that are similar, claims by 841 aged widows and widowers and 1,033 widowed mothers in 1957 were disallowed because the applicant was not the spouse under State law. We know that a significant number of these cases involved persons who thought a prior marriage had been terminated by a divorce. Although the cases represent a very small percentage of all cases, we have been concerned about them, and we are examining several proposals to protect widows in such circumstances. However, there are many problems involved in establishing definitions of family relationships that could be used as alternatives to definitions in State laws.

In the absence of general legislation, enactment of a bill permitting the payment of widow's benefits to Mrs. Ash would be special legislation giving an advantage to one person that under identical conditions is denied to another. We believe that special legislation of this nature is undesirable and contrary to sound principles of equity and justice.

For these reasons we recommend against enactment of this bill.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

(Signed) ELLIOT L. RICHARDSON,
Assistant Secretary.

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over. But I will not object to its being called up by motion at the end of the call of the calendar.

The PRESIDING OFFICER. The bill will be placed at the foot of the calendar.

MRS. CLARE M. ASH

Mr. WILEY. Mr. President, I ask unanimous consent that the Senate proceed at this time to the consideration of Calendar No. 810, House bill 3240, for the relief of Mrs. Clare M. Ash. I have spoken to the Senator who earlier today objected to consideration of the bill during the call of the calendar. He stated he would have no objection to having the bill placed at the foot of the calendar.

Therefore, at this time, I ask unanimous consent for the present consideration of the bill.

The PRESIDING OFFICER. Is there objection?

There being no objection, the bill (H.R. 3240) for the relief of Mrs. Clare M. Ash was considered, ordered to a third reading, read the third time, and passed.

Mr. WILEY. I thank the Senator for his cooperation.

The PRESIDING OFFICER. That completes the call of the calendar.

BILL PASSED TO FOOT OF
CALENDAR

The bill (H.R. 3240) for the relief of Mrs. Clare M. Ash was announced as next in order.

Mr. KEATING. Mr. President, I have a request that that bill go over; and pursuant to the request I ask that it go

Private Law 86-135
86th Congress, H. R. 3240
September 1, 1959

AN ACT

For the relief of Mrs. Clare M. Ash.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of section 202(3) of the Social Security Act, Mrs. Clare M. Ash, of Racine, Wisconsin, shall be held and considered to be the widow (as defined in section 216(c) of such Act) of Frank S. Ash (social security account number 074-10-8532).

Approved September 1, 1959.

AMENDMENTS TO THE RR. RET. ACT (1958 - 59)

PUBLIC LAW 85 - 927 (S. 2020)

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Calendar No. 2427

85TH CONGRESS } SENATE { REPORT
2d Session } No. 2364

AMENDING THE RAILROAD RETIREMENT ACT OF 1937 AND THE RAILROAD UNEMPLOYMENT INSURANCE ACT

AUGUST 13 (Legislative day AUGUST 12), 1958.—Ordered to be printed

Mr. MORSE, from the Committee on Labor and Public Welfare,
submitted the following

REPORT

[To accompany S. 2020]

The Committee on Labor and Public Welfare, to whom was referred S. 202, a bill to amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Social Security Act, to facilitate and improve administration of those acts, and, in a minor respect regarding railroad employment credits, the Social Security Act, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass. The amendments are as follows:

Page 2:

Lines 1 and 2: Strike out "and all purposes of title II of the Social Security Act".

Lines 18 to 20: Strike out all material following the colon in line 18.

Line 21: Strike out "further".

Page 3:

Line 3: Change "1957" to "1958"; strike out "*And provided*" and substitute therefor: "*Provided*".

Lines 11 through 19: Strike out the entire sentence beginning with "For purposes of" and ending with "this paragraph", and substitute therefor: "An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a 'period of disability' under section 216 (i) of the Social Security Act."

Page 7, line 11: Strike out "after" and substitute "beginning with".

Page 9: Strike out lines 7 through 12, and redesignate subsection "(f)" as "(e)" in line 13.

Page 10:

Lines 1 to 4: Strike out the language beginning with "where such determination" and ending with "Social Security Act".

Line 5: Change "(g)" to "(f)".

Line 12: Change "(h)" to "(g)".

Line 19: Change "(i)" to "(h)".

Page 11:

Line 3: Change "(j)" to "(i)".

Line 23, Strike out the dash.

Line 24. Strike out the entire line.

Page 12: Strike out all of lines 1 through 7 and "(2)" in line 8

Page 13:

Line 4: Change "2 (j)" to "2 (i)".

Line 7: Change "2 (h)" to "2 (g)".

Line 8: Change "2 (i)" to "2 (h)".

Lines 14-15: Change "sections 1 (b) and 2 (c)" to "section 1 (b)".

Line 23: Change "2 (g)" to "2 (f)".

Line 25: Change "2 (f)" to "2 (e)".

Page 16:

Line 3: Strike out "(a)" where it first appears.

Lines 12 through 19: Strike out all material.

Page 17, lines 4 and 7: Change "1957" to "1958". After Section 207 (c), add the following:

PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 301. Section 202 (t) of the Social Security Act is amended by changing the period at the end of paragraph (4) thereof to a comma and inserting thereafter the word "or" and the following:

"(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this Act pursuant to the provisions of section 5 (k) (1) of the Railroad Retirement Act."

SEC. 302. The amendments made by section 301 of this Act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956.

SUPPORT FOR BILL

The Railway Labor Executives' Association has advised your committee that all the standard railway labor unions who represent generally all the workers covered by the railroad retirement system, and who share with railroad employers the cost of the system, are sponsoring, and are in favor of, the bill. The Railway Labor Executives' Association consists of the chief executives of the following standard railway labor associations: American Train Dispatchers' Association; Brotherhood of Locomotive Engineers; Brotherhood of Locomotive Firemen and Enginemen; Brotherhood of Maintenance of Way Employees; Brotherhood of Railway Carmen of America; Brotherhood of Railroad Signalmen of America; Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees; Brotherhood of Railroad Trainmen; Brotherhood of Sleeping Car Porters; Hotel and Restaurant Employees and Bar tenders International Union; International Association of Machinists-

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; International Brotherhood of Firemen and Oilers; International Organization Masters, Mates and Pilots of America; National Marine Engineers' Beneficial Association; Order of Railway Conductors and Brakemen; The Order of Railroad Telegraphers; Railway Employees' Department, AFL-CIO; Railroad Yardmasters of America; Sheet Metal Workers' International Association; and Switchmen's Union of North America.

The Association of American Railroads, the membership of which includes generally the employers of the railroad workers covered by this system, and who share with such workers the cost of this system, has also advised your committee that it is sponsoring, and it is in favor of, the bill.

PURPOSE OF THE BILL

The bill is intended generally to facilitate and improve the administration of the Railroad Retirement Act and, to a somewhat lesser extent, the Railroad Unemployment Insurance Act, by effecting changes that have been shown by the experience of the Railroad Retirement Board in administering the acts to be desirable; the bill would not increase the cost of benefits under the systems, at least not in any significant amount; rather, because its enactment will facilitate operations and increase efficiency, administrative costs of the systems will be decreased.

AMENDMENTS OF THE RAILROAD RETIREMENT ACT

The bill would round the monthly compensation where it is not a multiple of \$1, to the next lower multiple of \$1 to facilitate the computing processes for annuities without having any material effect on the amount of the monthly annuities. Annuity amounts, if not a multiple of \$0.10, would be increased to the next higher multiple without any appreciable effect on costs. The slight lowering of benefit costs produced by the first change would be approximately offset by the slight increase produced by the second. The rounding of the monthly compensation would substantially simplify the calculations of earnings on which amounts of benefits are based. It would also make possible the use of simple annuity tables which would eliminate the need for computation of annuities in hundreds of thousands of future claims and thereby would expedite the making of awards.

The bill, by transferring to the Railroad Retirement Board the authority to make disability-freeze determinations under the Social Security Act with respect to career railroad workers, whose benefits or whose survivors' benefits under the Railroad Retirement Act might be affected by such a determination under the "overall social security minimum" provision, would rectify the condition whereby the Social Security Administration was given the exclusive authority to make freeze determinations with respect to career railroad workers whose rights to benefits otherwise were exclusively within the jurisdiction of the Railroad Retirement Board. This provision would, accordingly, avoid undesirable conflict on questions of jurisdiction and adjudication and further the general purpose of the bill to effect more efficient, quicker, and cheaper administration.

The condition to be corrected by the bill arose from the inclusion of the provision in the Social Security Amendments of 1954 (providing for these determinations of freeze periods) to amend section 5 (k) (1) of the Railroad Retirement Act so as to give the Social Security Administration the right to use railroad service as employment qualifying a person for a freeze period and giving exclusive jurisdiction over the determination of such a period to the Social Security Administration. These provisions would be modified by the bill to permit the Railroad Retirement Board, as well as the Social Security Administration when railroad service is used as qualifying a person for a disability-freeze determination, to make the determination in the career railroadman's case, that is, in cases in which the railroadman had full 10 years' service before becoming disabled and possibly qualifying for the freeze.

The career railroad employee with 10 years of railroad service who is totally and permanently disabled for all employment and would be qualified for a period of disability or the freeze, would always, regardless of his age, be eligible also for a full disability annuity under the Railroad Retirement Act because the statutory definitions of the qualifying disability for both purposes is identical as a practical matter. The bill, consequently, would give the Railroad Retirement Board the same authority as the Secretary of Health, Education, and Welfare would otherwise have to make determinations as to a period of disability for the men with 10 years' railroad service. This determination would not be conclusive, under the bill, on the Social Security Administration, but for all practical purposes it would have no effect on employee benefits under the Social Security Act at any time unless the employee had already acquired sufficient service subject to that act to qualify him for benefits thereunder. The bill would not affect the jurisdiction of the Social Security Administration to make the disability determination for the employee, however, even though he had 10 or more years of railroad service, and even though he had already obtained the determination from the Railroad Retirement Board.

The essence of this disability freeze provision is to give the Board the same authority as the Social Security Administration has to make determinations in these cases. The effect, of course, insofar as the railroad retirement system is concerned, would be in the application of the so-called overall social-security minimum provision of the Railroad Retirement Act under which benefits payable to an employee and his family cannot be less than the benefits or additional benefits that would be payable under the Social Security Act if his railroad service after 1936 were employment subject to the Social Security Act. And the effect would be principally on the benefits to the survivors of railroad employees because survivor benefits are generally payable under the so-called social-security minimum, whereas the man's own benefit, and his wife's, usually are not. As indicated, the only men who would be affected by this change are career railroad employees, of whom many, if not most, would have absolutely no service subject to the social-security system and otherwise no relationship whatever with that system. The determinations made by the Board would be made at the time of the application of these career railroad men for disability benefits under the Railroad Retirement Act, and they would be spared the burden of acquiring special

information for the "freeze" with the Social Security Administration, with which they probably would have had no previous dealings or acquaintance. The Railroad Retirement Board would, of course, already have all relevant evidence as to the condition of the man, as of the pertinent time, acquired for purposes of the application to the Board for a disability annuity under the railroad retirement system. And since the bill would provide also that the application of such a man to the Railroad Retirement Board for the freeze would be regarded as filed with the Social Security Administration as of the same date, the man would be spared the burden and effort of filing another application. Plainly, then, the disability freeze provisions of the bill would add to efficiency and economy of administration, and would promote the interests of the disabled worker and his family in accordance with the general congressional plan, without at the same time adversely affecting the jurisdictional authority of either agency concerned.

The bill would change the order of payment of accrued but unpaid retirement annuities and survivor annuities which are due but unpaid at the time of the death of the persons entitled thereto. The widow or widower would be eliminated as a beneficiary if he or she was not living with the employee at his death (the term "living with" to have the same meaning as in sec. 216 (h) (2) or (3) of the Social Security Act, as previously in effect, which generally is that at the time of death the parties were actually living together in the same household or the survivor was receiving, from the other, regular contributions toward his or her support or had been ordered by a court to contribute). The elimination as beneficiary of the widow or widower who was not living with the employee would avoid difficult investigations and determinations as to who is the widow or widower, particularly in the many instances where more than one claim that status. In the absence of such a widow or widower, in the case of accrued retirement annuities, the person or persons who have paid expenses of burial of the employee and are equitably entitled to reimbursement would, under the bill, be the first entitled to payment, to the extent and in the proportions that he or they paid such expenses and to the extent he or they have not been reimbursed for such payment by the lump-sum benefit. The equity of providing for payment to the payer of burial expenses ahead of all others, except a widow or widower who was living with the employee, is obvious. If there is no qualified widow or widower any excess over the amount which the payers of burial expenses receive would be paid to children, grandchildren, parents, or brothers and sisters of the deceased employee in the order named. Changing, in this respect, the present provision a law including children of deceased children as if children, would eliminate in many cases the necessity of making determinations as to descendants. Accrued survivor annuities due but unpaid at death would not be paid to the payer of burial expenses for the reasons that the employee's death will have occurred first and in some cases long before the death of the survivor and facts respecting the payment of burial expenses would be difficult to establish. Otherwise, the order of payment would be the same as for unpaid retirement annuities.

Accrued annuities due a deceased spouse would be paid first to the employee and then in the same order as for accrued retirement annuities. The regular insurance lump-sum benefits would be payable

to the widow or widower if "living with" the employee at the time of his death and, if none such survived, to the payer of burial expenses who is equitably entitled to reimbursement. No others could be entitled except where accrued survivor annuities for a year did not equal the amount of the insurance lump sum in which case a child or parent entitled to a survivor's annuity could take in the order named if no eligible widow or widower survived. The same consideration applies respecting the qualification of the widow or widower and the change in order of payment to the payer of burial expenses as in the case of accrued but unpaid retirement annuity at death. The exclusion of children or parents, except where they have received survivor annuities, has the effect of causing any unpaid insurance lump sum to be added to the "residual" lump-sum benefit under section 5 (f) (2) of the Retirement Act when the benefit is payable.

The "residual" lump sum, under section 5 (f) (2) of the basic act, where there is no designation of beneficiary, would be paid in the same manner as accrued retirement annuities due but unpaid at death, except that payment would be made to the employee's estate in the absence of the specified surviving relatives and the payers of the employee's funeral expenses would not receive payment as such payers but only as creditors of the estate.

The commuted value of a retirement or spouse's annuity which may be paid in a lump sum would be increased from \$2.50 to \$5, that is, to the amount which now may be paid in a single sum as the commuted value of a survivor annuity. This provision may have little application since in relatively few cases would such small annuities be payable.

The maximum amount of survivor benefits payable to an employee's family would, under the bill, be determined after the application of the work deduction provision instead of prior thereto as at present. This change would simplify the application of the social-security minimum provision (which in effect guarantees that benefits to an employee and his family under the Railroad Retirement Act will not be less than they would be if his railroad service after 1936 were employment subject to the Social Security Act) since the Social Security Act was amended similarly by Public Law 734, 81st Congress, approved August 28, 1950. Also, the double deduction, that results under present law from the application of the maximum after making the work deduction, would be removed.

The bill would repeal certain provisions of the act which require deductions from annuities of certain obsolete kinds of payments such as lump-sum payments under the Social Security Act and of unpaid taxes for 1939 of employees over age 65. This exclusion would conform to similar amendments of the Social Security Act which were made because there was little or no basis for the deductions. The provisions for crediting social-security wages and self-employment income in the computation of survivor benefits under the Railroad Retirement Act would be made consistent with the corresponding provisions of the Social Security Act, as amended in 1954, by the removal of language unnecessary as a result of such amendments.

An employee with 10 years of railroad service would be assured of a "completely or partially insured" status if he would have the comparable "fully or currently insured" status under the Social Security Act assuming his railroad service after 1936 were employment covered by the Social Security Act. The conditions for an "insured" status

under the Social Security Act are liberal because of the "new start" provisions of that act. A "completely insured" status obtained by an employee through this provision would enable his aged widow, or his parents, to receive an annuity under the Railroad Retirement Act which the form of the present law prevents them from receiving. A partially insured status acquired by an employee through this provision would cause benefits to his survivors to be paid under the Railroad Retirement Act rather than under the Social Security Act. This change would, for practical purposes, be important only to employees whose qualifying 10 years of railroad service was not all after 1936.

A provision for alternative "closing dates" or periods within which compensation would be treated on an annual basis in computing survivor benefits, as under the Social Security Act, would be included. This would simplify procedure since it would facilitate computations under the so-called social-security-minimum provision of the act, which must be applied in most survivor benefit cases. This change will also facilitate the acquisition of necessary compensation reports respecting the last period of creditable employment before death by eliminating the necessity of determining on other than an annual basis how much of the compensation was paid before the employee became age 65 or died.

Another provision of the bill would authorize the Board to place nine positions in the so-called supergrades (4 in GS-16, 4 in GS-17, and 1 in GS-18) without regard to the numerical limitation of the Classification Act and without classification of the positions by the Civil Service Commission. Similar authority has been granted to numerous other agencies of the Government, and the bill would not grant more supergrades than, or even as many as, are now allowed most other agencies of comparable size and importance. The committee believes that the Board, in its administration of the Railroad Retirement and Railroad Unemployment Insurance Acts, is entitled to these positions. These positions are necessary in order to obtain and keep highly qualified men in key positions, in which the highest performance is vital to a successful administration, by providing recognition of the character and quality of their services and more adequate compensation. The Board is fully capable of determining the positions that are entitled to these grades and, because of their intimate knowledge of the requirements, should be in an even better position than the Civil Service Commission to determine the character, importance, and responsibility of these positions.

Violation of obligations imposed by the Railroad Retirement Act and fraudulent claims for benefits under the act would be made punishable by both fines and imprisonment instead of by fine or imprisonment, and fines imposed by a court pursuant to the act would be credited to the railroad retirement account, in the same manner as fines in connection with the Railroad Unemployment Insurance Act are now credited to the railroad unemployment insurance account.

AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

The bill would provide that an employee, who receives remuneration for a working day which includes part of 2 calendar days, shall be deemed to have earned his remuneration on the first calendar day. Because of such work he would not be deemed unavailable for work

on the second of the 2 days and it could be counted as a day of unemployment. The practice in the railroad industry is to consider such remuneration earned in the first of the 2 days and the change would result in conformity. This would avoid misunderstandings which have caused difficulties in gaining information which delays decisions on claims. No substantive change is involved.

Subsidiary remuneration, i. e., incidental remuneration of such a small amount that it should not (and does not under the law) prevent a day from being a day of unemployment or of sickness for benefit purposes, would be increased from \$1 to \$3 for a day. This change would take into account the increase in pay rates which have occurred since the original \$1 provision was enacted some 20 years ago.

The railroad unemployment insurance administration fund would be placed in the unemployment trust fund established pursuant to section 904 of the Social Security Act and the unused amounts in the administration fund would be included in determining the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30 of each year. The railroad unemployment insurance account is now maintained in the unemployment trust fund. This change would result in the funds set aside for administrative purposes not yet used, being credited by the Secretary of the Treasury with a share of the investment earnings of the unemployment trust fund. Unused portions of appropriations for administration of the Railroad Retirement Act are now included in the railroad retirement account and earn interest accordingly, and this change would place the railroad unemployment insurance fund on a similar basis, removing the present disparity in this regard. The increase caused by the inclusion of the railroad unemployment insurance administration fund in determining the balance in the railroad unemployment insurance account would affect the rate of contributions required to be paid for the ensuing year by railroads as employers, which rate is fixed, on a graduated scale, inversely to the amount in the fund. The investment earnings of the administration fund will obviously increase this balance.

In order to remove the discrimination which now exists in favor of covered employees living in foreign countries as against those living in the United States the bill would provide that neither unemployment nor sickness benefits may be paid for any day to an employee in which he receives social insurance payments under any law. Now this disqualification extends only to payments under social insurance systems of the United States or a State.

The Railroad Unemployment Insurance Act would be brought up to date by the replacement of a reference to civil-service laws and the Classification Act of 1923 with a reference to the Classification Act of 1923 with a reference to the Classification Act of 1949, as amended. Also, the obsolete provision that the Board may fix the salary of a director of unemployment insurance at \$10,000 a year would be removed.

AMENDMENTS TO THE SOCIAL SECURITY ACT

The restriction on payment of social-security benefits, which is applicable with certain exceptions to noncitizens of the United States who become eligible for benefits generally under the so-called new start provisions of that act, would be modified to exclude persons whose benefits are based in whole or in part on railroad employment

through transfer of this credit to the social-security system. This transfer occurs where the employee does not have 10 years of service creditable under the Railroad Retirement Act. This amendment would affect principally Canadian residents employed by American railroads conducting a minor part of their operations in Canada and Canadian railroads operating into the United States. These persons are not those who come to this country solely to obtain advantage of the currently liberal eligibility provision of the Social Security Act for persons at or near retirement age and return to their native land to enjoy the benefits, and against whom the restriction is obviously directed. Rather, they acquire the credits through the demands of, and in the course of, their regular railroad employment instead of by special design to obtain social-security benefits.

SECTION BY SECTION EXPLANATION OF THE BILL

PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

Section 1. Rounding of "monthly compensation"; providing authority for determinations of a "period of disability"; changing the order of payment accrued retirement, spouse, and survivor annuities due but unpaid at death; increasing amount of retirement and spouse annuity payable on a commuted value basis; and providing that annuities, not in multiples of \$0.10, be increased to the next higher multiple of \$0.10

Subsection (a) of this section would amend section 3 (c) of the Railroad Retirement Act of 1937 to provide that if the "monthly compensation" as computed under section 3 (c) is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1. This amendment would facilitate the computing processes for annuities and (together with an amendment proposed in subsection (e) of this section) would have no material effect on the amount of the monthly annuities.

Subsection (b) of this section would amend section 3 (e) of the Railroad Retirement Act of 1937 to provide the Board with authority to determine a "period of disability" within the meaning of the Social Security Act respecting a railroad employee who has 10 years of railroad service, or has been awarded an annuity. The Board would exercise this authority only in the manner that the Secretary of Health, Education, and Welfare would if such employee's railroad service after 1936 were employment subject to the Social Security Act. It is necessary that the Board compute the benefits that would be payable on the basis of employment under the Social Security Act on the assumption that the employee's railroad employment after 1936 were employment subject to that act. This necessity arises from the so-called "social security minimum guaranty" in section 3 (e) of the Railroad Retirement Act which provides, generally, that the family benefits under the Railroad Retirement Act be increased to the amount, or the additional amount, that they would be under the above-mentioned assumption. In the computation of benefits under the Social Security Act it is necessary to take into account periods of disability because the "freezing" (or elimination) of such periods would increase the employee's average monthly wage and this, in turn, would result in larger benefits. In some instances such elimination would even accord eligibility. For this reason it is desirable that the

Board be authorized to determine these periods of disability respecting career railroad employees.

For the purpose of making "disability freeze" determinations, the following would apply: (i) In determining quarters of coverage, an employee's compensation in a calendar year would be presumed to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such year;

(ii) an application for an annuity filed with the Board on the basis of disability would be deemed to be an application to determine a period of disability, and such an application filed with the Board on or before the enactment of this amendment would be deemed to have been filed after December 1954 and before July 1958;

(iii) notwithstanding any other provision of law, the Board would have the authority to make such disability-freeze determinations on the basis of the records in its possession or evidence otherwise obtained by it;¹

(iv) a determination of the Board of a "period of disability" would be deemed a final decision of the Board determining the rights of persons under the Railroad Retirement Act for purposes of section 11 of the act and therefore subject immediately to the judicial review provisions of the act; and

(v) an application, filed with the Railroad Retirement Board, treated as an application for the "freeze" would be deemed an application for the "freeze" filed, as of the same date, with the Social Security Administration (the Secretary of Health, Education, and Welfare).

Subsection (c) of section 1 would amend section 3 (f) (1) of the Railroad Retirement Act to provide that retirement annuities which will have become due but which will not have been paid to the employee entitled thereto by the time of his death shall be payable to the person, if any, determined by the Board to be such employee's widow or widower and to have been "living with" such employee at the time of the employee's death if such widow or widower will not have died before receiving payment of such annuities. (As explained elsewhere, the term "living with" would have the meaning ascribed to it in sec. 216 (h) (2) or (3) of the Social Security Act under which at the time of death the parties must have been actually living together in the same household, or the widow or widower must have been regularly contributing to the support of his or her husband or wife, or must have been under a court order to contribute.) If there should be no such widow or widower, such accrued annuities would be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such employee and to the extent that he or they will not have been reimbursed by the insurance lump sum provided under section 5 (f) (1) for having paid such expenses. If there should be no person or persons so entitled, or if the total of the accrued annuities should exceed the reimbursed burial expenses, the amount of accrued annuities, or the remainder thereof, would be paid to the children, grandchildren, parents, or brothers and sisters of the deceased em-

¹ The Board has already in its possession medical data acquired in connection with applications for disability annuities under the Railroad Retirement Act and for sickness benefits under the Railroad Unemployment Insurance Act which will provide a basis for making such determinations of disability or at least will assist materially in such determinations.

ployee (in the order named), if living at the time of payment.² The equity in providing first for the burial expenses of the deceased in preference to paying other relatives, where there was no wife (or husband) "living with" the employee, is quite clear. Further, under the present provisions of law, the Board is confronted with the necessity of making extensive investigations and difficult determinations, often on unsatisfactory evidence, particularly where more than one person claims to have been married to the employee, as to who is the widow or widower. This administrative difficulty would be eliminated. Similarly, the difficulty of determining descendants, and of dividing the accrued annuity payable into many small amounts, which is necessary in some cases where many persons in the same degree of relation to the employee may be eligible, would be reduced by eliminating the right of children of deceased children to share with children.

This subsection would also amend section 3 (f) to provide for the payment of accrued annuities which will have become due to a survivor of an employee, but will not have been paid at the survivor's death. These would be paid to the person, if any, determined by the Board to be such employee's widow or widower and to have been "living with" such employee at the time of such employee's death and who will not have died before receiving payment of such annuities. If there should be no such widow or widower, such annuities would be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee (in the order named), if living at time of payment. Accrued survivor annuities would be paid in the same manner as accrued annuities due an employee at his death, except that no payment would be made to the payer of the employee's burial expenses. The basis for this exception is the circumstance that the death of a survivor will have occurred after the employee's death, and, in many instances, long after, and information as to the payment of the burial expenses might be difficult to obtain.

Another amendment which would be added by this subsection to section 3 (f) of the Railroad Retirement Act would provide that the annuity accrued to the spouse of an employee, but which will not have been paid at the time of such spouse's death, shall be payable to the employee from whose employment such spouse's annuity is derived. If such employee should not live to receive such payment, such accrued annuity would be paid as provided in the case of accrued retirement annuities due to, but unpaid at the time of death of, the employee. A fourth paragraph would be added to section 3 (f) to provide that application for accrued and unpaid annuities shall be filed prior to the expiration of 2 years after the death of the person to whom annuities were originally due. This would not change the present provision relating to the time limit filing for unpaid retirement annuities. It would expressly prescribe the period in which application must be filed for other annuities which remain unpaid at death. Such period would be the same as under administrative rules now in effect.

Still another paragraph, (5), would be added by this subsection to section 3 (f) to provide that a widow or widower of an employee shall

² Under present provisions of the act, such accrued annuities are first paid to the widow or widower, even though separated or estranged from the employee for many years; next to the children of the deceased employee and descendants of deceased children who under the intestacy laws of the State in which the employee was last domiciled would be entitled to share as distributees with such children; next to the parents of the deceased employee; then to his brothers and sisters; and then as reimbursement to the payer of the employee's burial expenses.

be deemed to have been "living with" him at the time of his death if the conditions set forth in section 216 (h) (2) or (3), whichever is applicable, of the Social Security Act are fulfilled (that is, at the time of death the parties must have been actually living together in the same household, or the widow or widower must have been regularly contributing to the support of his or her husband or wife, or must have been under a court order to contribute).

Subsection (d) of section 1 of the bill would increase the amount of retirement or spouse's annuity, the commuted value of which may be paid in a lump sum, from \$2.50 to \$5, just as in the case of a survivor annuity which, if having a commuted value of as much as \$5, may now be paid in a lump sum. Subsection (e) of section 1 would further amend section 3 of the Railroad Retirement Act by adding a new subsection (i) to provide that, if the amount of an annuity computed under section 3, 2, or 5 of the act is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10.

Section 2. Changing the order of persons entitled to the insurance lump-sum and residual lump-sum benefits; determining the maximum survivor annuities after applying the work deduction instead of prior thereto; striking certain unnecessary provisions respecting survivor benefits; clarifying the provisions for the crediting of wages; liberalizing the conditions under which insured status may be acquired; simplifying provisions respecting the "employee's closing date" and the manner of computing "average monthly compensation"

This section (subsec. (a)) would amend section 5 (f) (1) of the Railroad Retirement Act of 1937 to provide, as in the case of the corresponding benefit under the Social Security Act, that the insurance lump sum be paid to the widow or widower of the deceased employee if the Board determines that he or she was "living with" the employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there should be no such widow or widower, such lump sum would be payable to any person or persons equitably entitled thereto, to the extent and in the proportions that he or they will have paid the expenses of the burial of such deceased employee. Payment would be confined to a widow or widower who is determined to have been living with the employee at the time of his death for the same reasons as those discussed respecting the amendments made by section 1 (c) of the bill relative to the payment of accrued retirement annuities. The regular insurance lump sum would not go beyond payment to the person or persons who have paid the burial expenses. The reason is that the amount of such lump sum, or the excess, if any, after payment is made to the payer of funeral expenses, would, in effect, become part of a "residual benefit," which might be payable under section 5 (f) (2) of the act, and, as such, would be paid to children, grandchildren, parents, or brothers and sisters, in the order named. If accrued survivor annuities for a year following the employee's death do not equal the amount of the insurance lump sum, the excess would be paid (in the order named) to the widow or widower, child, or parent of the employee then entitled to a survivor annuity.³

³ Under present provisions of law, the benefit is first paid to the widow or widower, even though estranged from the employee at the time of his death, or, if there be none, to any child or children and any other person or persons who would be entitled to share under the intestacy laws of the State where the deceased was last domiciled with the children in such proportion that is provided by such intestacy law, and, if there be no widow or widower or children or those entitled to share with children, the benefit would be payable to the parent or parents of the deceased.

Subsection (b) of this section would amend section 5 (f) (2) of the Railroad Retirement Act to provide that, if the employee did not validly designate someone to receive the "residual" lump sum provided by this subsection, it be paid to the widow or widower of the deceased employee who was "living with" such employee at the time of such employee's death. If there should be no such widow or widower, payment would be made, in the order named, to any child or children of such employee, to any grandchild or grandchildren, to any parent or parents, or to any brother and sister. If any of the persons in a class should not live to receive payment the lump sum would be paid to the others in the class, or, if none, to the next class. If the designated beneficiary and none of the other survivors specifically provided for survived, payment would be made to the estate of the deceased employee. The reasons for this change are the same as those discussed with respect to the amendments made by section 1 (c) of the bill relative to accrued retirement annuities due but unpaid at the time of the death of the employee. Payment of the "residual" lump-sum benefit, by way of reimbursement, to the payer of the burial expenses of an employee would not be specially provided for because the "residual" benefit ordinarily becomes payable a considerable time after the employee's death and information concerning the payment of these expenses might be difficult to obtain.

Subsection (c) of section 2 would amend section 5 (h) of such act to provide that the maximum of survivor annuities be determined after the application of the work deduction provision, instead of prior to as under present laws. This change would accord with a similar change which has been made in the Social Security Act by Public Law 734, 81st Congress, approved August 28, 1950, and, in consequence, the application of the social security minimum would be simplified. The effect of this change would be to eliminate the double deduction which results from the application of the present provision for determining the maximum before any work deduction is made. For example, assume that an employee whose "basic amount" is \$63 is survived by a widow and 4 children, entitled to a survivor's annuity upon application. All apply except the eldest child who expects to work and whose entitlement would add nothing to the total family benefit if the widow and the other children receive their benefits. The maximum family benefit would be $2\frac{1}{2}$ times the basic amount, or \$168 monthly which they would receive rather than the total of \$189 produced by the regular formula (\$63 for the widow, the "basic amount") plus \$42 for each of three children (two-thirds of the "basic amount" for each, or \$63 plus \$126), as follows: the widow would receive her proportionate share, sixty-three one-hundred and eighty ninths of the \$168, or \$56, and each child would receive forty-two one-hundred and eighty ninths of \$168 or $\$37.33\frac{1}{3}$ a month. Now, assume that the widow decides to work and does. Under the present provisions for applying the maximum before work deductions her monthly payments would cease and the children's payments would remain as they were at $\$37.33\frac{1}{3}$ each. Also, if the fourth child decides not to work but to continue in school he could under the present provisions receive nothing. Under the proposed change, however, of determining the maximum after the work deduction the 3 children's payments would be increased to their regular amount of \$42 each (that is, two-thirds of the "basic amount") and the fourth child could

apply and would receive his full share of \$42, under the regular formula since the increase for the 3, and such share for the fourth, would increase the total only to the exact amount of the maximum of \$168. The example assumes that the social security minimum provision would not apply at all. If it did apply, under present provisions, after the widow started work, benefits to the family would have to be recomputed in accordance with the social security minimum. Under the proposed amendment, no such recomputation would be required.

The provision for calculating the minimum survivor annuity before making work deductions would not be affected by the bill. To compute the minimum after making a work deduction would nullify the work deduction provision, at least to some extent. Assume a case where a widow's benefit was, say \$9.60 and the child's \$6.40 so that the 2 would receive \$16, or above the present family minimum of \$15.40. If the minimum were applied after making the deductions required because the widow worked, the child would then receive \$15.40, or almost as much as the 2 together had received before the widow began work and a recomputation of the benefits would have to be made, instead of merely stopping payment to the individual working. (If only one member of a family were entitled to benefits, and the minimum were calculated after the work deduction, such member would receive the minimum even though working.)

Subsection (d) of section 2 would amend section 5 (i) (3) of the Railroad Retirement Act by eliminating deduction provisions respecting lump sums paid under section 204 of the Social Security Act in force prior to the enactment of the Social Security Act Amendments of 1939. This amendment would also eliminate deductions because of failure to deduct social security taxes for services in 1939 after which services the employee attained age 65. These provisions would be stricken because they are substantially obsolete.

Subsection (e) would amend section 5 (k) (3) of the Railroad Retirement Act to require the Board and the Social Security Administration to furnish each other with reports and records of "disability freeze" determinations made by one or the other agency, but would also prevent such a report or record of either agency's determination of a "disability freeze" from being conclusive on the other.

Subsection (f) of this section would amend section 5 (1) (6) of the Railroad Retirement Act to clarify the provision respecting the crediting of wages and self-employment income under the Social Security Act in the determination of survivor benefits under the act. Language is removed which is unnecessary as a result of recent amendments of the Social Security Act.

Subsection (g) of this section would amend section 5 (1) (7) to provide a "completely insured" status for an employee who has 10 years of railroad service and would have a "fully insured" status under the Social Security Act, assuming that his railroad service after 1936 were "employment" under the Social Security Act. Such an employee might not otherwise have a "completely insured" status under the Railroad Retirement Act because the "new start" provision of the Social Security Act permits the acquisition of a "fully insured" status under relatively liberal conditions. Where an employee gains a "completely insured" status under this provision his aged widow or

his parents could receive survivor annuities under the Railroad Retirement Act to which they would not otherwise be entitled.

Subsection (h) of this section would amend section 5 (1) (8) of the Railroad Retirement Act to provide a "partially insured" status under the act if under the same assumption as that prescribed in the preceding paragraph he would be "currently insured" under the Social Security Act. Where an employee acquires a "partially insured" status under this provision the consequence would be that any survivor benefits would be payable under the Railroad Retirement Act rather than the Social Security Act.

Subsection (i) of this section would amend section 5 (1) (9) of the Railroad Retirement Act to effect a change in connection with the definition of "average monthly remuneration" used in computing survivor benefits. The present "average monthly remuneration" is computed to the quarter in the calendar year in which such employee died or in which he had attained age 65 and became completely insured. The amendment of this subsection would change this closing date to (1) the first day of the first calendar year in which such employee both had attained age 65 and would be "completely insured;" or (2) the first day of the calendar year in which such employee died; or (3) the first day of the calendar year following the date of such employee's death, whichever would produce the highest "average monthly remuneration." This change would allow the Board to use the compensation on an annual basis without the complication of having to determine how much of the compensation was paid in the year before the quarter in which the employee became age 65 or died. As a result of this change these provisions would be consistent with the Social Security Act, and because many survivor annuities under the Railroad Retirement Act are computed under the social security minimum guaranty provision (under which the total of monthly annuities payable under the Railroad Retirement Act on the basis of an employee's service cannot be smaller than the amount, or the additional amount, which would have been payable under the Social Security Act to the employee's family had the employee's railroad service after 1936 been subject to that act), the proposed change would serve to facilitate the computation under this minimum provision.

Section 3. Providing for certain positions in the service of the Board

This section of the bill would authorize the Board to place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, 4 positions in grade GS-16, 4 positions in grade GS-17, and 1 position in grade GS-18, of the general schedule established by the Classification Act. This change would obviously inure to the benefit of the Board's administration because it would enable the Board to obtain and to retain the services of highly competent and skilled men in certain important positions which might otherwise not be possible; it would accord with accepted and current governmental policy respecting high-level, responsible positions in the Federal service, and it would place the Railroad Retirement Board more nearly on an equal basis with other Federal agencies of comparable size and importance as regards the authorized number of such positions.

Section 4. Providing that fines and penalties imposed by a Court pursuant to the Railroad Retirement Act shall be credited to the Railroad Retirement Account

This section would amend section 13 of the Railroad Retirement Act to accord with the Railroad Unemployment Insurance Act by providing that an individual who willfully fails to make a report required to be made for the purpose of the Railroad Retirement Acts of 1935 and 1937 or who shall knowingly make or cause to be made any false or fraudulent report or statement or who knowingly makes or aids in making any false or fraudulent statement or claim for the purpose of causing an award or payment under such acts, shall be punished by a fine of not more than \$10,000 or by imprisonment not exceeding 1 year or both. Under the present provisions the offense is punishable either by fine or imprisonment with the limits described above but not by both. This section would further amend section 13 of the Railroad Retirement Act to provide that all fines and penalties imposed by a court pursuant to the act be credited to the railroad retirement account just as the Railroad Unemployment Insurance Act makes provision for like fines and penalties to go into the account out of which unemployment benefits are paid.

Section 5. Effective dates

Subsection (a) of this section would make the amendments proposed in sections 1 (a), 1 (d), 1 (e), and 2 (i) of the bill effective with respect to annuities awarded under the Railroad Retirement Act of 1937 on or after the date of enactment of this bill. (Sections 1 (a), 1 (d), and 1 (e) contain the amendments for rounding the monthly compensation providing for the payment in a lump sum the commuted value of an annuity, and providing for the increase of annuities to the next higher multiple of \$0.10. Section 2 (i) would change the provisions respecting an employee's closing date and would round an "average monthly remuneration" to the next lower multiple of \$1.)

Subsection (b) of this section provides that the amendments to be made by sections 2 (g) and 2 (h), respecting the acquiring of an insured status under the Railroad Retirement Act on the assumption that the employee's railroad service after 1936 were "employment" subject to the Social Security Act, be effective with respect to deaths occurring on or after the date of enactment of the bill, and with respect to every employee who died before the enactment thereof if none of the employees' survivors became entitled, before the enactment of the bill, to monthly benefits (by reason of the employee's death) under the Social Security Act.

Subsection (c) of this section would make the amendments proposed in section 1 (b), respecting determinations of periods of disability, effective with respect to such determinations made on or after the date of the enactment of this bill other than those made prior to the date of enactment of the bill.

Subsection (d) of this section would make the amendments proposed in sections 1 (c), 2 (a) and 2 (b), respecting the payment of accrued annuities and lump-sum benefits, effective with respect to deaths occurring in months after the month of the enactment of the bill.

Subsection (e) of this section would make the amendments proposed in sections 2 (c), 2 (d), and 2 (f), respecting deductions from survivor annuities and the clarification of the provision for the crediting of

wages, effective with respect to annuities accruing for months after the month of enactment of the bill.

Subsection (f) of section 5 would make the amendments proposed by sections 2 (e) and 3 for an exchange of information between the Board and the Secretary of Health, Education, and Welfare, and the establishment of certain supergrades, respectively, effective on the date of enactment of the amendatory act.

Subsection (g) of this section, providing for the remission to the Treasury for credit to the railroad retirement account of fines and penalties imposed by a court for violation of the Railroad Retirement Act, is to be effective with respect to offenses committed on or after the date of enactment of the amendatory act; and the other provisions of the subsection, permitting a court to punish by both fine and imprisonment the commission of an offense prescribed by section 13 of the Railroad Retirement Act, would be effective with respect to the imposition of such punishment on or after the date the amendatory act was enacted.

PART II —AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Section 201. Changes respecting a working day which includes a part of 2 consecutive calendar days; increasing the amount of "subsidiary remuneration"; and making provision for inclusion of railroad unemployment insurance administration fund in the unemployment trust fund

Subsection (a) (1) of this section would amend section 1 (k) of the Railroad Unemployment Insurance Act to provide that where an employee receives remuneration for a working day which includes a part of each of 2 consecutive calendar days the remuneration shall be deemed to have been earned on the first of such 2 days. Any individual who takes work for such working day would not, by reason thereof, be deemed not available for work on the second of such calendar days.⁴

Subsection (a) (2) of this section would amend section 1 (k) of the Railroad Unemployment Insurance Act to provide that the term "subsidiary remuneration" means remuneration not in excess of an average of \$3 a day (instead of \$1 a day) for the period with respect to which such remuneration is payable or accrues, if the work from which the remuneration is derived (i) requires substantially less than full time as determined by generally prevailing standards, and (ii) is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation. The amount of \$3 would be more realistic in view of present day wage scales as compared with those when the provision was enacted some 20 years ago.

Subsection (b) of this section would amend section 1 (q) of the Railroad Unemployment Insurance Act so that the term "fund" would mean "the railroad unemployment insurance administration fund, established pursuant to section 11 of this act in the unemploy-

⁴ Under the present provision and under the same circumstances the individual is deemed to have earned remuneration on the second of such two days and is not to be deemed unavailable for work on the first of two such calendar days. The change would conform to the practice in the railroad industry of attributing the remuneration to the first day and avoid misunderstandings which have delayed the acquisition of information respecting the work.

ment trust fund,". This would be in furtherance of the purpose to be effected by section 204 of the bill to enable unused money designated for administrative expenses to earn interest, as in the case of unused funds for benefit purposes.

Section 202. Changing certain provisions respecting disqualification for unemployment and sickness benefits

This section would amend section 4 (a-1) (ii) of the Railroad Unemployment Insurance Act to provide that no day shall be considered a day of unemployment or a day of sickness for any employee if, with respect to such day, the employee receives unemployment, maternity, or sickness benefits under an unemployment, maternity, or sickness compensation law of any State of the United States other than Railroad Unemployment Insurance Act, or any other social-insurance payments under any law. This would remove the present discrimination in favor of employees in countries outside the United States allowing them to collect benefits without regard to their receipt of social insurance benefits under some foreign law.

Section 203. Considering the amount in the railroad unemployment insurance administration fund as a part of the railroad unemployment insurance account for the purpose of determining the rate of contributions

This section would amend section 8 (a) of the Railroad Unemployment Insurance Act to provide that in determining the balance of the railroad unemployment insurance account as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund shall be intended as a part of the balance to the credit of the account. This could lower, or avoid increasing, the rate of contributions to be made by employers for the ensuing year.

Section 204. Authorizing the Secretary of the Treasury to receive and hold funds of the railroad unemployment insurance administration fund in the unemployment trust fund

Subsection (a) of this section would amend section 904 (a) of the Social Security Act to authorize the Secretary of the Treasury to receive and hold funds deposited in the railroad unemployment insurance administration fund as a part of the unemployment trust fund.

Subsection (b) of this section would amend section 904 (e) of the Social Security Act to provide that the Secretary of the Treasury shall credit the railroad unemployment insurance administration fund with interest derived from the unemployment trust fund. At present unexpended portions of appropriations for administration of the Railroad Retirement Act earn interest as a part of the railroad retirement account but the railroad unemployment insurance administration fund is not invested.

Subsection (c) of this section would amend section 904 (f) of the Social Security Act to authorize the Secretary of the Treasury to make such payments out of the railroad unemployment insurance administration fund as the Board may duly certify. This change is necessary to conform with the change made by including the administration fund in the "unemployment trust fund."

Section 205. Providing that the Secretary of the Treasury maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund

This section would amend section 11 (a) of the Railroad Unemployment Insurance Act to provide that the Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This provision would implement the purpose of section 204 to permit unexpended administrative funds to earn interest, as in the case of other funds.

Section 206. Removing provision for fixing salary of director of unemployment insurance

This section would amend section 12 (1) of the Railroad Unemployment Insurance Act by striking the obsolete provision that the Board may fix the salary of a director of unemployment insurance at \$10,000 per annum and by providing that persons in the Board be employed, and their remuneration be prescribed, in accordance with the civil-service laws and the Classification Act of 1949 rather than the out-of-date provisions of the Classification Act of 1923.

Section 207. Effective dates

Subsection (a) of this section would make the amendment proposed in section 201 (a) respecting subsidiary remuneration effective with respect to registration periods in benefit years after the benefit year ending on June 30, 1958.

Subsection (b) of this section would make all the amendments proposed in section 202 effective with respect to days in benefit years after the benefit year ending on June 30, 1958.

Subsection (c) of this section would make the remaining proposed amendments to the Railroad Unemployment Insurance Act, except as otherwise indicated, effective on the date of enactment.

PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT

Section 301 would amend section 202 (t) of the Social Security Act to exclude from the restriction on social-security benefits provided by that section persons whose benefits are based in whole or in part on railroad employment through transfer of their employment credits under section 5 (k) (1) of the Railroad Retirement Act. That restriction is applicable, with certain exceptions, to noncitizens of the United States who become eligible for benefits under the so-called new-start provisions of that act through temporary employment and leave the United States. This amendment would affect, principally, Canadian residents employed by American railroads conducting a minor portion of their operations in Canada, and Canadian railroads operating into the United States. These persons are not those against whom the restriction was aimed since, obviously, they obtain social-security credits through this railroad service only because of the demands of, and in the course of, their regular employment rather than through any design to secure coverage by working temporarily and then returning to their native countries to enjoy the fruits thereof.

Section 302 would make the amendments of section 301 applicable to monthly benefits under the Social Security Act after December 1956 and to lump-sum payments under section 202 of the Social Security Act in the case of deaths occurring after December 1956.

The report of the Social Security Administration of the Department of Health, Education, and Welfare is as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
SOCIAL SECURITY ADMINISTRATION,
Washington, D. C., August 1, 1958.

HON. WAYNE L. MORSE,
*Chairman, Subcommittee on Railroad Retirement of the Committee
on Labor and Public Welfare, United States Senate, Wash-
ington, D. C.*

DEAR MR. CHAIRMAN: This is to inform you that the Railroad Retirement Board and this Department have reached an agreement on a legislative question pending before your committee.

The question involves the disability-freeze provision in S. 2020 which I discussed in my testimony before your committee during the June 12 hearing in that bill. The provision in question would give the Railroad Retirement Board authority to make disability-freeze determinations under the old-age, survivors, and disability insurance program for workers with 10 or more years of railroad employment. You will recall that the Secretary in his report to the full committee on this bill, dated July 25, 1957, expressed concern about the effect this provision might have on the old-age, survivors, and disability insurance program, and recommended against the enactment of the bill unless the disability-freeze provisions were deleted, or modified as suggested in the report. My testimony before your committee was, basically, a restatement of this position.

The Railroad Retirement Board has now agreed to 1 of the 2 alternative approaches suggested in our report on S. 2020. Under the approach agreed upon, the Board would make freeze determinations conclusive for the purposes of determining benefit payments under the railroad retirement program, while this Department would continue to make disability-freeze determinations for all old-age, survivors, and disability insurance purposes, and for purposes of the financial-interchange provisions.

If the disability-freeze provisions of S. 2020 are modified so as to put this proposal into effect, this Department would have no objections to the enactment of S. 2020. The two agencies will develop legislative language to amend S. 2020 to put the proposal into effect, and the Railroad Retirement Board will submit this language to your committee.

Sincerely yours,

CHARLES I. SCHOTTLAND,
Commissioner.

CHANGES IN THE EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

RAILROAD RETIREMENT ACT OF 1937

* * * * *

"COMPUTATION OF ANNUITIES

"SEC. 3. (a) The annuity shall be computed by multiplying an individual's 'years of service' by the following percentages of his 'monthly compensation': 3.04 per centum of the first \$50; 2.28 per centum of the next \$100; and 1.52 per centum of the next \$200.

"(b) * * *

"(c) The 'monthly compensation' shall be the average compensation paid to an employee with respect to calendar months included in his 'years of service', except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation paid to an employee with respect to calendar months included in his years of service in the years 1924-1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the forms of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940-August 1941: *Provided, however,* That where service in the period 1924-1931 in the one case, or in the period September 1940-August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. *If the 'monthly compensation' computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.*

"(d) * * *

"(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, before any reduction pursuant to section 2 (a) 3, be whichever of the following is the least: (1) \$4.55 multiplied by the number of his years of service; or (2) \$75.90; or (3) his monthly compensation: *Provided, however,* That if for any entire month in which an annuity accrues and is payable under this Act the annuity to which an employee is entitled under this Act (or would have been entitled except for a reduction pursuant to section 2 (a) 3 or a joint and survivor election), together with his or her spouse's annuity, if any, or the total of survivor

annuities under this Act deriving from the same employee, is less than the amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act (deeming completely and partially insured individuals to be fully and currently insured, respectively, individuals entitled to insurance annuities under subsections (a) and (d) of section 5 to have attained age sixty-five, and individuals entitled to insurance annuities under subsection (c) of section 5 on the basis of disability to be less than eighteen years of age, and disregarding any possible deductions under subsections (f) and (g) (2) of section 203 of the Social Security Act) if such employee's service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act and quarters of coverage were determined in accordance with section 5 (1) (4) of this Act, such annuity or annuities, shall be increased proportionately to a total of such amount or such additional amount.

"For purposes of this subsection, the Board shall have the same authority to determine a 'period of disability' within the meaning of section 216 (i) of the Social Security Act, with respect to any employee who will have filed application therefor and (i) have completed ten years of service or (ii) have been awarded an annuity, as the Secretary of Health, Education, and Welfare would have to determine such a period under such section 216 (i) if the employee met the requirements of clauses (A) and (B) of paragraph (3) of such section, considering for purposes of such determination that all his service as an employee after 1936 constitutes 'employment' within the meaning of title II of the Social Security Act and determining his quarters of coverage for such purposes by presuming his compensation in a calendar year to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year: Provided, That an application for an annuity filed with the Board on the basis of disability shall be deemed to be an application to determine such a period of disability, and such an application filed with the Board on or before the date of the enactment of this paragraph shall, for purposes of this subsection and section 216 (i) (4) of the Social Security Act, be deemed filed after December 1954 and before July 1958: Provided further, That, notwithstanding any other provision of law, the Board shall have the authority to make such determination on the basis of the records in its possession or evidence otherwise obtained by it, and a determination by the Board with respect to any employee concerning such a 'period of disability' shall be deemed a final decision of the Board determining the rights of persons under this Act for purposes of section 11 of this Act. An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a 'period of disability' under section 216 (i) of the Social Security Act.

["(f) Annuity payments which will have become due an individual but will not yet have been paid at death shall be paid to the same individual or individuals who, in the event that a lump sum will have become payable pursuant to section 5 hereof upon such death, would be entitled to receive such lump sum, in the same manner as, and subject to the same limitations under which, such lump sum would be paid, except that, as determined by the Board, first, brothers and sisters of the deceased, and if there are none such, then grandchildren of the deceased, if living on the date of the determination, shall be entitled to receive payment prior to any payment being made for

reimbursement of burial expenses. If there be no individual to whom payment can thus be made, such annuity payments shall escheat to the credit of the Railroad Retirement Account.】

“(f) (1) *Annuities under section 2 (a) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under section 5 (f) (1) for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).*

“(2) *Insurance annuities under section 5 which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).*

“(3) *Annuities under section 2 (e) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such spouse's annuity derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of paragraph (1) of this subsection as if such annuities were annuities due under section 2 (a) to an individual but unpaid at the time of such individual's death.*

“(4) *Applications for accrued and unpaid annuities provided for in paragraphs (1), (2), and (3) of this subsection shall be filed prior to the expiration of two years after the death of the person to whom such annuities were originally due.*

“(5) *For the purposes of this subsection and paragraphs (1) and (2) of section 5 (f) of this Act, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216 (h) (2) or (3) of the Social Security Act are fulfilled.*

“(6) *If there is no person to whom all or any part of the annuity payments described in paragraph (1), (2), or (3) can be made, such payments or part thereof shall escheat to the credit of the Railroad Retirement Account.*

“(g) *No annuity shall accrue with respect to the calendar month in which an annuitant dies.*

“(h) If an annuity is less than **[\$2.50]** \$5, it may, in the discretion of the Board, be paid quarterly or in a lump sum equal to its commuted value as determined by the Board.

“(i) *If the amount of any annuity computed under this section, or under section 2 or section 5, is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10.*

* * * * *

“ANNUITIES AND LUMP SUMS FOR SURVIVORS

“SEC. 5. (a) * * *

“(f) LUMP-SUM PAYMENT.—(1) **[**Upon the death, on or after January 1, 1947, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, there shall be paid a lump sum of ten times the employee's basic amount to the following person (or if more than one there shall be distributed among them) whose relationship to the deceased employee will have been determined by the Board, and who will have been living on the date of such determination: to the widow or widower of the deceased; or, if no such widow or widower be then living, to any child or children of the deceased and to any other person or persons who, under the intestacy law of the State where the deceased will have been domiciled, will have been entitled to share as distributees with such children of the deceased, in such proportions as is provided by such law; or, if no widow or widower and no such child and no such other person be then living, to the parent or parents of the deceased, in equal shares. A person who is entitled to share as distributee with an above-named relative of the deceased shall not be precluded from receiving a payment under this paragraph by reason of the fact that no such named relative will have survived the deceased or of the fact that no such named relative of the deceased will have been living on the date of such determination. If none of the persons described in this paragraph be living on the date of such determination such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of the deceased.**]** *Upon the death, after the month in which this Act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of ten times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such deceased employee. If a lump sum would be payable to a **[**widow, widower, child, or parent**]** widow or widower under this paragraph except for the fact that a survivor will have been entitled to receive an annuity for the month in which the employee will have died, but within one year after the employee's death there will not*

have accrued to survivors of the employee, by reason of his death annuities which, after all deductions pursuant to paragraph (1) of subsection (i) will have been made, are equal to such lump sum, [a payment to any then surviving widow, widower, children, or parents shall nevertheless be made under this paragraph equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions.] *a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section.* No payment shall be made to any person under this paragraph, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of the deceased employee, except that if the deceased employee is a person to whom section 2 of the Act of March 7, 1942 (56 Stat. 143, 144), is applicable such two years shall run from the date on which the deceased employee, pursuant to said Act, is determined to be dead, and for all other purposes of this section such employee, so long as it does not appear that he is in fact alive, shall be deemed to have died on the date determined pursuant to said Act to be the date or presumptive date of death.

"(2) Whenever it shall appear, with respect to the death of an employee on or after January 1, 1947, that no benefits, or no further benefits, other than benefits payable to a widow, widower, or parent upon attaining age sixty at a future date, will be payable under this section or, pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216 (a) of the Social Security Act) at a future date, will be payable under title II of the Social Security Act, as amended, there shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, [to the person or persons in the order provided in paragraph (1) of this subsection or, in the absence of such person or persons, to his or her estate, a lump sum] *to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:*

"(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

"(ii) if there be no such widow or widower, to any child or children of such employee; or

"(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

"(iv) if there be no such widow, widower, child, or grandchild, to any parent, or parents of such employee; or

"(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

"(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee,

a lump sum in an amount equal to the sum of 4 per centum of his or her compensation paid after December 31, 1936, and prior to January 1, 1947, and * * *

* * * * *

“(h) MAXIMUM AND MINIMUM ANNUITY TOTALS.—Whenever according to the provisions of this section as to annuities, payable for a month with respect to the death of an employee, the total of annuities is more than \$33 and exceeds either (a) \$176, or (b) an amount equal to two and two-thirds times such employee’s basic amount, whichever of such amounts is the lesser, such total of annuities shall, [prior to] after any deductions under subsection (i), be reduced to such lesser amount or to \$33, whichever is greater. Whenever such total of annuities is less than \$15.40 such total shall, prior to any deductions under subsection (i), be increased to \$15.40.

“(i) DEDUCTIONS FROM ANNUITIES.—(1) Deductions shall be made from any payments under this section to which an individual * * *

“(2) * * *

“(3) Deductions shall also be made from any payments under this section with respect to the death of an employee until such deductions total—

“(i) any death benefit, paid with respect to the death of such employee, under sections 5 of the Retirement Acts (other than a survivor annuity pursuant to an election); and

“(ii) any lump sum paid, with respect to the death of such employee, under title II of the Social Security Act. [, or under section 203 of the Social Security Act in force prior to the date of the Social Security Act Amendments of 1939;

[(iii) any lump sum paid to such employee under section 204 of the Social Security Act in force prior to the date of the enactment of the Social Security Act Amendments of 1939, provided such lump sum will not previously have been deducted from any insurance benefit paid under the Social Security Act; and

[(iv) an amount equal to 1 per centum of any wages paid to such employee for services performed in 1939, and subsequent to his attaining age sixty-five, with respect to which the taxes imposed by section 1400 of the Internal Revenue Code will not have been deducted by his employer from his wages or paid by such employer, provided such amount will not previously have been deducted from any insurance benefit paid under the Social Security Act.]

* * * * *

“(k) PROVISIONS FOR CREDITING RAILROAD INDUSTRY SERVICE UNDER THE SOCIAL SECURITY ACT IN CERTAIN CASES.—(1) * * *

“(2) * * *

“(3) The Board and the Federal Security Administrator shall, upon request, supply each other with certified reports of records of compensation or wages and periods of service, of determinations under section 3 (e) of this Act, or section 216 (i) of the Social Security Act, of periods of disability within the meaning of such section 216 (i), and of other records in their possession or which they may secure, pertinent to the administration of this section, section 3 (e) of this Act, or title II of the Social Security Act as affected by paragraph (1). Such certified reports shall be conclusive in adjudication as to the matters covered therein (except in the case of a determination of disability under section

216 (i) of the Social Security Act): *Provided*, That if the Board or the Federal Security Administrator receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence, such recertification of such report shall be made as, in the judgment of the Board or the Federal Security Administrator, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

“(1) DEFINITIONS.—For the purposes of this section the term ‘employee’ includes an individual who will have been an ‘employee’, and—

“(1) The qualifications for ‘widow’, ‘widower’, * * *

* * * * *

“(6) The term ‘wages’ shall mean wages as defined in section 209 of the Social Security Act [(except that for the purposes of section 5 (i) (1) (ii) of this Act such wages shall be determined without regard to subsection (a) of said section 209)]. In addition, the term shall include (i) ‘self-employment income’ as defined in section 211 (b) of the Social Security Act [(and in determining ‘self-employment income’ the ‘net earnings from self-employment’ shall be determined as provided in section 211 (a) of such Act and charged to correspond with the provisions of section 203 (e) of such Act)], and (ii) wages deemed to have been paid under section 217 (a) or (e) of the Social Security Act on account of military service which is not creditable under section 4 of this Act. *Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act.*

“(7) An employee will have been ‘completely insured’ if it appears to the satisfaction of the Board that at the time of his death, whether before or after the enactment of this section, he will have completed ten years of service and will have had the qualifications set forth in any one of the following paragraphs:

“(i) a current connection with the railroad industry; and a number of quarters of coverage, * * *

“(ii) a current connection with the railroad industry; and [forty or more quarters of coverage] *either will have had forty or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term ‘employment’ as defined in that Act; or*

“(iii) * * *

“(8) An employee will have been ‘partially insured’ at the time of his death, whether before or after the enactment of this section, if it appears to the satisfaction of the Board that he will have completed ten years of service and [will have had (i)] (i) *will have had* a current connection with the railroad industry; and (ii) *either will have had* six or more quarters of coverage in the period ending with the quarter in which he will have died or in which a retirement annuity will have begun to accrue to him and beginning with the third calendar year next preceding the year in which such event occurs, *or would be currently insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term ‘employment’ as defined in that Act.*

“(9) An employee’s ‘average monthly remuneration’ shall mean the quotient obtained by dividing (A) the sum of (i) the compensation paid to him after 1936 and before the [quarter in which he will have died] *employee’s closing date*, eliminating any excess over \$300 for any calendar month before July 1, 1954, and any excess over \$350 for any calendar month after June 30, 1954, and (ii) if such compensation for any calendar year before 1955 is less than \$3,600 or for any calendar year after 1954 is less than \$4,200 and the average monthly remuneration computed on compensation alone is less than \$350 and the employee has earned in such calendar year ‘wages’ as defined in paragraph (6) hereof, such wages, in an amount not to exceed the difference between the compensation for such year and \$3,600 for years before 1955 and \$4,200 for years after 1954, by (B) three times the number of quarters elapsing after 1936 and before the [quarter in which he will have died] *employee’s closing date*: *Provided*, That for the period prior to and including the calendar year in which he will have attained the age of twenty-two there shall be included in the divisor not more than three times the number of quarters of coverage in such period: *Provided further*, That there shall be excluded from the divisor any calendar quarter which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him. [*And provided further*, That if the exclusion from the divisor of all quarters beginning with the first quarter in which the employee was completely insured and had attained the age of sixty-five and the exclusion from the dividend of all compensation and wages with respect to such quarters would result in a higher average monthly remuneration, such quarters, compensation and wages shall be so excluded.] *An employee’s ‘closing date’ shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest ‘average monthly remuneration’ as defined in the preceding sentence. If the amount of the ‘average monthly remuneration’ as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.*

* * * * *

“PERSONNEL

“SEC. 10. (a) There is hereby established as an independent agency in the executive branch of the Government * * *

“(b) 1. * * *

* * * * *

“4. The Board shall establish and promulgate rules and regulations to provide for the adjustment of all controversial matters arising in the administration of such Acts, with power as a Board or through any member or designated subordinate thereof, to require and compel the attendance of witnesses, administer oaths, take testimony, and make all necessary investigations in any matter involving annuities or other payments and shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such individuals and provide for their compensation and expenses as may be necessary for the proper discharge of its functions. All

positions to which such individuals are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom. In the employment of such individuals under the civil-service laws and rules the Board shall give preference over all others to individuals who have had experience in railroad service, if, in the judgment of the Board they possess the qualifications necessary for the proper discharge of the duties of the positions to which they are to be appointed. *For purposes of its administration of this Act or the Railroad Unemployment Insurance Act, or both, the Board may hereafter place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, four positions in grade GS-16 of the General Schedule established by that Act, four positions in grade GS-17 of such Schedule, and one position in grade GS-18 of such Schedule.* * * *

* * * * *

“SEC. 13. (a) Any officer or agent of an employer, as the word ‘employer’ is hereinbefore defined, or any employee acting in his own behalf, or any individual whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required, in accordance with the provisions of section 10 (b) 4, by the Board in the administration of this Act or the Railroad Retirement Act of 1935, or who shall knowingly make or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purpose of such Acts, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of causing an award or payment under such Acts, shall be punished by a fine of not more than \$10,000 or by imprisonment not exceeding one year, or both.

“(b) All fines and penalties imposed by a court pursuant to this Act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account.

* * * * *

RAILROAD UNEMPLOYMENT INSURANCE ACT

* * * * *

SECTION 1. For the purposes of this Act, except when used in amending the provisions of other Acts—

(a) * * *

(k) Subject to the provisions of section 4 of this Act, (1) a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him, and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office; and (2) a “day of sickness”, with respect to any employee, means a calendar day on which because of any physical, mental, psychological, or nervous injury, illness, sickness, or disease he is not able to work or which is included in a maternity period, and with respect to which (i) no remuneration is payable or accrues to him, and (ii) in accordance with such regulations as the Board may prescribe, a statement of sickness is filed within such reasonable period, not in excess of ten days, as the Board may prescribe: *Provided, however,* That “subsidiary

remuneration", as hereinafter defined in this subsection, shall not be considered remuneration for this purpose of the subsection except with respect to an employee whose base-year compensation, exclusive of earnings from the position or occupation in which he earned such subsidiary remuneration, is less than \$400: *Provided, further,* That remuneration for a working day which includes a part of each of two consecutive calendar days shall be deemed to have been earned on the **second** *first* of such two days, and any individual who takes work for such working day shall not by reason thereof be deemed not available for work on the **first** *second* of such calendar days: *Provided, further,* That any calendar day on which no remuneration is payable to or accrues to an employee solely because of the application to him of mileage or work restrictions agreed upon in schedule agreements between employers and employees or solely because he is standing by for or laying over between regularly assigned trips or tours of duty shall not be considered either a day of unemployment or a day of sickness.

For the purpose of this subsection, the term "subsidiary remuneration" means, with respect to any employee, remuneration not in excess of an average of **one dollar** *three dollars* a day for the period with respect to which such remuneration is payable or accrues, if the work from which the remuneration is derived (i) requires substantially less than full time as determined by generally prevailing standards, and (ii) is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation.

* * * * *

(q) The term "fund" means the railroad unemployment insurance administration fund, established pursuant to section 11 of this Act *in the unemployment trust fund.*

* * * * *

DISQUALIFYING CONDITIONS

SEC. 4. (a-1) There shall not be considered as a day of unemployment or as a day of sickness, with respect to any employee—

(i) * * *

(ii) any day in any period with respect to which the Board finds that he is receiving or will have received annuity payments or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, or insurance benefits under title II of the Social Security Act, or unemployment, maternity, or sickness benefits under an unemployment, maternity, or sickness compensation law **of any State of the United States other than this Act, or any other social insurance payments under a law of any State or of the United States** *other than this Act or any other social-insurance payments under any law: Provided,* That if an employee receives or is held entitled to receive any such payments, other than unemployment, maternity, or sickness payments, with respect to any period which include days of unemployment or sickness in a registration period, after benefits under this Act for such registration period will have been paid, the amount by which such benefits under this Act will have been increased by including such days as days of unemployment or as

days of sickness shall be recoverable by the Board: *Provided further*, That, if that part of any such payment or payments, other than unemployment, maternity, or sickness payments, which is apportionable to such days of unemployment or days of sickness is less in amount than the benefits under this Act which, but for this paragraph, would be payable and not recoverable with respect to such days of unemployment or days of sickness, the preceding provisions of this paragraph shall not apply but such benefits under this Act for such days of unemployment or days of sickness shall be diminished or recoverable in the amount of such part of such other payment or payments;

* * * * *

CONTRIBUTIONS

SEC. 8. (a) Every employer shall pay a contribution, with respect to having employees in his service, equal to the * * *

As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business of September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30 of such year; *and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account.*

* * * * *

RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

SEC. 11. (a) [There is hereby established in the Treasury of the United States a fund to be known as the railroad unemployment insurance administration fund. This fund] *The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund shall consist of (i) such part of all contributions collected pursuant to section 8 of this Act as equals 0.2 per centum of the total compensation on which such contributions are based; (ii) all amounts advanced to the fund by the Secretary of the Treasury pursuant to this section; (iii) all amounts appropriated by subsection (b) of this section; and (iv) such additional amounts as Congress may appropriate for expenses necessary or incidental to administering this Act. Such additional amounts are hereby authorized to be appropriated.*

- (b) * * *
- (c) * * *

DUTIES AND POWERS OF THE BOARD

SEC. 12. (a) For the purpose of any investigation or other proceeding relative to the determination of any right to benefits, * * *

* * * * *

(1) In addition to the powers and duties expressly provided, the Board shall have and exercise all the powers and duties * * *

The Board may employ such persons and provide for their remuneration and expenses, as may be necessary for the proper administration of this Act. Such persons shall be employed and their remuneration prescribed in accordance with the civil-service laws and the [Classification Act of 1923, except that the Board may fix the salary of a Director of Unemployment Insurance at \$10,000 per annum] *Classification Act of 1949, as amended: Provided, That all positions to which such persons are appointed, * * **

* * * * *

SOCIAL SECURITY ACT

* * * * *

SEC. 202. (a) * * * *

(t) (1) * * * *

(4) Paragraph (1) shall not apply to any benefit for any month if—

(A) not less than forty of the quarters elapsing before such month are quarters of coverage for the individual on whose wages and self-employment income such benefit is based, or

(B) the individual on whose wages and self-employment income such benefit is based has, before such month, resided in the United States for a period or periods aggregating ten years or more, or

(C) the individual entitled to such benefit is outside the United States while in the active military or naval service of the United States, or

(D) the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 210 (m) (2) and (3)) as a member of a uniformed service (as defined in section 210 (n)), or (ii) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 210 (m) (2)), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 210 (m) (3)), as a member of a uniformed service (as defined in section 210 (n)), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause [.] , or

(E) *the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this Act pursuant to the provisions of section 5 (k) (1) of the Railroad Retirement Act.*

* * * * *

SEC. 904. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund," hereinafter in this title called the "Fund." The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the

credit of the railroad unemployment insurance account or the railroad unemployment insurance administration fund, or otherwise deposited in or credited to the Fund or any account therein. Such deposit may be made directly with the Secretary of the Treasury or with any Federal Reserve bank or member bank of the Federal Reserve System designated by him for such purpose.

* * * * *

(e) The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency, the Federal unemployment account, [and the railroad unemployment insurance account] *the railroad unemployment insurance account, and the railroad unemployment insurance administration fund* and shall credit quarterly on March 31, June 30, September 30, and December 31, of each year, to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date. For the purpose of this subsection, the average daily balance shall be computed—

(1) in the case of any State account, by reducing (but not below zero) the amount in the account by the aggregate of the outstanding advances under section 1201 from the Federal unemployment account, and

(2) in the case of the Federal unemployment account, (A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and (B) by subtracting from the sum so obtained the aggregate of the outstanding advances from the Treasury to the account pursuant to section 1202 (c).

(f) The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment. The Secretary of the Treasury is authorized and directed to make such payments out of the [Fund as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the railroad unemployment insurance account at the time of such payment] *railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment.*

* * * * *



S. 2020

[Report No. 2364]

IN THE SENATE OF THE UNITED STATES

MAY 8, 1957

Mr. HILL (for himself and Mr. MORSE) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

AUGUST 13 (legislative day, AUGUST 12), 1958

Reported by Mr. MORSE, with amendments

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

A BILL

To amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act.

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

3 PART I—AMENDMENTS TO THE RAILROAD RETIREMENT
4 ACT OF 1937

5 SECTION 1. (a) Section 3 (c) of the Railroad Retire-
6 ment Act of 1937 is amended by adding at the end thereof
7 the following new sentence: "If the 'monthly compensation'
8 computed under this subsection is not a multiple of \$1, it
9 shall be rounded to the next lower multiple of \$1."

10 (b) Section 3 (e) of such Act is amended by inserting
11 at the end thereof the following new paragraph:

1 “For the purposes of this subsection ~~and all purposes~~
2 of title II of the Social Security Act, the Board shall have
3 the same authority to determine a ‘period of disability’
4 within the meaning of section 216 (i) of the Social Security
5 Act, with respect to any employee who will have filed
6 application therefor and (i) have completed ten years of
7 service or (ii) have been awarded an annuity, as the Secre-
8 tary of Health, Education, and Welfare would have to deter-
9 mine such a period under such section 216 (i) if the
10 employee met the requirements of clauses (A) and (B)
11 of paragraph (3) of such section, considering for purposes
12 of such determination that all his service as an employee
13 after 1936 constitutes ‘employment’ within the meaning of
14 title II of the Social Security Act and determining his quar-
15 ters of coverage for such purposes by presuming his compen-
16 sation in a calendar year to have been paid in equal pro-
17 portions with respect to all months in which he will have
18 been in service as an employee in such calendar year: ~~Pro-~~
19 ~~vided, That no such period of disability shall be deemed to~~
20 ~~have begun if the employee died before July 1, 1955:~~
21 *Provided further,* That an application for an annuity filed
22 with the Board on the basis of disability shall be deemed
23 to be an application to determine such a period of disability,
24 and such an application filed with the Board on or before
25 the date of the enactment of this paragraph shall, for pur-

1 poses of this subsection and section 216 (i) (4) of the
2 Social Security Act, be deemed filed after December 1954
3 and before July ~~1957~~ 1958: ~~And provided~~ *Provided further,*
4 That, notwithstanding any other provision of law, the Board
5 shall have the authority to make such determination on the
6 basis of the records in its possession or evidence otherwise
7 obtained by it, and a determination by the Board with re-
8 spect to any employee concerning such a 'period of disability'
9 shall be deemed a final decision of the Board determining
10 the rights of persons under this Act for purposes of section
11 11 of this Act. For purposes of section 5 ~~(k)~~ ~~(2)~~ of this
12 ~~Act~~, any determination by the Board of a period of dis-
13 ability for an employee shall be considered a determination
14 of such a period for such employee by the Secretary of
15 Health, Education, and Welfare under section 216 ~~(i)~~ of
16 the Social Security Act, and for such purposes section
17 ~~222~~ (b) of the Social Security Act shall not apply with
18 respect to any individual whose period of disability is deter-
19 mined by the Board under this paragraph *An application*
20 *filed with the Board pursuant to this paragraph shall be*
21 *deemed filed as of the same date also with the Secretary of*
22 *Health, Education, and Welfare for the purpose of deter-*
23 *mining a "period of disability" under section 216 (i) of*
24 *the Social Security Act."*

1 (c) Section 3 (f) of such Act is amended to read as
2 follows:

3 “(f) (1) Annuities under section 2 (a) which will
4 have become due an individual but will not have been paid
5 at the time of such individual’s death shall be payable to
6 the person, if any, who is determined by the Board to be
7 such individual’s widow or widower and to have been living
8 with such individual at the time of such individual’s death
9 and who will not have died before receiving payment of
10 such annuities. If there be no such widow or widower,
11 such annuities shall be payable to any person or persons,
12 equitably entitled thereto, to the extent and in the propor-
13 tions that he or they shall have paid the expenses of burial
14 of such individual, and to the extent that he or they will
15 not have been reimbursed under section 5 (f) (1) for
16 having paid such expenses. If there be no person or persons
17 so entitled, or if the total of such annuities exceeds the
18 amount payable under this paragraph to such person or
19 persons, such total, or the remainder thereof, as the case may
20 be, shall be paid to the children, grandchildren, parents, or
21 brothers and sisters of the deceased individual in the same
22 manner as if such unpaid annuities were a lump sum payable
23 under section 5 (f) (2).

24 “(2) Insurance annuities under section 5 which will
25 have become due a survivor of an employee but will not

1 have been paid at the time of such survivor's death shall be
2 payable to the person, if any, who is determined by the
3 Board to be such employee's widow or widower and to have
4 been living with such employee at the time of the employee's
5 death and who will not have died before receiving payment
6 of such annuities. If there be no such widow or widower,
7 such annuities shall be payable to the children, grandchildren,
8 parents, or brothers and sisters of the deceased employee
9 in the same manner as if such unpaid annuities were a lump
10 sum payable under section 5 (f) (2).

11 “(3) Annuities under section 2 (e) which will have
12 become due a spouse of an individual but which will not have
13 been paid at the time of such spouse's death shall be payable
14 to the individual from whose employment such spouse's an-
15 nuity derived and who will not have died before receiving
16 payment of such annuities. If there be no such individual,
17 such annuities shall be paid as provided in the last two sen-
18 tences of paragraph (1) of this subsection as if such annuities
19 were annuities due under section 2 (a) to an individual but
20 unpaid at the time of such individual's death.

21 “(4) Applications for accrued and unpaid annuities pro-
22 vided for in paragraphs (1), (2), and (3) of this subsection
23 shall be filed prior to the expiration of two years after the
24 death of the person to whom such annuities were originally
25 due.

1 “(5) For the purposes of this subsection and paragraphs
2 (1) and (2) of section 5 (f) of this Act, a widow or
3 widower of an individual shall be deemed to have been living
4 with the individual at the time of the individual’s death if the
5 applicable conditions set forth in section 216 (h) (2) or
6 (3) of the Social Security Act are fulfilled.

7 “(6) If there is no person to whom all or any part of
8 the annuity payments described in paragraph (1), (2), or
9 (3) can be made, such payments or part thereof shall escheat
10 to the credit of the Railroad Retirement Account.”

11 (d) Section 3 (h) of such Act is amended by striking
12 out “\$2.50” and inserting in lieu thereof “\$5”.

13 (e) Section 3 of such Act is further amended by adding
14 at the end thereof the following new subsection:

15 “(i) If the amount of any annuity computed under this
16 section, or under section 2 or section 5, is not a multiple of
17 \$0.10, it shall be raised to the next higher multiple of \$0.10.”

18 SEC. 2. (a) Section 5 (f) (1) of the Railroad Retirement Act of 1937 is amended—

20 (1) by striking out the first three sentences and
21 inserting in lieu thereof the following: “Upon the death,
22 after the month in which this Act is enacted, of a completely or partially insured employee who will have
23 died leaving no widow, widower, child, or parent who
24 would on proper application therefor be entitled to
25

1 receive an annuity under this section for the month in
2 which such death occurred, a lump sum of ten times
3 the employee's basic amount shall be paid to the person,
4 if any, who is determined by the Board to be the widow
5 or widower of the deceased employee and to have been
6 living with such employee at the time of such em-
7 ployee's death and who will not have died before
8 receiving payment of such lump sum. If there be no
9 such widow or widower, such lump sum shall be paid
10 to any person or persons, equitably entitled thereto,
11 to the extent and in the proportions that he or they
12 shall have paid the expenses of burial of such deceased
13 employee.”;

14 (2) by striking out “widow, widower, child, or
15 parent” in the fourth sentence and inserting in lieu
16 thereof “widow or widower”; and

17 (3) by striking out all of the fourth sentence ~~after~~
18 *beginning with* “a payment to any then surviving widow”
19 and inserting in lieu thereof the following: “a payment
20 equal to the amount by which such lump sum exceeds
21 such annuities so accrued after such deductions shall then
22 nevertheless be made under this paragraph to the per-
23 son (or, if more than one, in equal shares to the persons)
24 first named in the following order of preference: the

1 widow, widower, child, or parent of the employee
2 then entitled to a survivor annuity under this section.”

3 (b) Section 5 (f) (2) of such Act is amended by
4 striking out “to the person or persons in the order pro-
5 vided in paragraph (1) of this subsection, or in the absence
6 of such person or persons, to his or her estate, a lump sum”
7 and by inserting in lieu thereof the following: “to the fol-
8 lowing person (or, if more than one, in equal shares to
9 the persons) whose relationship to the deceased employee
10 will have been determined by the Board and who will not
11 have died before receiving payment of the lump sum pro-
12 vided for in this paragraph:

13 “(i) the widow or widower of the deceased em-
14 ployee who was living with such employee at the time
15 of such employee’s death; or

16 “(ii) if there be no such widow or widower, to any
17 child or children of such employee; or

18 “(iii) if there be no such widow, widower, or child,
19 to any grandchild or grandchildren of such employee; or

20 “(iv) if there be no such widow, widower, child,
21 or grandchild, to any parent or parents of such em-
22 ployee; or

23 “(v) if there be no such widow, widower, child,
24 grandchild, or parent, to any brother or sister of such
25 employee; or

1 “(vi) if there be no such widow, widower, child,
2 grandchild, parent, brother, or sister, to the estate of
3 such employee,
4 a lump sum”.

5 (c) The first sentence of section 5 (h) of such Act
6 is amended by striking out “prior to” and inserting in lieu
7 thereof “after”.

8 (d) Section 5 (i) (3) of such Act is amended (1) by
9 inserting “and” after the semicolon in subparagraph (i);
10 (2) by striking out all of subparagraph (ii) after “title II
11 of the Social Security Act” and inserting in lieu thereof
12 a period; and (3) by striking out subparagraphs (iii)
13 and (iv).

14 ~~(e) Section 5 (k) (1) of such Act is amended by~~
15 ~~striking out “for the purposes of sections 203 and 216 (i)~~
16 ~~(3) of that Act” and inserting in lieu thereof “for the pur-~~
17 ~~poses of section 203 and, with respect to an employee who~~
18 ~~will have completed less than ten years of service, section~~
19 ~~216 (i) (3) of that Act”.~~

20 ~~(f) (e) Section 5 (k) (3) of such Act is amended—~~
21 (1) by inserting in the first sentence after “service”
22 the following: “, of determinations under section 3 (e)
23 of this Act, or section 216 (i) of the Social Security

1 Act, of periods of disability within the meaning of such
2 section 216 (i),”;

3 (2) by inserting in the first sentence after “this
4 section” the following: “, section 3 (e) of this Act,”;
5 and

6 (3) by inserting in the second sentence after “there-
7 in” the following: “(except in the case of a determin-
8 ation of disability under section 216 (i) of the Social
9 Security Act ~~where such determination would otherwise~~
10 ~~result in a denial, or a decrease in the amount, of monthly~~
11 ~~or lump-sum benefits under either the Railroad Retire-~~
12 ~~ment Act or the Social Security Act)”.~~

13 ~~(g)~~ (f) Section 5 (1) (6) of such Act is amended by
14 striking out the parenthetical phrases in the first and second
15 sentences and by inserting at the end thereof the following
16 sentence: “Wages, as defined in this paragraph, shall be
17 credited for the purposes of this section in the manner and
18 to the extent credited for corresponding purposes of title II
19 of the Social Security Act.”

20 ~~(h)~~ (g) Section 5 (1) (7) (ii) of such Act is amended
21 by striking out “forty or more quarters of coverage” and
22 inserting in lieu thereof the following: “either will have had
23 forty or more quarters of coverage or would be fully in-
24 sured under title II of the Social Security Act if his service

1 as an employee after December 31, 1936, were included
2 in the term 'employment' as defined in that Act".

3 ~~(i)~~ (h) Section 5 (1) (8) of such Act is amended (1)
4 by striking out "will have had (i)" and inserting in lieu
5 thereof "(i) will have had", (2) by inserting "either will
6 have had" after "(ii)", and (3) by inserting before the final
7 period a comma and the following: "or would be currently
8 insured under title II of the Social Security Act if his service
9 as an employee after December 31, 1936, were included in
10 the term 'employment' as defined in that Act".

11 ~~(j)~~ (i) Section 5 (1) (9) of such Act is amended—

12 (1) by striking out "quarter in which he will have
13 died" each place it appears in clauses (A) and (B)
14 and by inserting in lieu thereof "employee's closing
15 date";

16 (2) by striking out the last proviso; and

17 (3) by inserting after the first sentence the follow-
18 ing new sentence: "An employee's 'closing date' shall
19 mean (A) the first day of the first calendar year in
20 which such employee both had attained age 65 and was
21 completely insured; or (B) the first day of the calendar
22 year in which such employee died; or (C) the first day
23 of the calendar year following the year in which such
24 employee died, whichever would produce the highest

1 'average monthly remuneration' as defined in the pre-
2 ceding sentence. If the amount of the 'average monthly
3 remuneration' as computed under this paragraph is not
4 a multiple of \$1, it shall be rounded to the next lower
5 multiple of \$1".

6 SEC. 3. Section 10 (b) (4) of the Railroad Retirement
7 Act of 1937 is amended— *amended*

8 ~~(1)~~ by inserting before the period at the end of
9 the first sentence a comma and the following: "includ-
10 ing expenses, tuition, and salaries of employees of the
11 Board who are designated by the Board to attend courses
12 of instruction or training at institutions (whether or not
13 such courses are conducted by the United States), not
14 exceeding 240 class hours in any one calendar year for
15 any one such employee."; and

16 ~~(2)~~ by inserting after the third sentence the follow-
17 ing new sentence: "For purposes of its administration
18 of this Act or the Railroad Unemployment Insurance
19 Act, or both, the Board may hereafter place, without re-
20 gard to the numerical limitations contained in section
21 505 of the Classification Act of 1949, as amended, four
22 positions in grade GS-16 of the General Schedule es-
23 tablished by that Act, four positions in grade GS-17 of
24 such schedule, and one position in grade GS-18 of such
25 schedule.

1 SEC. 4. Section 13 of the Railroad Retirement Act of
2 1937 is amended (1) by inserting "(a)" after "Sec. 13.";
3 (2) by inserting ", or both" before the final period, and
4 (3) by adding at the end thereof the following new sub-
5 section:

6 "(b) All fines and penalties imposed by a court pur-
7 suant to this Act shall be paid to the court and be remitted
8 from time to time by order of the judge to the Treasury of
9 the United States to be credited to the Railroad Retirement
10 Account."

11 SEC. 5. (a) The amendments made by sections 1 (a),
12 1 (d), 1 (e), and ~~2 (j)~~ 2 (i) shall be effective with respect
13 to annuities awarded under the Railroad Retirement Act of
14 1937 on or after the date of the enactment of this Act.

15 (b) The amendments made by sections ~~2 (h)~~ 2 (g) and
16 ~~2 (i)~~ 2 (h) shall be effective (1) with respect to deaths
17 occurring on or after the date of the enactment of this Act
18 and (2) with respect to any death occurring before such date
19 if none of the survivors of the deceased individual became
20 entitled before such date to monthly benefits, by reason of the
21 individual's death, under title II of the Social Security Act.

22 (c) The amendments made by sections ~~1 (b)~~ and ~~2~~
23 ~~(e)~~ section 1 (b) shall be effective with respect to deter-
24 minations of periods of disability, within the meaning of

1 section 216 (i) of the Social Security Act, made on or after
2 the date of the enactment of this Act.

3 (d) The amendments made by sections 1 (c), 2 (a),
4 and 2 (b) shall be effective with respect to deaths occurring
5 in months after the month in which this Act is enacted.

6 (e) The amendments made by sections 2 (c), 2 (d),
7 and ~~2 (g)~~ 2 (f) shall be effective with respect to annuities
8 accruing for months after the month in which this Act is
9 enacted.

10 (f) The amendments made by sections ~~2 (f)~~ 2 (e) and
11 3 shall be effective on the date of the enactment of this Act.

12 (g) The amendment made by clause (3) of section 4
13 shall be effective with respect to offenses committed on or
14 after the date of the enactment of this Act; and the other
15 amendments made by section 4 shall be effective with re-
16 spect to fines and penalties imposed on or after such date.

17 PART II—AMENDMENTS TO THE RAILROAD UNEMPLOY-
18 MENT INSURANCE ACT

19 SEC. 201. (a) (1) The second proviso in section 1 (k)
20 of the Railroad Unemployment Insurance Act is amended
21 by striking out “second” and inserting in lieu thereof “first”,
22 and by striking out “first” and inserting in lieu thereof
23 “second”.

24 (2) The second paragraph of such section 1 (k) is

1 amended by striking out “one dollar” and inserting in lieu
2 thereof “three dollars”.

3 (b) Section 1 (q) of such Act is amended by inserting
4 before the period at the end thereof the following: “in the
5 unemployment trust fund”.

6 SEC. 202. Section 4 (a-1) (ii) of the Railroad Unem-
7 ployment Insurance Act is amended by striking out all that
8 follows “sickness compensation law” and precedes the first
9 proviso and by inserting in lieu thereof the following: “other
10 than this Act, or any other social-insurance payments under
11 any law”.

12 SEC. 203. Section 8 (a) of the Railroad Unemployment
13 Insurance Act is amended by inserting before the period at
14 the end thereof a semicolon and the following: “and in deter-
15 mining such balance as of September 30 of any year, the
16 balance to the credit of the railroad unemployment insurance
17 administration fund as of the close of business on such date
18 shall be deemed to be a part of the balance to the credit of
19 such account”.

20 SEC. 204. (a) Section 904 (a) of the Social Security
21 Act is amended by inserting after “the railroad unemploy-
22 ment insurance account” the following: “or the railroad
23 unemployment insurance administration fund”.

24 (b) Section 904 (e) of the Social Security Act is

1 amended by striking out "and the railroad unemployment
2 insurance account" and inserting in lieu thereof the follow-
3 ing: ", the railroad unemployment insurance account, and
4 the railroad unemployment insurance administration fund".

5 (c) Section 904 (f) of the Social Security Act is
6 amended by striking out "fund as the Railroad Retirement
7 Board" and all that follows and by inserting in lieu thereof
8 the following: "railroad unemployment insurance account
9 for the payment of benefits, and out of the railroad un-
10 employment insurance administration fund for the payment
11 of administrative expenses, as the Railroad Retirement
12 Board may duly certify, not exceeding the amount standing
13 to the credit of such account or such fund, as the case may
14 be, at the time of such payment."

15 SEC. 205. (a) Section 11 ~~(a)~~ of the Railroad Un-
16 employment Insurance Act is amended by striking out the
17 first sentence and the first two words of the second sentence,
18 and by inserting in lieu thereof the following: "The Secre-
19 tary of the Treasury shall maintain in the unemployment
20 trust fund established pursuant to section 904 of the Social
21 Security Act an account to be known as the railroad un-
22 employment insurance administration fund. This unemploy-
23 ment insurance administration fund".

24 ~~(b) Section 11 (c) of such Act is amended by insert-~~
25 ~~ing after "when authorized by the Board" the following:~~

1 “and expenses, tuition, and salaries of employees designated
2 by the Board to attend courses of instruction or training
3 at institutions (whether or not such courses are conducted
4 by the United States), not exceeding two hundred and forty
5 class hours in any one calendar year for any one such
6 employee”.

7 SEC. 206. The second paragraph of section 12 (1) of
8 the Railroad Unemployment Insurance Act is amended by
9 striking out “Classification Act of 1923, except that the
10 Board may fix the salary of a director of unemployment
11 insurance at \$10,000 per annum” and inserting in lieu thereof
12 the following: “Classification Act of 1949, as amended”.

13 SEC. 207. (a) The amendments made by section 201
14 (a) shall be effective with respect to registration periods in
15 benefit years after the benefit year ending on June 30,
16 ~~1957~~ 1958.

17 (b) The amendments made by section 202 shall be
18 effective with respect to days in benefit years after the bene-
19 fit year ending on June 30, ~~1957~~ 1958.

20 (c) The remaining amendments made by this part
21 shall be effective, except as otherwise indicated therein, on
22 the date of the enactment of this Act.

23 *PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT*

24 SEC. 301. Section 202 (t) of the Social Security Act is
25 amended by changing the period at the end of paragraph

1 *(4) thereof to a comma and inserting thereafter the word*
2 *“or” and the following:*

3 *“(E) the individual on whose employment such ben-*
4 *efit is based had been in service covered by the Railroad*
5 *Retirement Act which was treated as employment cov-*
6 *ered by this Act pursuant to the provisions of section*
7 *5 (k) (1) of the Railroad Retirement Act.”*

8 *SEC. 302. The amendments made by section 301 of this*
9 *Act shall apply with respect to monthly benefits under section*
10 *202 of the Social Security Act for months after December*
11 *1956, and with respect to lump-sum death payments under*
12 *such section 202 in the case of deaths occurring after Decem-*
13 *ber 1956.*

Calendar No. 2427

85TH CONGRESS
2^D SESSION

S. 2020

[Report No. 2364]

A BILL

To amend the Railroad Retirement Act of 1937
and the Railroad Unemployment Insurance
Act.

By Mr. HILL and Mr. MORSE

MAY 8, 1957

Read twice and referred to the Committee on Labor
and Public Welfare

AUGUST 13 (legislative day, AUGUST 12), 1958

Reported with amendments

AMENDMENT OF RAILROAD RETIRE-
MENT ACT AND RAILROAD UNEM-
PLOYMENT INSURANCE ACT

Mr. MORSE. Mr. President, would it be out of order for me to make a brief statement in connection with Calendar No. 2427, Senate bill 2020?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. MORSE. Mr. President, I invite the attention of Senators to Calendar No. 2427, Senate bill 2020, a bill to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act. I hope it can be considered some time before adjournment. I should like to tell the Senate why, and I should like to have the attention of the Senator from Kentucky [Mr. COOPER], who is familiar with the bill, as is the Senator from Alabama [Mr. HILL], who is also a member of our committee, and the Senator from Michigan [Mr. McNAMARA]. They are the only members of the Committee on Labor and Public Welfare whom I see present in the chamber. I call upon them to check the statement I am about to make to the Senate.

This is a technical bill. It is a bill which seeks to bring to an end the jurisdictional conflict between the Railroad Retirement Board and the Social Security Board in connection with so-called freeze disability cases, disability cases where the person disabled worked for a time for a railroad, then for a time did not work for the railroad, and became disabled. Who will have jurisdiction? Will the jurisdiction be had by the Railroad Retirement Board or by the Social Security Board? The interesting thing is that the pattern of settling these cases by way of disability allowance is the same whether the cases are handled by the Railroad Retirement Board or by the Social Security Board. We all know, however, that in governmental departments there develops a desire to hold on to whatever any given agency thinks comes within its jurisdiction, and not yield jurisdiction to another agency in what it thinks is an encroachment in the field of jurisdiction. That is the problem which confronted us in the Committee on Labor and Public Welfare and in our subcommittee.

Therefore we said to both agencies: "Get your heads together. Stop bothering us with this kind of administrative detail." There is no reason in the world why these two agencies should not sit down and decide how they are going to solve this little jurisdictional conflict. The result was that we received a letter some time later which advised us that they had gotten their heads together. We took their agreement, and it is now in the form of S. 2020.

I wish to be completely accurate, and therefore state that subsequent to the submission of the joint agreement between these two agencies, someone in the Social Security Administration had a second thought, and wanted a further modification made. We took the position it was too late. We said they had worked out a fair agreement in the first place and we had accepted it, and we were going to stand on that acceptance.

Mr. President, we should not go into another year without passing this technical bill. We should pass it now. If it does not work out to the satisfaction of both agencies, they can come back to us. However, I will tell Senators what the result will be if Congress makes this administrative decision based upon the joint understanding which the agencies

have reached. It will mean that both agencies will adjust to it and we will hear nothing further about it. If we keep the bill on the calendar, and adjourn with it on the calendar, we will keep the fires of dispute and disagreement between these two great agencies burning. The time has come to squelch them.

I hope at some time today we will bring up S. 2020, for not more than a minute's debate, and get it behind us, and get it to the House and get it voted on, so that the Committee on Labor and Public Welfare, come January, can devote its time to more important matters than to have these agencies come before the committee and wash their jurisdictional linen in front of us. That is my plea. I can say no more. I ask my chairman, the Senator from Alabama [Mr. HILL] and the Senator from Kentucky [Mr. COOPER] and other members of the committee if I have said anything that is not in accord with the facts.

Mr. JOHNSON of Texas. Mr. President, if we can pass the bill in a minute, I ask unanimous consent that we proceed to its consideration.

Mr. MORSE. I have made my case. The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 2020) to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with amendments on page 2, line 1, after the word "subsection", to strike out "and all purposes of title II of the Social Security Act"; in line 18, after the word "year", to strike out "Provided, That no such period of disability shall be deemed to have begun if the employee died before July 1, 1955"; in line 21, after the word "Provided", to strike out "further"; on page 3, line 3, after the word "July", to strike out "1957" and insert "1958", after the amendment just above stated, to strike out "And provided" and insert "Provided further"; in line 11, after the word "act", to strike out "For purposes of section 5 (k) (2) of this act, any determination by the Board of a period of disability for an employee shall be considered a determination of such a period for such employee by the Secretary of Health, Education, and Welfare under section 216 (i) of the Social Security Act, and for such purposes section 222 (b) of the Social Security Act shall not apply with respect to any individual whose period of disability is determined by the Board under this paragraph" and insert "An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a 'period of disability' under section 216 (i) of the Social Security Act"; on page 7, line 17, after the word "sentence", to strike out "after" and in-

sert "beginning with"; on page 9, after line 13, to strike out:

Section 5 (k) (1) of such act is amended by striking out "for the purposes of sections 203 and 216 (1) (3) of that act" and inserting in lieu thereof "for the purposes of section 203 and, with respect to an employee who will have completed less than 10 years of service, section 216 (1) (3) of that act."

At the beginning of line 20, to strike out "(f)" and insert "(e)"; on page 10, line 9, after the word "act", to strike out "where such determination would otherwise result in a denial, or a decrease in the amount, of monthly or lump sum benefits under either the Railroad Retirement Act or the Social Security Act"; at the beginning of line 13, to strike out "(g)" and insert "(f)"; at the beginning of line 20, to strike out "(h)" and insert "(g)"; on page 11, at the beginning of line 3, to strike out "(i)" and insert "(h)"; at the beginning of line 11, to strike out "(j)" and insert "(i)"; on page 12, line 7, after the word "is", to strike out "amended—"; after line 7, to strike out:

(1) by inserting before the period at the end of the first sentence a comma and the following: "including expenses, tuition, and salaries of employees of the Board who are designated by the Board to attend courses of instruction or training at institutions (whether or not such courses are conducted by the United States), not exceeding 240 class hours in any one calendar year for any one such employee."; and

At the beginning of line 16, to strike out "(2)"; on page 13, line 12, after the word "and", to strike out "2 (j)" and insert "2 (i)"; on line 15, after the word "sections", to strike out "2 (h)" and insert "2 (g)"; at the beginning of line 16, to strike out "2 (i)" and insert "2 (h)"; in line 22, after the word "by", to strike out "sections 1 (b) and 2 (c)" and insert "section 1 (b)"; on page 14, line 7, after the word "and", to strike out "2 (g)" and insert "2 (f)"; in line 10, after the word "sections", to strike out "2 (f)" and insert "2 (e)"; on page 16, line 15, after the numeral "11", to strike out "(a)"; after line 23, to strike out:

(b) Section 11 (c) of such act is amended by inserting after "when authorized by the Board" the following: "and expenses, tuition, and salaries of employees designated by the Board to attend courses of instruction or training at institutions (whether or not such courses are conducted by the United States), not exceeding 240 class hours in any one calendar year for any one such employee."

On page 17, line 16, to strike out "1957" and insert "1958"; in line 19, after the numerals "30", to strike out "1957" and insert "1958"; and after line 22, to insert:

PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 301. Section 202 (t) of the Social Security Act is amended by changing the period at the end of paragraph (4) thereof to a comma and inserting thereafter the word "or" and the following:

"(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this act pursuant to the provisions of

section 5 (k) (1) of the Railroad Retirement Act."

Sec. 302. The amendments made by section 301 of this act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956.

So as to make the bill read:

PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

SECTION 1. (a) Section 3 (c) of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new sentence: "If the 'monthly compensation' computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1."

(b) Section 3 (e) of such act is amended by inserting at the end thereof the following new paragraph:

"For the purposes of this subsection, the Board shall have the same authority to determine a 'period of disability' within the meaning of section 216 (1) of the Social Security Act, with respect to any employee who will have filed application therefor and (1) have completed 10 years of service or (11) have been awarded an annuity, as the Secretary of Health, Education, and Welfare would have to determine such a period under such section 216 (1) if the employee met the requirements of clauses (A) and (B) of paragraph (3) of such section, considering for purposes of such determination that all his service as an employee after 1936 constitutes 'employment' within the meaning of title II of the Social Security Act and determining his quarters of coverage for such purposes by presuming his compensation in a calendar year to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year: *Provided*, That an application for an annuity filed with the Board on the basis of disability shall be deemed to be an application to determine such a period of disability, and such an application filed with the Board on or before the date of the enactment of this paragraph shall, for purposes of this subsection and section 216 (1) (4) of the Social Security Act, be deemed filed after December 1954 and before July 1958: *Provided further*, That, notwithstanding any other provision of law, the Board shall have the authority to make such determination on the basis of the records in its possession or evidence otherwise obtained by it, and a determination by the Board with respect to any employee concerning such a 'period of disability' shall be deemed a final decision of the Board determining the rights of persons under this act for purposes of section 11 of this act. An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a 'period of disability' under section 216 (1) of the Social Security Act."

(c) Section 3 (f) of such act is amended to read as follows:

"(f) (1) Annuities under section 2 (a) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall

have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under section 5 (f) (1) for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).

"(2) Insurance annuities under section 5 which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).

"(3) Annuities under section 2 (e) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such spouse's annuity derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of paragraph (1) of this subsection as if such annuities were annuities due under section 2 (a) to an individual but unpaid at the time of such individual's death.

"(4) Applications for accrued and unpaid annuities provided for in paragraphs (1), (2), and (3) of this subsection shall be filed prior to the expiration of 2 years after the death of the person to whom such annuities were originally due.

"(5) For the purposes of this subsection and paragraphs (1) and (2) of section 5 (f) of this act, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216 (h) (2) or (3) of the Social Security Act are fulfilled.

"(6) If there is no person to whom all or any part of the annuity payments described in paragraph (1), (2), or (3) can be made, such payments or part thereof shall escheat to the credit of the railroad retirement account."

(d) Section 3 (h) of such act is amended by striking out "\$2.50" and inserting in lieu thereof "\$5."

(e) Section 3 of such act is further amended by adding at the end thereof the following new subsection:

"(1) If the amount of any annuity computed under this section, or under section 2 or section 5, is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10."

Sec. 2. (a) Section 5 (f) (1) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out the first three sentences and inserting in lieu thereof the following: "Upon the death, after the month in which this act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of 10 times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of

the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such deceased employee."

(2) by striking out "widow, widower, child, or parent" in the fourth sentence and inserting in lieu thereof "widow or widower"; and

(3) by striking out all of the fourth sentence beginning with "a payment to any then surviving widow" and inserting in lieu thereof the following: "a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section."

(b) Section 5 (f) (2) of such act is amended by striking out "to the person or persons in the order provided in paragraph (1) of this subsection, or in the absence of such person or persons, to his or her estate, a lump sum" and by inserting in lieu thereof the following: "to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

"(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

"(ii) if there be no such widow or widower, to any child or children of such employee; or

"(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

"(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

"(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

"(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee, a lump sum."

(c) The first sentence of section 5 (h) or such act is amended by striking out "prior to" and inserting in lieu thereof "after."

(d) Section 5 (1) (3) of such act is amended (1) by inserting "and" after the semicolon in subparagraph (1); (2) by striking out all of subparagraph (ii) after "Title II of the Social Security Act" and inserting in lieu thereof a period; and (3) by striking out subparagraphs (iii) and (iv).

(e) Section 5 (k) (3) of such act is amended—

(1) by inserting in the first sentence after "service" the following: ", of determinations under section 3 (e) of this act, or section 216 (1) of the Social Security act, or periods of disability within the meaning of such section 216 (1).";

(2) by inserting in the first sentence after "this section" the following: ", section 3 (e) of this act."; and

(3) by inserting in the second sentence after "therein" the following: "(except in the case of a determination of disability under section 216 (1) of the Social Security Act)."

(f) Section 5 (1) (6) of such act is amended by striking out the parenthetical phrases in the first and second sentences and by inserting at the end thereof the following

sentence: "Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act."

(g) Section 5 (1) (7) (ii) of such act is amended by striking out "40 or more quarters of coverage" and inserting in lieu thereof the following: "either will have had 40 or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act."

(h) Section 5 (1) (8) of such Act is amended (1) by striking out "will have had (1)" and inserting in lieu thereof "(1) will have had," (2) by inserting "either will have had" after "(1)," and (3) by inserting before the final period a comma and the following: "or would be currently insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that act."

(i) Section 5 (1) (9) of such act is amended—

(1) by striking out "quarter in which he will have died" each place it appears in clauses (A) and (B) and by inserting in lieu thereof "employee's closing date";

(2) by striking out the last proviso; and

(3) by inserting after the first sentence the following new sentence: "An employee's 'closing date' shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest 'average monthly remuneration' as defined in the preceding sentence. If the amount of the 'average monthly remuneration' as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1."

Sec. 3. Section 10 (b) (4) of the Railroad Retirement Act of 1937 is amended by inserting after the third sentence the following new sentence: "For purposes of its administration of this act or the Railroad Unemployment Insurance Act, or both, the Board may hereafter place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, 4 positions in grade GS-16 of the General Schedule established by that act, 4 positions in grade GS-17 of such schedule, and 1 position in grade GS-18 of such schedule."

Sec. 4. Section 13 of the Railroad Retirement Act of 1937 is amended (1) by inserting "(a)" after "Sec. 13."; (2) by inserting ", or both" before the final period, and (3) by adding at the end thereof the following new subsection:

"(b) All fines and penalties imposed by a court pursuant to this act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account."

Sec. 5. (a) The amendments made by sections 1 (a), 1 (d), 1 (e), and 2 (1) shall be effective with respect to annuities awarded under the Railroad Retirement Act of 1937 on or after the date of the enactment of this act.

(b) The amendments made by sections 2 (g) and 2 (h) shall be effective (1) with respect to deaths occurring on or after the date of the enactment of this act and (2) with respect to any death occurring before such date if none of the survivors of the deceased individual became entitled before such date to monthly benefits, by reason of the individual's death, under title II of the Social Security Act.

(c) The amendments made by section 1 (b) shall be effective with respect to determinations of periods of disability, within the meaning of section 216 (i) of the Social Security Act, made on or after the date of the enactment of this act.

(d) The amendments made by sections 1 (c), 2 (a), and 2 (b) shall be effective with respect to deaths occurring in months after the month in which this act is enacted.

(e) The amendments made by sections 2 (c), 2 (d), and 2 (f) shall be effective with respect to annuities accruing for months after the month in which this act is enacted.

(f) The amendments made by sections 2 (e) and 3 shall be effective on the date of the enactment of this act.

(g) The amendment made by clause (3) of section 4 shall be effective with respect to offenses committed on or after the date of the enactment of this act; and the other amendments made by section 4 shall be effective with respect to fines and penalties imposed on or after such date.

PART II—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Sec. 201. (a) (1) The second proviso in section 1 (k) of the Railroad Unemployment Insurance Act is amended by striking out "second" and inserting in lieu thereof "first", and by striking out "first" and inserting in lieu thereof "second."

(2) The second paragraph of such section 1 (k) is amended by striking out "one dollar" and inserting in lieu thereof "three dollars."

(b) Section 1 (q) of such act is amended by inserting before the period at the end thereof the following: "in the unemployment trust fund."

Sec. 202. Section 4 (a-1) (ii) of the Railroad Unemployment Insurance Act is amended by striking out all that follows "sickness compensation law" and precedes the first proviso and by inserting in lieu thereof the following: "other than this act, or any other social-insurance payments under any law."

Sec. 203. Section 8 (a) of the Railroad Unemployment Insurance Act is amended by inserting before the period at the end thereof a semicolon and the following: "and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account."

Sec. 204. (a) Section 904 (a) of the Social Security Act is amended by inserting after "the railroad unemployment insurance account" the following: "or the railroad unemployment insurance administration fund."

(b) Section 904 (e) of the Social Security Act is amended by striking out "and the railroad unemployment insurance account" and inserting in lieu thereof the following: ", the railroad unemployment insurance account, and the railroad unemployment insurance administration fund."

(c) Section 904 (f) of the Social Security Act is amended by striking out "fund as the Railroad Retirement Board" and all that follows and by inserting in lieu thereof the following: "railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment."

Sec. 205. (a) Section 11 of the Railroad Unemployment Insurance Act is amended by striking out the first sentence and the first two words of the second sentence, and by inserting in lieu thereof the following: "The Secretary of the Treasury shall maintain in the unemployment trust fund established

pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund."

Sec. 206. The second paragraph of section 12 (1) of the Railroad Unemployment Insurance Act is amended by striking out "Classification Act of 1923, except that the Board may fix the salary of a director of unemployment insurance at \$10,000 per annum" and inserting in lieu thereof the following: "Classification Act of 1949, as amended."

Sec. 207. (a) The amendments made by section 201 (a) shall be effective with respect to registration periods in benefit years after the benefit year ending on June 30, 1958.

(b) The amendments made by section 202 shall be effective with respect to days in benefit years after the benefit year ending on June 30, 1958.

(c) The remaining amendments made by this part shall be effective, except as otherwise indicated therein, on the date of the enactment of this act.

PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT

Sec. 301. Section 202 (t) of the Social Security Act is amended by changing the period at the end of paragraph (4) thereof to a comma and inserting thereafter the word "or" and the following:

"(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this act pursuant to the provisions of section 5 (k) (1) of the Railroad Retirement Act."

Sec. 302. The amendments made by section 301 of this act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

Mr. JOHNSON of Texas. We have had a statement on the bill, which has been approved by both sides. I would suggest that we pass the bill and return to the consideration of the Mutual Security Appropriation bill, which is a very important bill, and which will have to go to conference.

Mr. MORSE. Mr. President, there are certain typographical errors in the bill. I have prepared an amendment, and I ask that the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 3, line 23, it is proposed to substitute single quotes for the double quotes.

On page 5, in line 13, substitute "payable" for "payble."

On page 10, in line 12, restore the closing parenthesis.

On page 16, line 15, restore "(a)" where it appears the second time, and strike "(a)" where it appears the first time.

On page 18, after line 13, insert the following: Amend the title so as to read: "A bill to amend the Railroad Retirement Act of 1937, the Railroad Unemployment

Insurance Act, and the Social Security Act.”

The PRESIDING OFFICER. The question is on agreeing to the amendments offered by the Senator from Oregon.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TECHNICAL AND ADMINISTRATIVE AMENDMENTS TO RAILROAD
RETIREMENT ACT, RAILROAD UNEMPLOYMENT INSURANCE
ACT, AND SOCIAL SECURITY ACT

AUGUST 15, 1958.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign
Commerce, submitted the following:

REPORT

[To accompany H. R. 7166]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 7166) to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments, as they appear in the reported bill, are as follows:

- (1) Page 2, lines 1 and 2, strike out "and all purposes of title II of the Social Security Act,".
- (2) Page 2, strike out lines 19 and 20.
- (3) Page 2, line 21, strike out "further".
- (4) Page 3, line 3, strike out "1957" and insert "1958"; and strike out "And provided" and insert "Provided".
- (5) Page 3, line 11, strike out "For purposes of section 5 (k)" and all that follows down through line 19 on page 3, and insert in lieu thereof the following:

An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a "period of disability" under section 216 (i) of the Social Security Act.

- (6) Page 5, line 1, strike out "of" and insert "if".
- (7) Page 7, line 16, strike out "after" and insert "beginning with".
- (8) Page 9, strike out lines 13 through 18.
- (9) Page 9, line 19, strike out "(f)" and insert "(e)".

2 TECHNICAL AMENDMENTS TO RAILROAD RETIREMENT ACT

(10) Page 10, line 7, strike out "where such determination would" and all that follows down through "Social Security Act" in line 10 on page 10.

(11) Page 10, line 11, strike out "(g)" and insert "(f)".

(12) Page 10, line 18, strike out "(h)" and insert "(g)".

(13) Page 10, line 25, strike out "(i)" and insert "(h)".

(14) Page 11, line 8, strike out "(j)" and insert "(i)".

(15) Page 12, line 4, strike out "amended—" and insert "amended"

(16) Page 12, strike out lines 5 through 12.

(17) Page 12, line 13, strike out "(2)".

(18) Page 13, line 9, strike out "(j)" and insert "(i)".

(19) Page 13, line 12, strike out "(h)" and insert "(g)".

(20) Page 13, line 13, strike out "(i)" and insert "(h)".

(21) Page 13, line 20, strike out "sections 1 (b) and 2 (e)" and insert "section 1 (b)".

(22) Page 14, line 4, strike out "(g)" and insert "(f)".

(23) Page 14, line 7, strike out "(f)" the second time it appears in that line and insert "(e)".

(24) Page 16, line 14, strike out "(a)" the first time it appears in that line.

(25) Page 16, strike out line 23 and all that follows down through line 5 on page 17.

(26) Page 17, lines 14 and 18, strike out "1957" and insert "1958"

(27) Page 17, immediately below line 21, insert the following:

PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 301. Section 202 (t) of the Social Security Act is amended by changing the period at the end of paragraph (4) thereof to a comma and inserting thereafter the word "or" and the following:

"(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this Act pursuant to the provisions of section 5 (k) (1) of the Railroad Retirement Act."

SEC. 302. The amendments made by section 301 of this Act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956.

Amend the title so as to read:

A bill to amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Social Security Act.

PURPOSE OF BILL

The amendments proposed by the reported bill are technical and are designed principally to simplify and improve administration of the Railroad Retirement and Railroad Unemployment Insurance Acts. They would also correct certain inequities and anomalies, eliminate references to obsolete laws, and insure that the provisions conform with comparable provisions in the Social Security Act.

This latter change is especially important because of the provision in the Railroad Retirement Act guaranteeing that monthly benefits shall not be less than would be payable under the Social Security Act.

This bill would not affect the cost of benefits under the systems in any significant amount. Actually, through the simplification and improvement of operations, administrative costs would be lowered.

EXPLANATION OF BILL

I. AMENDMENTS TO THE RAILROAD RETIREMENT ACT

Part I of the reported bill would amend the Railroad Retirement Act by making the following changes:

1. Computation of the monthly compensation, average monthly remuneration, and the amounts of retirement and survivor annuities would be simplified (secs. 1 (a), 1 (e), and 2 (i)).

2. Payments of small annuities in the form of commuted lump sums would be made on the same basis for retirement as for survivor annuities (sec. 1 (d)).

3. Calculation of the average monthly remuneration would be simplified by using closing dates consistent with those provided in the Social Security Act (sec. 2 (i)).

4. The provision for maximum family benefits to survivors would be applied to the benefits remaining after work deductions have been made as in the Social Security Act (sec. 2 (c)).

5. The provision for deductions from benefits of lump-sum payments under the 1935 Social Security Act and of certain unpaid taxes would be eliminated (sec. 2 (d)).

6. The provision for crediting wages and self-employment income toward survivor benefits would be made consistent with the present language of the Social Security Act (sec. 2 (f)).

7. An employee insured under the Railroad Retirement Act would have an insured status no less favorable than under the Social Security Act (secs. 2 (g) and 2 (h)).

8. The Board would have the authority to make disability-freeze determinations for career railroad employees with 10 or more years of service (secs. 1 (b), 2 (e) (1), 2 (e) (2) and 2 (e) (3)).

9. Changes would be made in the order of payment of annuities to retired employees, spouses, and survivors which are due but unpaid at death (sec. 1 (c)).

10. Changes would be made in the order of payment of insurance lump-sum and residual payments (secs. 2 (a) and 2 (b)).

11. The penalties for false or fraudulent reports to the Board would be made consistent with similar provisions under the Railroad Unemployment Insurance Act and would be deposited in the railroad retirement account (sec. 4).

12. The Board would be authorized to establish nine positions in grades GS-16 to GS-18 (sec. 3).

A brief explanation of these matters follows:

1. Simplification of computations: The method of computing benefits would be simplified by rounding to the next lower multiple of \$1 the monthly compensation used in the computation of retirement benefits and the average monthly remuneration used in the computation of survivors insurance benefits. The amount of a retirement or

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survivor annuity which is not a multiple of \$0.10 would be raised to the next higher multiple of \$0.10. These changes would greatly simplify the calculations of the averages of earnings on which amounts of benefits are based. They would also make possible the preparation of relatively simple annuity tables based on the averages and other figures, thus eliminating the actual computation of annuities in hundreds of thousands of future benefit claims, and thereby speeding up their handling. The amendments would have a trivial effect on the amounts of annuities, either individually or in the aggregate, since the reduction of the monthly compensation and average monthly remuneration to the next lower multiple of \$1 would be made up, substantially, by raising the retirement or survivor annuity to the next higher multiple of \$0.10.

2. Lump-sum payments of small retirement annuities: Under present law, a retirement annuity must be less than \$2.50 before it may be paid in a single sum equal to its commuted value. However, a survivor annuity of up to \$5 may be commuted. Under the bill, the same limit—\$5—would apply in the commutation for both the retirement and survivor annuities. Actually, the provision would have little application, since only in extremely special cases would annuities in such small amounts be payable.

3. Closing dates: Under present law, the closing date (that is, the date after which earnings are not counted) in the calculation of average monthly remuneration is the first day of the calendar quarter in which the employee died or in which he reached age 65 and was completely insured. Under this bill, the closing date would always be the first day of the calendar year as under the Social Security Act. Conformity with the provisions of the Social Security Act would substantially simplify the computation of survivor benefits under the regular railroad formulas.

4. Application of maximum survivor benefit provision after work deductions: Under the Railroad Retirement Act, the maximum survivor benefit provision is now applied before making deductions under the work clause. Under the Social Security Act, the family maximum is applied after the application of work-clause deductions. This change would create consistency with the Social Security Act and would also simplify application of the maximum provisions. At present, the social security minimum guaranty provision sometimes applies only because of this lack of consistency. The provision for calculating the minimum survivor annuity before making work deductions would not be affected. The principal effect of this change, therefore, would be to improve administration of the survivor benefit provisions by eliminating the confusion resulting from the conflicting treatment of work deductions in maximum benefit cases.

5. Deductions from benefits of lump-sum payments and unpaid taxes: The bill would eliminate present provisions of the act which require deductions from monthly annuities of certain obsolete types of payments, such as lump-sum payments under the Social Security Act and of unpaid taxes for 1939 of employees over age 65. This change would agree with similar amendments in the Social Security Act, which were made because little or no basis for such deductions existed.

6. Crediting of wages and self-employment income: The provisions for crediting social-security wages and self-employment income in the computation of railroad survivor benefits would be made consistent

with the corresponding provisions of the Social Security Act as amended in 1954 by the removal of language made unnecessary as a result of such amendments.

7. Insured status of employees: Under present law, there are some employees who are only partially insured at death under the Railroad Retirement Act but who, by reason of the new start provisions of the Social Security Act, would have died fully insured if their employment had been covered by that act. The amendment would provide for such employees to have a completely insured status under the Railroad Retirement Act, which is comparable to a fully insured status under the Social Security Act. This provision would be important, for practical purposes, only for employees whose total railroad service does not include at least 10 years of such service after 1936.

8. Disability freeze determinations: The bill would transfer to the Railroad Retirement Board the authority to make "disability freeze" determinations under the Social Security Act with respect to career railroad workers, whose benefits or whose survivor's benefits under the Railroad Retirement Act might be affected by such a determination under the "overall social-security minimum" provision of the Railroad Retirement Act. This change would rectify the condition whereby the Social Security Administration was given the exclusive authority to make "freeze" determinations in the Social Security Amendments of 1954 with respect to career railroad workers whose rights to benefits otherwise were exclusively within the jurisdiction of the Railroad Retirement Board. This provision would, accordingly, avoid undesirable conflict on questions of jurisdiction and adjudication and further the general purpose of the bill to effect more efficient, quicker, and cheaper administration.

The condition to be corrected by the bill arose from the inclusion of the provision in the Social Security Amendments of 1954 (providing for these determinations of "freeze periods") to amend section 5 (k) (1) of the Railroad Retirement Act so as to give the Social Security Administration the right to use railroad service as employment qualifying a person for a "freeze period" and giving exclusive jurisdiction over the determination of such a period to the Social Security Administration. These provisions would be modified by the bill to permit the Railroad Retirement Board, as well as the Social Security Administration, when railroad service is used as qualifying a person for a "disability freeze" determination, to make the determination in the career railroadman's case, that is, in cases in which the railroadman had full 10 years service before becoming disabled and possibly qualifying for the "freeze."

The career railroad employee with 10 years of railroad service who is totally and permanently disabled for all employment and would be qualified for a "period of disability" or the "freeze," would always, regardless of his age, be eligible also for a full disability annuity under the Railroad Retirement Act because the statutory definitions of the qualifying disability for both purposes are identical as a practical matter. The bill, consequently, would give the Railroad Retirement Board the same authority as the Secretary of Health, Education, and Welfare would otherwise have to make determinations as to a "period of disability" for the men with 10 years' railroad service. This determination would not be conclusive, under the bill, on the Social Security Administration, but for all practical purposes it would have

no effect on employee benefits under the Social Security Act at any time unless the employee had already acquired sufficient service subject to that act to qualify him for benefits thereunder. The bill would not affect the jurisdiction of the Social Security Administration to make the "disability determination" for the employee, however, even though he had 10 or more years of railroad service, and even though he had already obtained the determination from the Railroad Retirement Board.

The essence of this "disability freeze" provision is to give the Board the same authority as the Social Security Administration has to make determinations in these cases. The effect, insofar as the railroad retirement system is concerned, would be in the application of the so-called "overall social-security minimum" provision of the Railroad Retirement Act under which benefits payable to an employee and his family cannot be less than the benefits or additional benefits that would be payable under the Social Security Act if his railroad service after 1936 were employment subject to the Social Security Act. The effect would be principally on the benefits to the survivors of railroad employees because survivor benefits are generally payable under the so-called "social security minimum," whereas the employee's own benefit, and that of his spouse, usually are not. As indicated, the only employees who would be affected by this change are career railroad employees, most of whom would have no service under the social security system and, therefore, no relationship whatever with that system. The determinations made by the Board would be made at the time of the application of these career railroadmen for disability benefits under the Railroad Retirement Act. The Railroad Retirement Board would have all relevant evidence as to the condition of the employee as of the pertinent time, acquired for purposes of the application to the Board for a disability annuity under the railroad retirement system. And since the bill would provide also that the application of such employee to the Railroad Retirement Board for the "freeze" would be regarded as filed with the Social Security Administration as of the same date, the employee would be spared the burden and effort of filing another application. The "disability freeze" provisions of the bill would add to efficiency and economy of administration, and would promote the interests of the disabled worker and his family without at the same time adversely affecting the jurisdictional authority of either agency concerned.

9. Annuities due but unpaid at death: The bill attempts to simplify the treatment of annuities due but unpaid at death of the beneficiary by modifying the order of precedence in which survivors may receive them. A retirement annuity which is due but unpaid at death would be paid to the employee's widow (or widower) if she was living with the employee at the time of his death. If there were no such surviving widow (or widower) the payment would be made, on a prorata basis, to the persons who paid the employee's burial expenses. Any excess over the amount of the burial expenses would be paid to children, grandchildren, parents, or brothers and sisters of the deceased employee, in the order named.

Payment of accrued survivor annuities would be paid in the same order as for accrued retirement annuities. However, no payments would be paid to persons who paid the burial expenses of the employee because of the difficulty of establishing the facts concerning payment

of such expenses of an employee who had been dead for some time. Thus, the order of payment of accrued survivor annuities would be widow, widower, children, grandchildren, parents, and brothers and sisters.

Accrued annuities due a deceased spouse would be paid, first, to the employee himself, and next in the order specified for accrued retirement annuities.

10. Insurance and residual lump-sum benefits: Payment of the regular insurance lump-sum benefit would be limited to the employee's widow (or widower) who has been living with the employee at the time of his death and who will not have died before receiving such lump sum, or to persons who paid the employee's burial expenses. No one else could receive the regular insurance lump sum. This change would eliminate payment of many small amounts to other relatives of the deceased employee (i. e., adult children, nondependent parents, etc.) which would generally become part of the residual benefit. The deferred insurance lump sum would still be paid to the widow or widower, child or parent of the employee; this payment is made when survivor annuities in the year following the death of the employee are less than the full amount of insurance lump sum.

The residual lump-sum benefit would be paid to a designated beneficiary as under present law, or if no beneficiary has been designated, in the order provided in section 2 (b) of the bill.

11. Penalties for false reports: This proposal is to require that fines and penalties, if any, collected for false and fraudulent reports be deposited in the railroad retirement account, and, in general, would conform to the corresponding provisions in the Railroad Unemployment Insurance Act.

12. Establishment of supergrades: The Board would be authorized to place nine positions in grades GS-16 to GS-18. These would include 4 positions in grade GS-16, 4 in grade GS-17, and 1 in grade GS-18. This provision would enable the Board to compensate adequately persons in important and key positions which are vital to its operations.

13. The bill as introduced would also have authorized the Railroad Retirement Board to pay the expenses, tuition, and salaries of employees designated by the Board to attend courses at certain training institutions. The amount of training per employee would have been limited to 240 class hours per year and the cost of such training would have been under the close scrutiny of the Board.

On July 7, 1958, Public Law 85-507, known as the Government Employees Training Act, was enacted. This act will adequately provide for the training of employees of the Railroad Retirement Board. Hence, the provision in the bill for the payment of expenses for training employees has been deleted.

II. AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Part II of the bill would also make a number of changes in the Railroad Unemployment Insurance Act:

1. Compensation for a working day, which includes part of 2 consecutive calendar days, would be considered compensation for the first day, instead of compensation for the second day as at present, and would result in no substantive change (sec. 201 (a) (1)).

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2. The amount of earnings which may be considered as "subsidiary remuneration," and therefore not affecting payment of benefits, would be increased from \$1 to \$3 a day (sec. 201 (a) (2)).

3. The railroad unemployment insurance administration fund would be included in the "unemployment trust fund" in order to earn interest the same as the railroad unemployment insurance account (secs. 201 (b), 204 and 205).

4. For the purpose of determining the contribution rate for any calendar year, the balance in the railroad unemployment insurance administration fund as of September 30 of the next preceding calendar year would be considered part of the balance in the railroad unemployment insurance account (sec. 203).

5. The disqualification with respect to any day for which an employee receives other social insurance payments would be changed to apply to such payments under any law instead of being restricted to State or Federal laws (sec. 202).

6. The provision referring to the Classification Act of 1923, would be changed to agree with existing civil service law, and the provision for hiring a Director of Unemployment Insurance at \$10,000 per annum would be stricken (sec. 206).

A brief explanation of these matters follows:

1. Compensation for overlapping shift: At the present time, compensation for a night shift which includes parts of 2 calendar days is defined by law as earned on the second of the 2 days. However, the general practice in the railroad industry is to consider that such remuneration is earned on the first of the 2 days. The change proposed would modify the Railroad Unemployment Insurance Act so as to make it conform with the practice in the industry. This would eliminate misunderstanding which has caused difficulties and delays in obtaining information and deciding claims, and would not result in any substantive change.

2. Subsidiary remuneration: Under the present law, an employee who earns not more than \$1 a day for part-time or subsidiary work may receive unemployment or sickness benefits for that day if otherwise eligible. The bill recognizes the changes in pay scales which have occurred over the last 20 years, and would increase the amount of subsidiary remuneration permitted for part-time work to \$3 per day.

3. Inclusion of administration funds in trust fund: The unemployment trust fund was established by section 904 of the Social Security Act as a joint fund in which State unemployment insurance contributions are deposited. The railroad unemployment insurance account is now part of this fund but the railroad unemployment administration fund is not. The bill would amend the Railroad Unemployment Insurance Act, and where necessary the Social Security Act, so that the administration fund would be included in the unemployment trust fund. This would require the Secretary of the Treasury to credit the railroad administration fund with a proportionate part of the interest earnings of the unemployment trust fund. Such interest is not now paid although funds collected under the Railroad Retirement Act and not immediately needed for administration do draw interest. This difference in treatment of money collected under the two laws should be eliminated.

4. Determination of contribution rates: At the present time, the unemployment contribution rate for a calendar year is determined

from the balance in the railroad unemployment insurance account in accordance with a table in section 8 (a) of the Railroad Unemployment Insurance Act. The change proposed would include the balance in the railroad unemployment insurance administration fund as part of the balance in the account for this purpose. In other words, the determination would be based on all the money available for the system where now the administration fund is excluded.

5. Disqualification for other payments: At the present time, an employee who is entitled to social insurance payments under the law of any State or of the United States may be disqualified for unemployment or sickness payments if he receives the other payments for the same days. This has proven to be a discrimination against United States employees as compared with employees in foreign countries. The bill would remove this discrimination by changing the disqualification to apply to other social insurance payments under any law.

6. Reference to civil-service laws: The bill would bring the Railroad Unemployment Insurance Act up to date by eliminating a reference to civil-service laws and the Classification Act of 1923, and replacing it with a reference to the Classification Act of 1949, as amended. The section would also remove the statement that the Board may fix the salary of a Director of Unemployment Insurance at \$10,000 a year.

III. AMENDMENTS TO THE SOCIAL SECURITY ACT

The restriction on payment of social-security benefits, which is applicable with certain exceptions to noncitizens of the United States who become eligible for benefits generally under the so-called "new start" provisions of that act, would be modified to exclude persons whose benefits are based in whole or in part on railroad employment through transfer of this credit to the social-security system. This transfer occurs where the employee does not have 10 years of service creditable under the Railroad Retirement Act. This amendment would affect principally Canadian residents employed by American railroads conducting a minor part of their operations in Canada and Canadian railroads operating into the United States. These persons are not those who come to this country solely to obtain advantage of the currently liberal eligibility provision of the Social Security Act for persons at or near retirement age and return to their native land to enjoy the benefits, and against whom the restriction is obviously directed. Rather, they acquire the credits through the demands of, and in the course of, their regular railroad employment instead of by special design to obtain social-security benefits.

REPORTS OF EXECUTIVE DEPARTMENTS AND AGENCIES

The reports of the executive departments and agencies on the bill as introduced are set forth in the appendix to this report. Also included in the appendix are letters from the Director of the Social Security Administration and the Chairman of the Railroad Retirement Board relating to the agreement reached by these agencies with respect to "disability freeze" determinations.

The reported bill is endorsed by the Railway Labor Executives' Association, which is an organization of the chief executives of all the standard railway labor organizations. It is also supported by the

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Association of American Railroads. The Railroad Retirement Board is unanimous in recommending this bill.

SECTION-BY-SECTION EXPLANATION OF THE REPORTED BILL

PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

Section 1. *Rounding of "monthly compensation"; providing authority for determinations of a "period of disability"; changing the order of payment of accrued retirement, spouse, and survivor annuities due but unpaid at death; increasing amount of retirement and spouse annuity payable on a commuted value basis; and providing that annuities, not in multiples of \$0.10, be increased to the next higher multiple of \$0.10.*

Subsection (a) of section 1 of the bill would amend section 3 (c) of the Railroad Retirement Act of 1937 to provide that if the "monthly compensation" as computed under section 3 (c) is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1. This amendment would facilitate the computing processes for annuities and (together with an amendment proposed in subsection (e) of section 1 of the reported bill) would have no material effect on the amount of the monthly annuities.

Subsection (b) of section 1 of the bill would amend section 3 (e) of the Railroad Retirement Act of 1937 to provide the Railroad Retirement Board with authority to determine a "period of disability" within the meaning of section 216 (i) of the Social Security Act respecting a railroad employee who has 10 years of railroad service, or has been awarded an annuity. The Board would exercise this authority only in the manner that the Secretary of Health, Education, and Welfare would if such employee's railroad service after 1936 were employment subject to the Social Security Act. It is necessary that the Board compute the benefits that would be payable on the basis of employment under the Social Security Act on the assumption that the employee's railroad employment after 1936 were employment subject to that act. This necessity arises from the so-called social security minimum guaranty in section 3 (e) of the Railroad Retirement Act which provides, generally, that the family benefits under the Railroad Retirement Act be increased to the amount, or the additional amount, that they would be under the above-mentioned assumption. In the computation of benefits under the Social Security Act it is necessary to take into account periods of disability because the "freezing" (or elimination) of such periods would increase the employee's average monthly wage and this, in turn, would result in larger benefits. In some instances such elimination would even accord eligibility. For this reason it is desirable that the Board be authorized to determine these periods of disability respecting career railroad employees.

For the purpose of making "disability freeze" determinations, the following would apply:

(i) In determining quarters of coverage, an employee's compensation in a calendar year would be presumed to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such year;

(ii) An application for an annuity filed with the Board on the basis of disability would be deemed to be an application to determine a period of disability, and such an application filed with the Board

on or before the enactment of this amendment would be deemed to have been filed after December 1954 and before July 1958;

(iii) Notwithstanding any other provision of law, the Board would have the authority to make such disability-freeze determinations on the basis of the records in its possession or evidence otherwise obtained by it;¹

(iv) A determination by the Board of a "period of disability" would be deemed a final decision of the Board determining the rights of persons under the Railroad Retirement Act for purposes of section 11 of the act and therefore subject immediately to the judicial review provisions of the act; and

(v) An application, filed with the Railroad Retirement Board, treated as an application for the "freeze" would be deemed an application for the "freeze" filed, as of the same date, with the Social Security Administration (the Secretary of Health, Education, and Welfare).

Subsection (c) of section 1 of the bill would amend section 3 (f) (1) of the Railroad Retirement Act to provide that retirement annuities which will have become due but which will not have been paid to the employee entitled thereto by the time of his death shall be payable to the person, if any, determined by the Board to be such employee's widow or widower and to have been "living with" such employee at the time of the employee's death if such widow or widower will not have died before receiving payment of such annuities. The term "living with" would have the meaning ascribed to it in section 216 (h) (2) or (3) of the Social Security Act under which at the time of death the parties must have been actually living together in the same household or the widow or widower must have been regularly contributing to the support of his spouse, or must have been under a court order to contribute. If there should be no such widow or widower such accrued annuities would be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such employee and to the extent that he or they will not have been reimbursed by the insurance lump sum provided under section 5 (f) (1) of the Railroad Retirement Act for having paid such expenses. If there should be no person or persons so entitled, or if the total of the accrued annuities should exceed the reimbursed burial expenses, the amount of accrued annuities, or the remainder thereof, would be paid to the children, grandchildren, parents, or brothers and sisters of the deceased employee (in the order named) if living at the time of payment.² The equity in providing first for the burial expenses of the deceased in preference to paying other relatives, where there was no wife (or husband) "living with" the employee, is quite clear. Further, under the present provisions of law the Board is confronted with the necessity of making extensive investigations and difficult determinations, often on unsatisfactory evidence, particularly where more than one person claim to have been married to the employee, as to

¹ The Railroad Retirement Board has already in its possession medical data acquired in connection with applications for disability annuities under the Railroad Retirement Act and for sickness benefits under the Railroad Unemployment Insurance Act which will provide a basis for making such determinations of disability or at least will assist materially in such determinations.

² Under present provisions of the Railroad Retirement Act such accrued annuities are first paid to the widow or widower even though separated or estranged from the employee for many years, next to the children of the deceased employee and descendants of deceased children who under the intestacy laws of the State in which the employee was last domiciled would be entitled to share as distributees with such children; next to the parents of the deceased employee, then to his brothers and sisters, and then as reimbursement to the payer of the employee's burial expenses.

who is the widow or widower. This administrative difficulty would be eliminated under the amendment provided in section 1 (c) of the bill. Similarly, the difficulty of determining descendants, and of dividing the accrued annuity payable into many small amounts, which is necessary in some cases where many persons in the same degree of relation to the employee may be eligible, would be reduced by eliminating the right of children of deceased children to share with children.

Subsection (c) of section 1 of the bill would also amend section 3 (f) of the Railroad Retirement Act to provide for the payment of accrued annuities which will have become due to a survivor of an employee, but will not have been paid at the time of the survivor's death. These would be paid to the person, if any, determined by the Railroad Retirement Board to be such employee's widow or widower and to have been "living with" such employee at the time of such employee's death and who will not have died before receiving payment of such annuities. If there should be no such widow or widower such annuities would be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee (in the order named), if living at the time of payment. Accrued survivor annuities would be paid in the same manner as accrued annuities due an employee at his death except that no payment would be made to the payer of the employee's burial expenses. The basis for this exception is the circumstance that the death of a survivor will have occurred after the employee's death, and in many instances long after, and information as to the payment of the burial expenses might be difficult to obtain.

Subsection (c) of section 1 of the bill would also amend section 3 (f) of the Railroad Retirement Act to provide that the annuity accrued to the spouse of an employee, but which will not have been paid at the time of such spouse's death, shall be payable to the employee from whose employment such spouse's annuity is derived. If such employee should not live to receive such payment, such accrued annuity would be paid as provided in the case of accrued retirement annuities due to an employee but unpaid at the time of his death. A fourth paragraph would be added by the reported bill to section 3 (f) of the act to provide that application for accrued and unpaid annuities shall be filed prior to the expiration of 2 years after the death of the person to whom annuities were originally due. This would not change the present provision relating to the time limit for filing for unpaid retirement annuities. It would expressly prescribe the period in which application must be filed for other annuities which remain unpaid at death. Such period would be the same as under administrative rules now in effect.

Subsection (c) of section 1 of the bill would add still another paragraph, (5), to section 3 (f) of the act to provide that a widow or widower of an employee shall be deemed to have been "living with" him at the time of his death if the conditions set forth in section 216 (h) (2) or (3) of the Social Security Act are fulfilled (that is, at the time of death the parties must have been actually living together in the same household, or the widow or widower must have been regularly contributing to the support of his or her husband or wife, or must have been under a court order to contribute).

Subsection (c) of section 1 of the bill would add another paragraph to section 3 (f) of the act to provide that if no person to whom all or any part of the annuity payments, described in paragraphs (1), (2) or

(3) of section 3 (f) of the act, can be made, such payments, or part thereof, shall escheat to the credit of the Railroad Retirement Account.

Subsection (d) of section 1 of the bill would amend section 3 (h) of the act to permit an increase from \$2.50 to \$5 the amount of retirement or spouse's annuity, the commuted value of which may be paid in a lump sum. In the case of a survivor annuity, if the commuted value is as much as \$5, it may now be paid in a lump sum.

Subsection (e) of section 1 of the bill would further amend section 3 of the Railroad Retirement Act by adding a new subsection (i) to provide that if the amount of an annuity computed under section 3, section 2, or section 5, of the act is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10.

Section 2. *Changing the order of persons entitled to the insurance lump-sum and residual lump-sum benefits; determining the maximum survivor annuities after applying the work deduction instead of prior thereto; striking certain unnecessary provisions respecting survivor benefits; clarifying the provisions for the crediting of wages; liberalizing the conditions under which insured status may be acquired; simplifying provisions respecting the "employee's closing date" and the manner of computing "average monthly compensation."*

Subsection (a) of section 2 of the bill would amend section 5 (f) (1) of the Railroad Retirement Act of 1937 to provide, as in the case of the corresponding benefit under the Social Security Act, that the insurance lump sum be paid to the widow or widower of the deceased employee if the Board determines that he or she was "living with" the employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there should be no such widow or widower such lump sum would be payable to any person or persons equitably entitled thereto, to the extent and in the proportions that he or they will have paid the expenses of the burial of such deceased employee. Payment would be confined to a widow or widower who is determined to have been "living with" the employee at the time of his death for the same reasons as those discussed respecting the amendments made by section 1 (c) of the bill relative to the payment of accrued retirement annuities. The regular insurance lump sum would not go beyond payment to the person or persons who have paid the burial expenses. The reason is that the amount of such lump sum, or the excess, if any, after payment is made to the payer of funeral expenses, would in effect become part of a "residual benefit", which might be payable under section 5 (f) (2) of the act, and as such would be paid to children, grandchildren, parents, or brothers and sisters, in the order named. If accrued survivor annuities for a year following the employee's death do not equal the amount of the insurance lump sum, the excess would be paid (in the order named) to the widow or widower, child, or parent of the employee then entitled to a survivor annuity.³

Subsection (b) of section 2 of the bill would amend section 5 (f) (2) of the Railroad Retirement Act to provide that, if the employee did not validly designate someone to receive the "residual" lump sum

³ Under present provisions of law the benefit is first paid to the widow or widower even though estranged from the employee at the time of his death or if there be none to any child or children and any other person or persons who would be entitled to share under the intestacy laws of the State where the deceased was last domiciled with the children in such proportions that is provided by such intestacy law, and if there be no widow or widower or children or those entitled to share with children the benefit would be payable to the parent or parents of the deceased.

provided by section 5 (f) (2), it be paid to the widow or widower of the deceased employee who was "living with" such employee at the time of such employee's death. If there should be no such widow or widower, payment would be made, in the order named, to any child or children of such employee, to any grandchild or grandchildren, to any parent or parents, or to any brother and sister of such employee. If any of the persons in a class should not live to receive payment the lump sum would be paid to the others in the class, or, if none, to the next class. If the designated beneficiary and none of the other survivors specifically provided for survived, payment would be made to the estate of the deceased employee. The reasons for this change are the same as those discussed with respect to the amendments made by section 1 (c) of the bill relative to accrued retirement annuities due but unpaid at the time of the death of the employee. Payment of the "residual" lump-sum benefit, by way of reimbursement, to the payer of the burial expenses of an employee would not be specially provided for because the "residual" benefit ordinarily becomes payable a considerable time after the employee's death and information concerning the payment of these expenses might be difficult to obtain.

Subsection (c) of section 2 of the bill would amend section 5 (h) of such Act to provide that the maximum of survivor annuities be determined after the application of the work deduction provision, instead of prior to, as under present law. This change would accord with a similar change which has been made in the Social Security Act by Public Law 734, 81st Congress, approved August 28, 1950, and, in consequence, the application of the social security minimum would be simplified. The effect of this change would be to eliminate the double deduction which results from the application of the present provision for determining the maximum before any work deduction is made. For example, assume that an employee whose "basic amount" is \$63 and he is survived by a widow and four children, entitled to a survivor's annuity upon application. All apply except the eldest child who expects to work and whose entitlement would add nothing to the total family benefit if the widow and the other children receive their benefits. The maximum family benefit would be 2½ times the basic amount, or \$168 monthly which they would receive rather than the total of \$189 produced by the regular formula (\$63 for the widow (the "basic amount") plus \$42 for each of three children (two-thirds of the "basic amount" for each), or \$63 plus \$126), as follows: the widow would receive her proportionate share, sixty-three one hundred and eighty-ninths of the \$168, or \$56, and each child would receive forty-two one hundred and eighty-ninths of \$168 or \$37.33⅓ a month. Now, assume that the widow goes to work. Under the present provisions for applying the maximum before work deductions, her monthly payments would cease and the children's payments would remain as they were at \$37.33⅓ each. Also, if the fourth child decides not to work but to continue in school he could, under the present provisions, receive nothing. Under the proposed change, however, of determining the maximum after the work deduction, the three children's payments would be increased to their regular amount of \$42 each (that is, two-thirds of the "basic amount") and the fourth child could apply and would receive his full share of \$42, under the regular formula since the increase for the three, and such share for the fourth, would increase the total only to the exact amount of the maximum of \$168. The example

assumes that the social security minimum provision would not apply at all. If it did apply, under present provisions, after the widow started work, benefits to the family would have to be recomputed in accordance with the social security minimum. Under the proposed amendment, no such recomputation would be required.

The provision for calculating the minimum survivor annuity before making work deductions would not be affected by the bill. To compute the minimum, after making a work deduction, would nullify the work deduction provision, at least to some extent. Assume a case where a widow's benefit was \$9.60 and the child's benefit \$6.40, so that the two would receive \$16, or above the present family minimum of \$15.40. If the minimum were applied after making the deductions required because the widow worked, the child would then receive \$15.40, or almost as much as the two together had received before the widow began work and a recomputation of the benefits would have to be made, instead of merely stopping payment to the individual working. (If only one member of a family were entitled to benefits, and the minimum were calculated after the work deduction, such member would receive the minimum even though working.)

Subsection (d) of section 2 of the reported bill would amend section 5 (i) (3) of the Railroad Retirement Act by eliminating deduction provisions respecting lump sums paid under section 204 of the Social Security Act in force prior to the enactment of the Social Security Act amendments of 1939. This amendment would also eliminate deductions because of failure to deduct social security taxes for services in 1939 after which services the employee attained age 65. These provisions would be stricken because they are substantially obsolete.

Subsection (e) of section 2 of the reported bill would amend section 5 (k) (3) of the Railroad Retirement Act to require the Board and the Social Security Administration to furnish each other with reports and records of "disability freeze" determinations made by one or the other agency, but such reports or records of either agency's determination of a "disability freeze" would not be conclusive on the other.

Subsection (f) of section 2 of the reported bill would amend section 5 (l) (6) of the Railroad Retirement Act to clarify the provision respecting the crediting of wages and self-employment income under the Social Security Act in the determination of survivor benefits under the Railroad Retirement Act. Language is removed which is unnecessary as a result of recent amendments of the Social Security Act.

Subsection (g) of section 2 of the reported bill would amend section 5 (l) (7) (ii) of the Railroad Retirement Act to provide a "completely insured" status for an employee who has 10 or more years of railroad service and who would have a "fully insured" status under the Social Security Act, assuming that his railroad service after 1936 were "employment" under the Social Security Act. Such an employee might not otherwise have a "completely insured" status under the Railroad Retirement Act because the "new start" provision of the Social Security Act permits the acquisition of a "fully insured" status under relatively liberal conditions. Where an employee gains a "completely insured" status under this provision, his aged widow or his parents would receive survivor annuities under the Railroad Retirement Act to which they would not otherwise be entitled.

Subsection (h) of section 2 of the reported bill would amend section 5 (l) (8) of the Railroad Retirement Act to provide a "partially insured" status under the Act if under the same assumption as that

prescribed in the preceding paragraph he would be "currently insured" under the Social Security Act. Where an employee acquires a "partially insured" status under this provision the consequence would be that any survivor benefits would be payable under the Railroad Retirement Act rather than under the Social Security Act.

Subsection (i) of section 2 of the reported bill would amend section 5 (1) (9) of the Railroad Retirement Act to effect a change in connection with the definition of "average monthly remuneration" used in computing survivor benefits. The present "average monthly remuneration" is computed to the quarter in the calendar year in which such employee died or in which he had attained age 65 and became completely insured. The amendment of this subsection would change this closing date to (1) the first day of the first calendar year in which such employee both had attained age 65 and would be "completely insured"; or (2) the first day of the calendar year in which such employee died; or (3) the first day of the calendar year following the year in which such employee died, whichever would produce the highest "average monthly remuneration." This change would allow the Board to use the compensation on an annual basis without the complication of having to determine how much of the compensation was paid in the year before the quarter in which the employee became age 65 or died. As a result of this change these provisions would be consistent with the Social Security Act, and because many survivor annuities under the Railroad Retirement Act are computed under the social security minimum guarantee provision (under which the total of monthly annuities payable under the Railroad Retirement Act on the basis of an employee's service cannot be smaller than the amount, or the additional amount, which would have been payable under the Social Security Act to the employee's family had the employee's railroad service after 1936 been subject to that act), the proposed change would serve to facilitate the computation under this minimum provision.

Section 3. *Providing for certain positions in the service of the Board.*

Section 3 of the bill would amend Section 10 (b) (4) of the Railroad Retirement Act to authorize the Board to place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, 4 positions in grade GS-16, 4 positions in grade GS-17, and 1 position in grade GS-18, of the General Schedule established by the Classification Act. This change would inure to the benefit of the Board's administration because it would enable the Board to obtain and to retain the services of highly competent and skilled men in certain important positions which might otherwise not be possible. It would accord with accepted and current governmental policy respecting high-level, responsible positions in the Federal service. And it would place the Railroad Retirement Board more nearly on an equal basis with other Federal agencies of comparable size and importance as regards the authorized number of such positions.

Section 4. *Providing that fines and penalties imposed by a court pursuant to the Railroad Retirement Act shall be credited to the railroad retirement account.*

Section 4 of the reported bill would amend section 13 of the Railroad Retirement Act to accord with the Railroad Unemployment Insurance Act by providing that an individual who willfully fails to make a

report required to be made for the purpose of the Railroad Retirement Acts of 1935 and 1937 or who shall knowingly make or cause to be made any false or fraudulent report or statement or who knowingly makes or aids in making any false or fraudulent statement or claim for the purpose of causing an award or payment under such acts, shall be punished by a fine of not more than \$10,000 or by imprisonment not exceeding 1 year, or both. Under the present provisions, the offense is punishable either by fine or imprisonment with the limits described above, but not by both. This section would further amend section 13 of the Railroad Retirement Act to provide that all fines and penalties imposed by a court pursuant to the Act be credited to the railroad retirement account just as the Railroad Unemployment Insurance Act makes provision for like fines and penalties to go into the account out of which unemployment benefits are paid.

Section 5. *Effective dates.*—Subsection (a) of section 5 of the reported bill would make the amendments proposed in sections 1 (a), 1 (d), 1 (e) and 2 (i) of the reported bill effective with respect to annuities awarded under the Railroad Retirement Act of 1937 on or after the date of enactment of this legislation. (Secs. 1 (a), 1 (d), and 1 (e) contain the amendments for rounding the monthly compensation, providing for the payment in a lump sum the commuted value of an annuity, and providing for the increase of annuities to the next higher multiple of \$0.10. (Sec. 2 (i) would change the provisions respecting an employee's closing date and would round an "average monthly remuneration" to the next lower multiple of \$1.00.)

Subsection (b) of section 5 of the reported bill provides that the amendments to be made by sections 2 (g) and 2 (h), respecting the acquiring of an "insured" status under the Railroad Retirement Act on the assumption that the employee's railroad service after 1936 was "employment" subject to the Social Security Act, be effective with respect to deaths occurring on or after the date of enactment of this legislation, and with respect to every employee who died before the enactment thereof if none of the employee's survivors became entitled, before the enactment of this legislation, to monthly benefits (by reason of the employee's death) under the Social Security Act.

Subsection (c) of section 5 of the reported bill would make the amendments proposed in section 1 (b), respecting determinations of periods of disability, effective with respect to such determinations made on or after the date of the enactment of this legislation other than those made prior to the date of enactment of this legislation.

Subsection (d) of this section would make the amendments proposed in sections 1 (c), 2 (a), and 2 (b), respecting the payment of accrued annuities and lump-sum benefits, effective with respect to deaths occurring in months after the month of the enactment of this legislation.

Subsection (e) of section 5 of the reported bill would make the amendments proposed in sections 2 (c), 2 (d), and 2 (f), respecting deduction from survivor annuities and the clarification of the provision for the crediting of wages, effective with respect to annuities accruing for months after the month of enactment of this legislation.

Subsection (f) of section 5 of the reported bill would make the amendments proposed by sections 2 (e) and 3, for an exchange of information between the Board and the Secretary of Health, Education,

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and Welfare, and the establishment of certain "supergrades", respectively, effective on the date of enactment of this legislation.

Subsection (g) of section 5 of the reported bill, providing for the remission to the Treasury for credit to the Railroad Retirement Account of fines and penalties imposed by a court for violation of the Railroad Retirement Act, is to be effective with respect to offenses committed on or after the date of enactment of this legislation and the other provisions of the subsection, permitting a court to punish by both fine and imprisonment for the commission of an offense prescribed by section 13 of the Railroad Retirement Act, would be effective with respect to the imposition of such punishment on or after the date this legislation is enacted.

PART II—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Section 201. *Changes respecting a working day which includes a part of two consecutive calendar days; increasing the amount of "subsidiary remuneration"; and making provision for inclusion of railroad unemployment insurance administration fund in the unemployment insurance trust fund.*

Subsection (a) (1) of section 201 of the reported bill would amend section 1 (k) of the Railroad Unemployment Insurance Act to provide that where an employee receives remuneration for a working day which includes a part of each of two consecutive calendar days the remuneration shall be deemed to have been earned on the first of such two days. Any individual who takes work for such working day would not, by reason thereof, be deemed not available for work on the second of such calendar days.⁴

Subsection (a) (2) of section 201 of the reported bill would amend section 1 (k) of the Railroad Unemployment Insurance Act to provide that the term "subsidiary remuneration" means remuneration not in excess of an average of \$3 a day (instead of \$1 a day) for the period with respect to which such remuneration is payable or accrues, if the work from which the remuneration is derived (i) requires substantially less than full time as determined by generally prevailing standards, and (ii) is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation. The amount of \$3 would be more realistic in view of present day wage scales as compared with those when the provision was enacted some 20 years ago.

Subsection (b) of section 201 of the reported bill would amend section 1 (q) of the Railroad Unemployment Insurance Act so that the term "fund" would mean "the railroad unemployment insurance administration fund, established pursuant to section 11 of this act in the unemployment trust fund." This would be in furtherance of the purpose to be effected by section 204 of the bill to enable unused money designated for administrative expenses to earn interest, as in the case of unused funds for benefit purposes.

⁴ Under the present provision and under the same circumstances the individual is deemed to have earned remuneration on the second of such 2 days and is not to be deemed unavailable for work on the first of 2 such calendar days. The change would conform to the practice in the railroad industry of attributing the remuneration to the first day and avoid misunderstandings which have delayed the acquisition of information respecting the work.

Section 202. *Changing certain provisions respecting disqualification for unemployment and sickness benefits.* This section would amend section 4 (a-1) (ii) of the Railroad Unemployment Insurance Act to provide that no day shall be considered a day of unemployment or a day of sickness for any employee if, with respect to such day, the employee receives unemployment, maternity, or sickness benefits under an unemployment, maternity, or sickness compensation law of any State of the United States other than Railroad Unemployment Insurance Act, or any other social-insurance payments under any law. This would remove the present discrimination in favor of employees in countries outside the United States allowing them to collect benefits without regard to their receipt of social-insurance benefits under some foreign law.

Section 203. *Considering the amount in the railroad unemployment insurance administration fund as a part of the railroad unemployment insurance account for the purposes of determining the rate of contributions.* This section would amend section 8 (a) of the Railroad Unemployment Insurance Act to provide that in determining the balance of the railroad unemployment insurance account as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund shall be deemed as a part of the balance to the credit of the account. This could lower, or avoid increasing, the rate of contributions to be made by employers for the ensuing year.

Section 204. *Authorizing the Secretary of the Treasury to receive and hold funds of the railroad unemployment insurance administration fund in the unemployment trust fund.* Subsection (a) of this section would amend section 904 (a) of the Social Security Act to authorize the Secretary of the Treasury to receive and hold funds deposited in the railroad unemployment insurance administration fund as a part of the "unemployment trust fund".

Subsection (b) of this section would amend section 904 (e) of the Social Security Act to provide that the Secretary of the Treasury shall credit the railroad unemployment insurance administration fund with interest derived from the unemployment trust fund. At present unexpended portions of appropriations for administration of the Railroad Retirement Act earn interest as a part of the Railroad Retirement Account but the railroad unemployment insurance administration fund is not invested.

Subsection (c) of this section would amend section 904 (f) of the Social Security Act to authorize the Secretary of the Treasury to make such payments out of the railroad unemployment insurance administration fund as the Board may duly certify. This change is necessary to conform with the change made by including the administration fund in the "unemployment trust fund."

Section 205. *Providing that the Secretary of the Treasury maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund.*

This section would amend section 11 (a) of the Railroad Unemployment Insurance Act to provide that the Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This provision would implement the purpose of section 204 to permit unexpended administrative funds to earn interest, as in the case of other funds.

Section 206. *Removing provision for fixing salary of director of unemployment insurance.* This section would amend section 12 (l) of the Railroad Unemployment Insurance Act by striking the obsolete provision that the Board may fix the salary of a director of unemployment insurance at \$10,000 per annum and by providing that persons in the Board be employed, and their remuneration be prescribed, in accordance with the civil service laws and the Classification Act of 1949 rather than the out-of-date provisions of the Classification Act of 1923.

Section 207. *Effective dates.* Subsection (a) of section 207 of the reported bill would make the amendment proposed in section 201 (a), respecting subsidiary remuneration, effective with respect to registration periods in benefit years after the benefit year ending on June 30, 1958.

Subsection (b) of this section would make all the amendments proposed in section 202 effective with respect to days in benefit years, after the benefit year ending on June 30, 1958.

Subsection (c) of this section would make the remaining proposed amendments to the Railroad Unemployment Insurance Act, except as otherwise indicated, effective on the date of enactment of this legislation.

PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT

Section 301 of the reported bill would amend section 202 (t) of the Social Security Act to exclude from the restriction on social security benefits provided by that section of persons whose benefits are based in whole or in part on railroad employment through transfer of their employment credits under section 5 (k) (1) of the Railroad Retirement Act. That restriction is applicable, with certain exceptions, to non-citizens of the United States who become eligible for benefits under the so-called new-start provisions of that act through temporary employment and leave the United States. This amendment would affect principally Canadian residents employed by American railroads conducting a minor portion of their operations in Canada and Canadian railroads operating into the United States. These persons are not those against whom the restriction was aimed since, obviously, they obtain social security credits through this railroad service only because of the demands of, and in the course of, their regular employment rather than through any design to secure coverage by working temporarily and then returning to their native countries to enjoy the fruits thereof.

Section 302 of the reported bill would make the amendments of section 301 of the bill applicable to monthly benefits under the Social Security Act paid after December 1956 and to lump-sum payments under section 202 of the Social Security Act in the case of deaths occurring after December 1956.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PART I

RAILROAD RETIREMENT ACT OF 1937

* * * * *

COMPUTATION OF ANNUITIES

SEC. 3. (a) The annuity shall be computed by multiplying an individual's "years of service" by the following percentages of his "monthly compensation": 3.04 per centum of the first \$50; 2.28 per centum of the next \$100; and 1.52 per centum of the next \$200.

* * * * *

(c) The "monthly compensation" shall be the average compensation paid to an employee with respect to calendar months included in his "years of service", except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation paid to an employee with respect to calendar months included in his years of service in the years 1924-1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the forms of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940-August 1941: *Provided, however,* That where service in the period 1924-1931 in the one case, or in the period September 1940-August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. *If the "monthly compensation" computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.*

* * * * *

(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, before any reduction pursuant to section 2 (a) 3, be whichever of the following is the least: (1) \$4.55 multiplied by the number of his years of service; or (2) \$75.90; or (3) his monthly compensation: *Provided, however,* That if for any entire month in which an annuity accrues and is payable under this Act the annuity to which an employee is entitled under this Act (or would have been entitled except for a reduction

pursuant to section 2 (a) 3 or a joint and survivor election), together with his or her spouse's annuity, if any, or the total of survivor annuities under this Act deriving from the same employee, is less than the amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act (deeming completely and partially insured individuals to be fully and currently insured, respectively, individuals entitled to insurance annuities under subsections (a) and (d) of section 5 to have attained age sixty-five, and individuals entitled to insurance annuities under subsection (c) of section 5 on the basis of disability to be less than eighteen years of age, and disregarding any possible deductions under subsections (f) and (g) (2) of section 203 of the Social Security Act) if such employee's service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act and quarters of coverage were determined in accordance with section 5 (l) (4) of this Act, such annuity or annuities, shall be increased proportionately to a total of such amount or such additional amount.

For the purposes of this subsection and all purposes of title II of the Social Security Act, the Board shall have the same authority to determine a "period of disability" within the meaning of section 216 (i) of the Social Security Act, with respect to any employee who will have filed application therefor and (i) have completed ten years of service or (ii) have been awarded an annuity, as the Secretary of Health, Education, and Welfare would have to determine such a period under such section 216 (i) if the employee met the requirements of clauses (A) and (B) of paragraph (3) of such section, considering for purposes of such determination that all his service as an employee after 1936 constitutes "employment" within the meaning of title II of the Social Security Act and determining his quarters of coverage for such purposes by presuming his compensation in a calendar year to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year: Provided, That no such period of disability shall be deemed to have begun if the employee died before July 1, 1955: Provided further, That an application for an annuity filed with the Board on the basis of disability shall be deemed to be an application to determine such a period of disability, and such an application filed with the Board on or before the date of the enactment of this paragraph shall, for purposes of this subsection and section 216 (i) (4) of the Social Security Act, be deemed filed after December 1954 and before July 1957: And provided further, That, notwithstanding any other provision of law, the Board shall have the authority to make such determination on the basis of the records in its possession or evidence otherwise obtained by it, and a determination by the Board with respect to any employee concerning such a "period of disability" shall be deemed a final decision of the Board determining the rights of persons under this Act for purposes of section 11 of this Act. For purposes of section 5 (k) (2) of this Act, any determination by the Board of a period of disability for an employee shall be considered a determination of such a period for such employee by the Secretary of Health, Education, and Welfare under section 216 (i) of the Social Security Act, and for such purposes section 222 (b) of the Social Security Act shall not apply with respect to any individual whose period of disability is determined by the Board under this paragraph.

(f) [Annuity payments which will have become due an individual but will not yet have been paid at death shall be paid to the same

individual or individuals who, in the event that a lump sum will have become payable pursuant to section 5 hereof upon such death, would be entitled to receive such lump sum, in the same manner as, and subject to the same limitations under which, such lump sum would be paid, except that, as determined by the Board, first, brothers and sisters of the deceased, and if there are none such, then grandchildren of the deceased, if living on the date of the determination, shall be entitled to receive payment prior to any payment being made for reimbursement of burial expenses. If there be no individual to whom payment can thus be made, such annuity payments shall escheat to the credit of the Railroad Retirement Account.】 (1) *Annuities under section 2 (a) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under section 5 (f) (1) for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).*

(2) *Insurance annuities under section 5 which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).*

(3) *Annuities under section 2 (e) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such spouse's annuity derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of paragraph (1) of this subsection as if such annuities were annuities due under section 2 (a) to an individual but unpaid at the time of such individual's death.*

(4) *Applications for accrued and unpaid annuities provided for in paragraphs (1), (2), and (3) of this subsection shall be filed prior to the expiration of two years after the death of the person to whom such annuities were originally due.*

(5) *For the purposes of this subsection and paragraphs (1) and (2) of section 5 (f) of this Act, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216 (h) (2) or (3) of the Social Security Act are fulfilled.*

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(6) *If there is no person to whom all or any part of the annuity payments described in paragraph (1), (2), or (3) can be made, such payments or part thereof shall escheat to the credit of the Railroad Retirement Account.*

(g) No annuity shall accrue with respect to the calendar month in which an annuitant dies.

(h) If an annuity is less than **[\$2.50]** \$5, it may, in the discretion of the Board, be paid quarterly or in a lump sum equal to its commuted value as determined by the Board.

(i) *If the amount of any annuity computed under this section, or under section 2 or section 5, is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10.*

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ANNUITIES AND LUMP SUM FOR SURVIVORS

SEC. 5. (a) * * *

* * * * *

(f) LUMP-SUM PAYMENT.—(1) **Upon the death, on or after January 1, 1947, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, there shall be paid a lump sum of ten times the employee's basic amount to the following person (or if more than one there shall be distributed among them) whose relationship to the deceased employee will have been determined by the Board, and who will have been living on the date of such determination: to the widow or widower of the deceased; or, if no such widow or widower be then living, to any child or children of the deceased and to any other person or persons who, under the intestacy law of the State where the deceased will have been domiciled, will have been entitled to share as distributees with such children of the deceased, in such proportions as is provided by such law; or, if no widow or widower and no such child and no such other person be then living, to the parent or parents of the deceased, in equal shares. A person who is entitled to share as distributee with an above-named relative of the deceased shall not be precluded from receiving a payment under this paragraph by reason of the fact that no such named relative will have survived the deceased or of the fact that no such named relative of the deceased will have been living on the date of such determination. If none of the persons described in this paragraph be living on the date of such determination such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of the deceased.** *Upon the death, after the month in which this Act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of ten times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or*

widower, such lump sum shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such deceased employee. If a lump sum would be payable to a [widow, widower, child, or parent] widow or widower under this paragraph except for the fact that a survivor will have been entitled to receive an annuity for the month in which the employee will have died, but within one year after the employee's death there will not have accrued to survivors of the employee, by reason of his death annuities which, after all deductions pursuant to paragraph (1) of subsection (i) will have been made, are equal to such lump sum, a payment to any then surviving widow [, widower, children, or parents shall nevertheless be made under this paragraph equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions] a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section. No payment shall be made to any person under this paragraph, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent) prior to the expiration of two years after the date of death of the deceased employee, except that if the deceased employee is a person to whom section 2 of the Act of March 7, 1942 (56 Stat. 143, 144), is applicable such two years shall run from the date on which the deceased employee, pursuant to said Act, is determined to be dead, and for all other purposes of this section such employee, so long as it does not appear that he is in fact alive, shall be deemed to have died on the date determined pursuant to said Act to be the date or presumptive date of death.

(2) Whenever it shall appear, with respect to the death of an employee on or after January 1, 1947, that no benefits, or no further benefits, other than benefits payable to a widow, widower, or parent upon attaining age sixty at a future date, will be payable under this section or, pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216 (a) of the Social Security Act) at a future date, will be payable under title II of the Social Security Act, as amended, there shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, [to the person or persons in the order provided in paragraph (1) of this subsection or, in the absence of such person or persons, to his or her estate, a lump sum] to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

- (i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or
- (ii) if there be no such widow or widower, to any child or children of such employee; or
- (iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or
- (iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee, a lump sum in an amount equal to the sum of 4 per centum of his or her compensation paid after December 31, 1936, and prior to January 1, 1947, and * * *

* * * * *

(h) MAXIMUM AND MINIMUM ANNUITY TOTALS.—Whenever according to the provisions of this section as to annuities, payable for a month with respect to the death of an employee, the total of annuities is more than \$33 and exceeds either (a) \$176, or (b) an amount equal to two and two-thirds times such employee's basic amount, whichever of such amounts is the lesser, such total of annuities shall, [prior to] after any deductions under subsection (i), be reduced to such lesser amount or to \$33, whichever is greater. Whenever such total of annuities is less than \$15.40 such total shall, prior to any deductions under subsection (i), be increased to \$15.40.

(i) DEDUCTIONS FROM ANNUITIES.—(1) * * *

* * * * *

(3) Deductions shall also be made from any payments under this section with respect to the death of an employee until such deductions total—

(i) any death benefit, paid with respect to the death of such employee, under sections 5 of the Retirement Acts (other than a survivor annuity pursuant to an election); and

(ii) any lump sum paid, with respect to the death of such employee, under title II of the Social Security [Act] Act. [], or under section 203 of the Social Security Act in force prior to the date of the Social Security Act Amendments of 1939;]

[(iii) any lump sum paid to such employee under section 204 of the Social Security Act in force prior to the date of the enactment of the Social Security Act Amendments of 1939, provided such lump sum will not previously have been deducted from any insurance benefit paid under the Social Security Act; and

[(iv) an amount equal to 1 per centum of any wages paid to such employee for services performed in 1939, and subsequent to his attaining age sixty-five with respect to which the taxes imposed by section 1400 of the Internal Revenue Code will not have been deducted by his employer from his wages or paid by such employer, provided such amount will not previously have been deducted from any insurance benefit paid under the Social Security Act.]

* * * * *

(k) PROVISIONS FOR CREDITING RAILROAD INDUSTRY SERVICE UNDER THE SOCIAL SECURITY ACT IN CERTAIN CASES.—(1) For the purpose of determining (i) insurance benefits under title II of the Social Security Act to an employee who will have completed less than ten years of service and to others deriving from him or her during his or her life and with respect to his or her death, and lump-sum death payments with respect to the death of such employee, and (ii) insurance benefits with respect to the death of an employee who will have completed ten years of service which would begin to accrue on or

after January 1, 1947, and with respect to lump-sum death payments under such title payable in relation to a death of such an employee occurring on or after such date, and [for the purposes of sections 203 and 216 (i) (3) of that Act] *for the purposes of section 203 and, with respect to an employee who will have completed less than ten years of service, section 216 (i) (3) of that Act*, section 15 of the Railroad Retirement Act of 1935, section 210 (a) 10 of the Social Security Act, and section 17 of this Act shall not operate to exclude from "employment", under title II of the Social Security Act, service which would otherwise be included in such "employment" but for such sections. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in services as an employee. In the application of the Social Security Act pursuant to this paragraph to service as an employee, all services as defined in section 1 (c) of this Act shall be deemed to have been performed within the United States.

* * * * *

(3) The Board and the Federal Security Administrator shall, upon request, supply each other with certified reports of records of compensation or wages and periods of service, *of determinations under section 3 (e) of this Act, or section 216 (i) of the Social Security Act, of periods of disability within the meaning of such section 216 (i)*, and of other records in their possession or which they may secure, pertinent to the administration of this section, *section 3 (e) of this Act, or title II of the Social Security Act as affected by paragraph (1)*. Such certified reports shall be conclusive in adjudication as to the matters covered therein *(except in the case of a determination of disability under section 216 (i) of the Social Security Act where such determination would otherwise result in a denial, or a decrease in the amount, of monthly or lump-sum benefits under either the Railroad Retirement Act or the Social Security Act)*: *Provided*, That if the Board or the Federal Security Administrator receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence, such recertification of such report shall be made as, in the judgment of the Board or the Federal Security Administrator, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

(1) DEFINITIONS.—For the purposes of this section the term "employee" includes an individual who will have been an "employee", and—

* * * * *

(6) The term "wages" shall mean wages as defined in section 209 of the Social Security Act [(except that for the purposes of section 5 (i) (1) (ii) of this Act such wages shall be determined without regard to subsection (a) of said section 209)]. In addition, the term shall include (i) "self-employment income" as defined in section 211 (b) of the Social Security Act [(and in determining "self-employment income", the "net earnings from self-employment" shall be determined as provided in section 211 (a) of such Act and charged to correspond with the provisions of section 203 (e) of such Act)], and

(ii) wages deemed to have been paid under section 217 (a) or (e) of the Social Security Act on account of military service which is not creditable under section 4 of this Act. *Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act.*

(7) An employee will have been "completely insured" if it appears to the satisfaction of the Board that at the time of his death, whether before or after the enactment of this section, he will have completed ten years of service and will have had the qualifications set forth in any one of the following paragraphs:

(i) a current connection with the railroad industry; and a number of quarters of coverage, * * *

(ii) a current connection with the railroad industry; and [forty or more quarters of coverage] *either will have had forty or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act;*

or

(iii) * * *

(8) An employee will have been "partially insured" at the time of his death, whether before or after the enactment of this section, if it appears to the satisfaction of the Board that he will have completed ten years of service and [will have had] (i) *will have had* a current connection with the railroad industry; and (ii) *either will have had* six or more quarters of coverage in the period ending with the quarter in which he will have died or in which a retirement annuity will have begun to accrue to him and beginning with the third calendar year next preceding the year in which such event occurs, *or would be currently insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act.*

(9) An employee's "average monthly remuneration" shall mean the quotient obtained by dividing (A) the sum of (i) the compensation paid to him after 1936 and before the [quarter in which he will have died] *employee's closing date*, eliminating any excess over \$300 for any calendar month before July 1, 1954, and any excess over \$350 for any calendar month after June 30, 1954, and (ii) if such compensation for any calendar year before 1955 is less than \$3,600 or for any calendar year after 1954 is less than \$4,200 and the average monthly remuneration computed on compensation alone is less than \$350 and the employee has earned in such calendar year "wages" as defined in paragraph (6) hereof, such wages, in an amount not to exceed the difference between the compensation for such year and \$3,600 for years before 1955 and \$4,200 for years after 1954, by (B) three times the number of quarters elapsing after 1936 and before the [quarter in which he will have died] *employee's closing date*: *Provided*, That for the period prior to and including the calendar year in which he will have attained the age of twenty-two there shall be included in the divisor not more than three times the number of quarters of coverage in such period: *Provided further*, That there shall be excluded from the divisor any calendar quarter which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him: *And provided further*, That if the exclusion from the

divisor of all quarters beginning with the first quarter in which the employee was completely insured and had attained the age of sixty-five and the exclusion from the dividend of all compensation and wages with respect to such quarters would result in a higher average monthly remuneration, such quarters, compensation and wages shall be so excluded. An employee's "closing date" shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest "average monthly remuneration" as defined in the preceding sentence. If the amount of the "average monthly remuneration" as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

* * * * *

PERSONNEL

SEC. 10. (a) There is hereby established as an independent agency in the executive branch of the Government * * *

(b) 1. * * *

* * * * *

4. The Board shall establish and promulgate rules and regulations to provide for the adjustment of all controversial matters arising in the administration of such Acts, with power as a Board or through any member or designated subordinate thereof, to require and compel the attendance of witnesses, administer oaths, take testimony, and make all necessary investigations in any matter involving annuities or other payments and shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such individuals and provide for their compensation and expenses as may be necessary for the proper discharge of its functions, including expenses, tuition, and salaries of employees of the Board who are designated by the Board to attend courses of instruction or training at institutions (whether or not such courses are conducted by the United States), not exceeding 240 class hours in any one calendar year for any one such employee. All positions to which such individuals are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom. In the employment of such individuals under the civil-service laws and rules the Board shall give preference over all others to individuals who have had experience in railroad service, if, in the judgment of the Board they possess the qualifications necessary for the proper discharge of the duties of the positions to which they are to be appointed. For purposes of its administration of this Act or the Railroad Unemployment Insurance Act, or both, the Board may hereafter place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, four positions in grade GS-16 of the General Schedule established by that Act, four positions in grade GS-17 of such Schedule, and one position in grade GS-18 of such Schedule. * * *

* * * * *

SEC. 13. (a) Any officer or agent of an employer, as the word "employer" is hereinbefore defined, or any employee acting in his

own behalf, or any individual whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required, in accordance with the provisions of section 10 (b) 4, by the Board in the administration of this Act or the Railroad Retirement Act of 1935, or who shall knowingly make or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purpose of such Acts, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of causing an award or payment under such Acts, shall be punished by a fine of not more than \$10,000 or by imprisonment not exceeding one year, or both.

(b) *All fines and penalties imposed by a court pursuant to this Act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account.*

* * * * *

PART II

RAILROAD UNEMPLOYMENT INSURANCE ACT

* * * * *

SECTION 1. For the purposes of this Act, except when used in amending the provisions of other Acts—

* * * * *

(k) Subject to the provisions of section 4 of this Act, (1) a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him, and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office; and (2) a "day of sickness", with respect to any employee, means a calendar day on which because of any physical, mental, psychological, or nervous injury, illness, sickness, or disease he is not able to work or which is included in a maternity period, and with respect to which (i) no remuneration is payable or accrues to him, and (ii) in accordance with such regulations as the Board may prescribe, a statement of sickness is filed within such reasonable period, not in excess of ten days, as the Board may prescribe: *Provided, however,* That "subsidiary remuneration", as hereinafter defined in this subsection, shall not be considered remuneration for the purpose of this subsection except with respect to an employee whose base-year compensation, exclusive of earnings from the position or occupation in which he earned such subsidiary remuneration, is less than \$400: *Provided, further,* That remuneration for a working day which includes a part of each of two consecutive calendar days shall be deemed to have been earned on the [second] *first* of such two days, and any individual who takes work for such working day shall not by reason thereof be deemed not available for work on the [first] *second* of such calendar days: *Provided, further,* That any calendar day on which no remuneration is payable to or accrues to an employee solely because of the application to him of mileage or work restrictions agreed upon in schedule agreements between employers and employees or solely because he is standing by for or laying over between

regularly assigned trips or tours of duty shall not be considered either a day of unemployment or a day of sickness.

For the purpose of this subsection, the term "subsidiary remuneration" means, with respect to any employee, remuneration not in excess of an average of ~~one dollar~~ *three dollars* a day for the period with respect to which such remuneration is payable or accrues, if the work from which the remuneration is derived (i) requires substantially less than full time as determined by generally prevailing standards, and (ii) is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation.

* * * * *

(q) The term "fund" means the railroad unemployment insurance administration fund, established pursuant to section 11 of this Act *in the unemployment trust fund.*

* * * * *

DISQUALIFYING CONDITIONS

SEC. 4. (a-1) There shall not be considered as a day of unemployment or as a day of sickness, with respect to any employee—

* * * * *

(ii) any day in any period with respect to which the Board finds that he is receiving or will have received annuity payments or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, or insurance benefits under title II of the Social Security Act, or unemployment, maternity, or sickness benefits under an unemployment, maternity, or sickness compensation law ~~of any State of the United States other than this Act, or any other social insurance payments under a law of any State or of the United States~~ *other than this Act or any other social-insurance payments under any law: Provided, That* if an employee receives or is held entitled to receive any such payments, other than unemployment, maternity, or sickness payments, with respect to any period which includes days of unemployment or sickness in a registration period, after benefits under this Act for such registration period will have been paid, the amount by which such benefits under this Act will have been paid increased by including such days as days of unemployment or as days of sickness shall be recoverable by the Board: *Provided further, That, if that part of any such payment or payments, other than unemployment, maternity, or sickness payments, which is apportionable to such days of unemployment or days of sickness is less in amount than the benefits under this Act which, but for this paragraph, would be payable and not recoverable with respect to such days of unemployment or days of sickness, the preceding provisions of this paragraph shall not apply but such benefits under this Act for such days of unemployment or days of sickness shall be diminished or recoverable in the amount of such part of such other payment or payments;*

* * * * *

CONTRIBUTIONS

SEC. 8. (a) Every employer shall pay a contribution, with respect to having employees in his service, equal to the * * *

As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30 of such year; and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account.

* * * * *

RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

SEC. 11. (a) [There is hereby established in the Treasury of the United States a fund to be known as the railroad unemployment insurance administration fund. This fund] *The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund shall consist of (i) such part of all contributions collected pursuant to section 8 of this Act as equals 0.2 per centum of the total compensation on which such contributions are based; (ii) all amounts advanced to the fund by the Secretary of the Treasury pursuant to this section; (iii) all amounts appropriated by subsection (b) of this section; and (iv) such additional amounts as Congress may appropriate for expenses necessary or incidental to administering this Act. Such additional amounts are hereby authorized to be appropriated.*

* * * * *

(c) Notwithstanding any other provision of law, all moneys at any time credited to the fund are hereby permanently appropriated to the Board to be continuously available to the Board without further appropriation for any expenses necessary or incidental to administering this Act, including personal services in the District of Columbia and elsewhere; travel expenses, including expenses of attendance at meetings when authorized by the Board *and expenses, tuition, and salaries of employees designated by the Board to attend courses of instruction or training at institutions (whether or not such courses are conducted by the United States), not exceeding two hundred and forty class hours in any one calendar year for any one such employee; actual transportation expenses and not to exceed \$10 per diem to cover subsistence and other expenses* * * *

DUTIES AND POWERS OF THE BOARD

SEC. 12. (a) For the purpose of any investigation or other proceeding relative to the determination of any right to benefits, * * *

* * * * *

(1) In addition to the powers and duties expressly provided, the Board shall have and exercise all the powers and duties * * *

The Board may employ such persons and provide for their remuneration and expenses, as may be necessary for the proper administration of this Act. Such persons shall be employed and their remuneration prescribed in accordance with the civil-service laws and the [Classification Act of 1923, except that the Board may fix the salary of a Director of Unemployment Insurance at \$10,000 per annum] *Classification Act of 1949, as amended.* * * *

* * * * *

PART III

SOCIAL SECURITY ACT, AS AMENDED

* * * * *

UNEMPLOYMENT TRUST FUND

SEC. 904. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund," hereinafter in this title called the "Fund." The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account, or the railroad unemployment insurance administration fund, or otherwise deposited in or credited to the Fund or any account therein. Such deposit may be made directly with the Secretary of the Treasury or with any Federal Reserve bank or member bank of the Federal Reserve System designated by him for such purpose.

* * * * *

(e) The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency, the Federal unemployment account, [and the railroad unemployment insurance account] *the railroad unemployment insurance account, and the railroad unemployment insurance administration fund* and shall credit quarterly on March 31, June 30, September 30, and December 31, of each year, to each account on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date. For the purpose of this subsection, the average daily balance shall be computed—

(1) in the case of any State account, by reducing (but not below zero) the amount in the account by the aggregate of the outstanding advances under section 1201 from the Federal unemployment account, and

(2) in the case of the Federal unemployment account, (A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and (B) by subtracting from the sum so obtained the aggregate of the outstanding advances from the Treasury to the account pursuant to section 1202 (c).

(f) The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment. The Secretary of the Treasury is authorized and directed to make such payments out of the [Fund as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the railroad unemployment insurance account at the time of such payment] *railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment.*

* * * * *

APPENDIX

RAILROAD RETIREMENT BOARD,
Chicago, Ill., August 7, 1957.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House Office Building, Washington, D. C.*

DEAR MR. HARRIS: This is a report of the Railroad Retirement Board on the bill H. R. 7166, which was introduced on May 2, 1957, by Mr. Harris and referred to your committee for consideration.

The bill would amend the Railroad Retirement Act and the Railroad Unemployment Insurance Act. It is intended, generally, to facilitate and improve the administration of the Railroad Retirement Act and, to a somewhat lesser extent, the Railroad Unemployment Insurance Act by effecting changes that the experience of the Board has shown to be desirable, and which are discussed below. The bill would not increase the cost of benefits under the systems, at least not in any significant amount; rather, through the facilitation of operations and increased efficiency, its enactment would decrease administrative costs.

THE RAILROAD RETIREMENT ACT

The method of computing benefits would be simplified by rounding the average "monthly compensation" used in the computation of retirement benefits, and the "average monthly remuneration" used in the computation of survivor benefits, to the next lower multiple of \$1 (secs. 1 (a) and 2 (j) of the bill). The amounts of both retirement and survivor annuities when not in a multiple of \$0.10 would be raised to the next higher multiple of \$0.10 (sec. 1 (e)). These amendments would have no material effect on the amount of the monthly annuities, but are designed to simplify the computing processes. The rounding of the average "monthly compensation," the "average monthly remuneration," and the monthly annuities, would make the construction of computation tables, and the use of such tables in the computing processes, relatively simple. Without these changes, the use of annuity computing tables would not be feasible because they would, necessarily, be too voluminous and cumbersome.

Survivor annuities in any monthly amount of less than \$5 may, under present provisions, be paid in a single sum equal to the commuted value. The Board would be authorized to pay the commuted value of retirement annuities in a single lump sum when the monthly amount is less than \$5, which can only be done under present provisions when the monthly amount is less than \$2.50 (sec. 1 (d)).

An employee's "closing date," which is a factor in determining his "average monthly remuneration" used in computing survivor benefits, would be changed from the quarter of death or the quarter in which he both became 65 and was completely insured, to either (1) the first day of the first calendar year in which he became 65 years of

age and insured; (2) the first day of the calendar year in which he died; or (3) the first day of the calendar year following the day of his death, whichever would produce the highest benefits (sec. 2 (j)). This change would simplify the computation of survivor benefits because compensation used in such computation would accord with reports of compensation made by employers on an annual basis and there would be no need to determine how much of the compensation was paid with respect to particular quarters. The proposed closing dates would accord with the closing dates under the Social Security Act. This is pertinent because the Board must determine the amount of benefits, or the additional amount of benefits, which would be payable under the Social Security Act on the basis of the employee's railroad service if such service after 1936 were employment subject to the Social Security Act. This is required because, under the so-called social-security minimum provision of the Railroad Retirement Act, if benefits under the railroad retirement formula are less than that amount they are increased to such amount.

The maximum respecting the total of survivor annuities payable with respect to an employee would be made applicable after work deductions are effected (sec. 2 (c)). This change would accord with a similar change which has been made in the Social Security Act by Public Law 734, 81st Congress, approved August 28, 1950, and, in consequence, the application of the social-security minimum would be simplified. The effect of this change would be to eliminate the double deduction which results from the application of the present provision for determining the maximum before any work deduction is made. For example, assume that an employee whose "basic amount" is \$63 is survived by a widow and 4 children, entitled to a survivor's annuity upon application. All apply except the oldest child, who expects to work and whose entitlement would add nothing to the total family benefit if the widow and the other children receive their benefits. The maximum family benefit would be $2\frac{1}{2}$ times the basic amount, or \$168 monthly (which they would receive rather than the total produced by the regular formula of \$189), as follows: The widow would receive \$56, and each child would receive \$37.33 $\frac{1}{3}$ a month. Now, assume that the widow decides to work, and does. Under the present provisions for applying the maximum before work deductions, her monthly payments would cease and the children's payments would remain as they were at \$37.33 $\frac{1}{3}$ each. Also, if the fourth child decides not to work but to continue in school, he could, under the present provisions, receive nothing. Under the proposed change, however, of determining the maximum after the work deduction, the 3 children's payments could be increased to their regular amount of \$42 each and the fourth child could apply and would receive his full share or \$42, under the regular formula since the increase for the 3, and such share for the fourth, would increase the total only to the exact amount of the maximum of \$168. The example assumes that the social-security minimum provision would not apply at all. If it did apply, under present provisions, after the widow started work, benefits to the family would have to be recomputed in accordance with the social-security minimum. Under the proposed amendment, no such recomputation would be required.

The provision for calculating the minimum survivor annuity before making work deductions would not be affected by the bill. To com-

pute the minimum after making a work deduction would nullify the work-deduction provision, at least to some extent. Assume a case where a widow's benefit was, say, \$9.60, and the child's, \$6.40, so that the 2 would receive \$16, or above the present family minimum of \$15.40. If the minimum were applied after making the deductions required because the widow worked, the child would then receive \$15.40, or almost as much as the 2 together had received before the widow began work and a recomputation of the benefits would have to be made, instead of merely stopping payment to the individual working. (If only one member of a family was entitled to benefits, if the work deduction was applied before the minimum, he or she would receive the minimum even though working and even though the original benefit was at the minimum.)

Present provisions of the act requiring deduction from benefits of certain lump-sum payments under the Social Security Act and for the failure to have paid certain taxes for 1939 related to that act, would be eliminated for the reason that, for all practical purposes, they have become obsolete. This change would accord with similar amendments made in the Social Security Act in 1950 and 1954 (sec. 2 (d)).

The provisions of the Railroad Retirement Act respecting the crediting of wages and self-employment income covered by the Social Security Act in the computation of survivor benefits would be clarified. Such wages and self-employment income would be credited in the manner and to the extent credited for corresponding purposes of the Social Security Act (sec. 2 (g)).

A career railroad employee who has 10 years of service and a "current connection" with the railroad industry would be accorded an "insured" status under the Railroad Retirement Act to correspond with the insured status he would have under the Social Security Act if his railroad service after 1936 had been employment subject to the Social Security Act (secs. 2 (h) and 2 (i)). This would provide an advantage to the employee because, under the so-called new-start provisions of the Social Security Act, an insured status may be acquired with relatively little service. This provision would be important, for the most part, only where the employee did not have 10 years' railroad service after 1936 since an employee with "40 quarters of coverage" (which is usually the equivalent of 10 years' service after 1936) would be provided with an insured status under present provisions of the act. A "completely insured" status derived through this change by an employee otherwise only "partially insured" would enable his widow, on the basis of age alone, or his parents, to obtain monthly benefits not otherwise payable under either the Railroad Retirement Act or the Social Security Act. Where an employee does not otherwise have either a "partially" or a "completely" insured status under the Railroad Retirement Act, the consequence of this provision's enactment would be that benefits to his survivors would be payable under such act rather than the Social Security Act. (The lump sum under sec. 5 (f) (2) of the Railroad Retirement Act would, in any event, be payable under the latter act.)

For career railroad employees having 10 or more years of service creditable under the Railroad Retirement Act, or who have been awarded annuities, the Board would be authorized to make deter-

minations of "periods of disability" respecting the "disability freeze" provision of the Social Security Act. (Section 1 (b).) This is important because in applying the social security minimum to benefits under the Railroad Retirement Act, it is necessary to take into account periods of disability, the elimination of which would increase benefits by increasing the employee's average monthly wage, and in some instances would even provide eligibility through an "insured" status. Determinations of this character would be facilitated because the Board would be authorized to treat applications for disability annuities as applications for the determination of periods of disability, and also because the Board would be authorized to make such determinations on evidence in its possession, consisting of medical data obtained in connection with applications for disability annuities, and applications for sickness benefits under the Railroad Unemployment Insurance Act.

✶ Railroad service of an employee with less than 10 years of such service would be treated as employment subject to the Social Security Act for the purposes of determining periods of disability by the Secretary of Health, Education, and Welfare (sec. 2 (e)).

The Board and the Federal Security Administrator would be required to supply each other, upon request, with certified reports as to determinations of periods of disability (sec. 2 (f) (1) and (2)). Determinations of the period of disability made by the Board or the Secretary of Health, Education, and Welfare would be binding upon the other except that the disability period would not be applied in determining benefits in cases where its application would result in a denial or lessening of the amount of benefits under either the Retirement Act or the Social Security Act (sec. 2 (f) (3)).

The order of payment of accrued but unpaid retirement annuities would be changed. They would be paid, first, to the employee's widow or widower, but only if the widow or widower was "living with" the employee at the time of the latter's death. If no such widow or widower survived, the accrued retirement annuity would be paid to the person found to be equitably entitled thereto by reason of having paid the burial expenses of the employee. If there be no such widow or widower and no person who paid the burial expenses, or if the total of the accrued annuity exceeded the amount of the burial expenses, the accrued annuity, or the excess over the burial expenses, would be paid to the children, grandchildren, parents, or brothers and sisters of the deceased employee, in the order named. Of course, payment would be made to a class of survivors only if there is no person or persons in a higher class of entitlement who would be entitled to benefits at the time of payment (sec. 1 (c)). A person named in the order of priority will be entitled only if he or she will not have died before receiving payment.

Under present provisions of law, an employee's widow or widower, though they have been estranged and living apart for many years is entitled to receive such accrued annuity ahead of all others. Often, extensive investigation is required to develop evidence in respect to the question as to who was the wife or husband of the employee at the time of such employee's death, particularly when more than one individual claims a widow's or widower's status. It is often difficult to determine who actually is the widow or widower. This difficulty would be largely eliminated because the widow or widower could not

receive the accrued annuity unless she or he was "living with" the employee at the time of such employee's death. This concept is now applied in determining entitlement to a widow's, widower's, or spouse's annuity.

The order of payment of accrued survivor annuities due but unpaid at the time of death of the person entitled thereto would also be changed. They would be paid in the same order as accrued retirement annuities, except that payment would not be made to a person who has paid the burial expenses of the employee (sec. 1 (c)). The reason for this is the likelihood that the employee will have been dead for some time, so that it would be difficult to ascertain the facts concerning payment of his burial expenses.

The order of payment of accrued annuities due to a spouse of an employee but unpaid at the time of the spouse's death would also be changed. They would be paid in the same order as accrued retirement annuities, except that payment would first be made to the employee himself (sec. 1 (c)).

Application for accrued and unpaid annuities would be required to be filed, in accordance with present provisions relating to unpaid annuities, prior to the expiration of 2 years after the death of the person originally entitled to such annuities.

The regular insurance lump-sum benefit would be paid, under the bill, to the employee's widow or widower who was living with such employee at the time of death and will not have died before receiving payment, and, if no such widow or widower survived, it would be paid to the person who has paid the employee's burial expenses to the extent of such payment (sec. 2 (a)). No one else would be eligible for the regular insurance lump sum. After payment to a payer of the burial expenses, the remainder, if any, would likely be small. Consequently, the necessity of determining the beneficiary and making payment of a rather small sum (which in many cases would be divided among several persons) would be dispensed with. Elimination of this adjudicative expense would be warranted, since any amount of the insurance lump sum which is not paid would generally become part of the residual benefit which would likely be paid to the same person who would receive the insurance lump sum. The deferred insurance lump sum which becomes payable after a year following the death of the employee if survivor annuities for the year do not equal the lump sum would be paid in the order of preference to the widow or widower, child or parent of the employee then entitled to a survivor annuity.

The residual lump-sum benefit (under sec. 5 (f) (2)) would still be paid to the person or persons designated by the employee to receive it. Where there is no such designation, payment would be made in the same manner as would be provided for payment of accrued retirement annuities due but unpaid at death, except that such lump sum would not be used to reimburse the payer of the burial expenses of the employee, and, if there are no survivors entitled, payment would be made to the employee's estate (sec. 2 (b)). Under present law, brothers and sisters are not entitled to receive payment of the residual lump sum ahead of the employee's estate. The reason the bill provides for the payment to them before payment to the employee's estate is that the number of cases in which the residual lump sum would be payable to the deceased employee's estate would be reduced and, further, the Board would be spared the necessity of determining heirs under State

inheritance laws, where, because of the size of the estate, the appointment of an administrator is not required.

The bill would authorize the Board to bear the expenses, tuition, and salary of employees designated by it to attend training courses at certain training institutions, but not exceeding 240 class hours in a calendar year for any 1 employee (secs. 3 (1) and 205 (b)). This provision would, obviously, promote efficiency and improve administration.

The penalty for willfully refusing to make any report to the Board that is required, or for making or causing to be made a false or fraudulent report, or for making or causing to be made a false or fraudulent statement or claim for the purpose of causing an award of benefits would be a fine of not more than \$10,000, or imprisonment for not exceeding 1 year, or both (sec. 4 (b)). Under present provisions, the penalty that may be imposed for such an offense is a fine in the stated amount or imprisonment for the stated period, but both a fine and imprisonment may not be imposed. All fines and penalties imposed by a court pursuant to this provision would be paid to the court and remitted from time to time by order of the judge to the Treasury of the United States to be credited to the railroad retirement account.

The Board would be authorized to place nine positions in its service within the so-called supergrades in the classified service. These would include 4 positions in grade GS-16, 4 positions in grade GS-17, and 1 position in grade GS-18 of the general schedule established by the Classification Act of 1949 (sec. 3 (2)). This provision would be in accord with the present policies respecting the Federal service, and would enable the Board to compensate adequately individuals in important and key positions which are vital to its operations. As a consequence, the Board could obtain and retain employees in these positions which might not otherwise be possible.

EFFECTIVE DATES OF AMENDMENTS TO THE RAILROAD RETIREMENT ACT

The amendments in the bill with respect to the computation and payment of annuities would be effective with respect to annuities awarded on or after the date on which the bill is enacted.

The amendments to add a new basis for acquiring a "completely" and a "partially" insured status would be effective with respect to deaths occurring on or after the date on which the bill is enacted, and with respect to deaths occurring earlier if no survivor of the deceased employee became entitled, before such date, to monthly benefits under the Social Security Act because of such death.

The amendments to authorize the Board, instead of the Secretary of Health, Education, and Welfare, to make determinations of "periods of disability" within the meaning of section 216 (i) of the Social Security Act with respect to individuals with ten or more years of creditable service covered by the Railroad Retirement Act would be effective with respect to determinations of such periods made on or after the date the bill is enacted.

The amendments to make changes with regard to beneficiaries of accrued but unpaid annuities and of lump-sum benefits would be effective with respect to deaths occurring after the month in which the bill is enacted.

The amendments with respect to determining the maximum amount of annuities in survivor cases, eliminating certain deductions in

survivor annuities, and specifying the manner of crediting social security wages in computing survivor benefits under the Railroad Retirement Act would be effective for annuities accruing for months after the month in which the bill is enacted.

The amendment crediting to the Railroad Retirement Account amounts collected as fines or penalties pursuant to the Railroad Retirement Act would be effective with respect to fines and penalties imposed on and after the date on which the bill is enacted.

The amendment to authorize imposing a penalty of both a fine and imprisonment instead of just one or the other for violating certain provisions of the Railroad Retirement Act would be effective with respect to offenses committed on or after the date the bill is enacted.

All other amendments in the bill to the Railroad Retirement Act would be effective on the date the bill is enacted.

THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Remuneration for a working day which includes a part of each of 2 consecutive calendar days would be deemed to have been earned on the first day, instead of the second as at present, and an employee engaged in such work would be deemed by reason thereof not available for work on the second of such calendar days, instead of the first as at present (sec. 201 (a) (1)). This would conform the Railroad Unemployment Insurance Act in this respect to the practices of the industry and so would avoid difficulties and delays in obtaining information and deciding claims.

An employee who receives not more than \$3 a day for part-time or "subsidiary" work would be permitted to receive unemployment or sickness benefits for that day if otherwise qualified (sec. 201 (a) (2)). Under the present law he may not receive such benefits for a day in which he receives more than \$1 for part-time work.

The railroad unemployment insurance administration fund, which is not now included in the "unemployment trust fund," would be so included (secs. 201 (b), 204, and 205).

The disqualification as a day of sickness or unemployment with respect to an employee applicable to any day for which he receives social-insurance payments under the law of any state or of the United States would be changed to include such payments under any law (sec. 202). This would have the effect of removing a discrimination in favor of employees in Canada and other foreign countries, by providing a disqualification for days with respect to which they receive social-insurance payments under Canadian or other foreign law similar to the present disqualification now applicable to employees in the United States receiving benefits under Federal or State social-insurance laws.

The Secretary of the Treasury would be required to include in the "unemployment trust fund" amounts deposited by the Board to the credit of the railroad unemployment insurance administration fund (sec. 204 (a)) and he would be required also to maintain a separate account for such fund and credit it with a proportionate part of earnings of the unemployment trust fund (sec. 204 (b.)) The Secretary would also be required to pay out of the railroad unemployment insurance administration fund such amounts as the Board may duly certify for the payment of administrative expenses (sec. 204 (c)).

Under present provisions the railroad unemployment insurance administration fund is not included as a part of the trust fund and no interest is credited to the railroad unemployment insurance administration fund, as would be the case under the bill's provisions. (These provisions of the bill are amendatory of provisions of the Social Security Act because of the establishment of the "railroad unemployment insurance account" in the "unemployment trust fund" by amendments to the Social Security Act in the original Railroad Unemployment Insurance Act.)

A provision of existing law for employing persons to administer the act and prescribing their remuneration in accordance with the civil service laws and the Classification Act of 1923, and for fixing the salary of the Director of Unemployment Insurance at \$10,000 per annum would be changed so that the civil service laws and the Classification Act of 1949 would govern employment and remuneration of all persons including the Director (sec. 206). The effect of this is merely to eliminate provisions rendered obsolete by other legislation and to make the provision accord with such other legislation.

EFFECTIVE DATES OF AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

The amendments to the Railroad Unemployment Insurance Act to change the basis of registration in connection with a day's work carrying through from 1 day to the next would be effective with respect to registration periods in benefit years after the benefit year ending on June 30, 1957.

The amendments to the Railroad Unemployment Insurance Act to remove the present discrimination in favor of individuals outside the United States in the payment of unemployment and sickness benefits would be effective with respect to days in benefit years after the benefit year ending on June 30, 1957.

All other amendments to the Railroad Unemployment Insurance Act would be effective, except as otherwise indicated therein, on the date the bill is enacted.

As stated in the beginning, all the members of the Board concur in the conviction that the bill would not increase significantly the cost of benefits under either the Railroad Retirement Act or the Railroad Unemployment Insurance Act, and that it would, on the other hand, greatly facilitate and improve the administration of both acts to enable the Board to serve better the beneficiaries of the systems with a savings in administrative costs. Therefore, the Board recommends that the bill be reported favorably.

The Board understands that the representatives of railway labor and of railway management are in favor of the enactment of the bill.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

HOWARD W. HABERMEYER,
Chairman.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, July 25, 1957.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of May 6, 1957, for a report on H. R. 7166, a bill to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act.

H. R. 7166 would make several technical and administrative amendments to the Railroad Retirement and Railroad Unemployment Insurance Acts. One amendment would in effect amend the old-age and survivors insurance provisions of the Social Security Act to authorize the Railroad Retirement Board to make so-called disability freeze determinations under section 216 (i) of the old-age and survivors insurance provisions of the Social Security Act in the case of any individual who has had 10 years of railroad service, whether or not the individual had a current connection with the railroad industry when the disability began, and apparently even when the individual also has an equal or greater record of old-age and survivors insurance employment. This Department opposes this amendment, for reasons which are explained below.

It is apparently intended that the determinations which the Railroad Retirement Board would be authorized to make under H. R. 7166 would be binding both on the applicant and on this department, not only in the computation of the so-called social security minimum for purposes of a railroad retirement annuity, but also for the purpose of determining the rights of the individual and his dependents and survivors to old-age and survivors insurance benefits. The Board's determination, moreover, would be binding on this Department for the purpose of the financial interchange provisions of section 5 (k) (2) of the Railroad Retirement Act.

We believe that these provisions of the bill would be incompatible with the responsibility of this Department for the conduct of the old-age and survivors insurance program, would tend to confuse the public, and could, in their present form, result in unequal and discriminatory treatment in the application of the old-age and survivors insurance disability freeze provisions.

As you know, the old-age and survivors insurance disability freeze provisions were included in the Social Security Amendments of 1954. They are designed to protect the old-age and survivors insurance rights of individuals who, because of physical or mental disability, are no longer able to engage in any substantial gainful activity and who might thus, in the absence of the freeze, suffer a loss or impairment of those rights. Because credits earned in railroad employment are in certain types of cases transferred to the old-age and survivors insurance program upon the worker's death or retirement and credited toward benefits under this program, the Social Security Amendments of 1954 provided that railroad employment would in all cases count toward meeting the qualifying requirements for eligibility for a freeze of old-age and survivors insurance benefit rights.

It is clear, therefore, that the old-age and survivors insurance disability freeze is an integral part of the old-age and survivors insurance system and inseparable from it. To designate a Federal

agency other than the one responsible for the program to make such determinations for this program in its own right and with conclusive effect would, in our judgment, not be in consonance with sound principles of administration and program accountability.

Nor is this objection merely theoretical. Under this bill, the Board would make old-age and survivors insurance freeze determinations for individuals with 10 years of railroad employment even where it is clear that an old-age and survivors insurance benefit will in all likelihood be payable by this Department directly to the beneficiary—for example, where the individual is “fully insured” under old-age and survivors insurance or not “completely insured” within the meaning of the Railroad Retirement Act. It would not be easy to make a claimant in such a case understand why a key element in his case is adjudicated by the Railroad Retirement Board and why, if he is dissatisfied with the decision, he has no resort to this Department which is responsible for the administration of the old-age and survivors insurance program.

To be sure, old-age and survivors insurance freeze determinations made by us are also used in determining the amount of the so-called social-security minimum for a railroad annuity under section 3 (e) of the Railroad Retirement Act. This incidental use of old-age and survivors insurance benefit criteria and concepts in defining the minimum level of certain railroad annuities, however, cannot justify a proposal to have the Board make such determinations in its own right for “all purposes of the Social Security Act,” as the bill puts it, or for purposes of the financial interchange any more than the Board’s determination of other elements of the social-security minimum could properly govern our adjudications under the old-age and survivors insurance system. If the Railroad Retirement Board’s determinations were governing for purposes of the financial interchange, this Department would have no voice in determining the amounts which would be payable to the Railroad Retirement Account from the old-age and survivors insurance trust fund based on a disability freeze, even though the determination in question involves a basic provision of the old-age and survivors insurance law.

Moreover, since under this bill the Railroad Retirement Board (in making disability freeze determinations under sec. 216 (i) of the Social Security Act), would not be acting as the agent of this Department, it probably would not be bound by the regulations and standards established by this Department under section 216 (i) but could establish and follow its own regulations and standards. Misunderstanding on the part of the public would also be created by the provision that judicial review, though related to an old-age and survivors insurance matter, would be under the Railroad Retirement Act. It would seem to be most important, and in accordance with the elementary principle of equal application of the law to all, that all freeze determinations under section 216 (i) be made on a uniform basis under identical standards. To permit different standards to be applied would be discriminatory as between career railroad employees and all other persons who apply for disability freeze determinations.

The bill would “deem” an application for a railroad disability annuity—whether for an annuity based on total disability or on “occupational” disability—to be also a request for an old-age and survivors insurance freeze. We recognize that in certain cases (where

an individual applies to the Railroad Retirement Board for a disability annuity under that act) it would be of advantage both to the applicant and to the two programs to permit him to combine with that application a request for a disability determination under the old-age and survivors insurance program. However, this should be done in such a way as to assure that all old-age and survivors insurance freeze determinations would be made on a uniform basis under identical standards. One acceptable approach would be for the Railroad Retirement Board to make the old-age and survivors insurance disability determination in behalf of this Department under the same basic provisions that apply to the disability freeze determinations made by State agencies. If this approach were adopted, the Railroad Retirement Board, in making disability determinations for the purposes of section 216 (i) of the Social Security Act, would be acting as the agent of this Department, and the claimant, if dissatisfied with the determination, would have the same rights of administrative hearing and judicial review as in the case of disability determinations made by State agencies or by this Department.

Another disability freeze provision of the bill about which we have major reservations is one relating to section 222 of the Social Security Act. This section of the Social Security Act declares it to be the policy of the Congress that disabled individuals applying for a determination of disability for old-age and survivors insurance purposes should be promptly referred to the appropriate State agency for necessary vocational rehabilitation services. However, the bill specifies that a determination of disability by the Railroad Retirement Board shall be deemed to meet the conditions of section 222 of the Social Security Act. In practice, the likely result of this provision of the bill would be that individuals for whom the Railroad Retirement Board made a disability freeze determination would not be referred for necessary vocational rehabilitation services. To the extent that this result occurred the stated congressional policy would be defeated.

Another provision of H. R. 7166, unrelated to the disability freeze provisions of the bill, would have a direct effect on old-age and survivors insurance by providing that an individual would be insured for survivor benefit purposes under the railroad retirement program if he would be insured under the old-age and survivors insurance program deeming his railroad service after 1936 to be social security employment. This would result in the payment under the railroad retirement program of certain survivor benefits which under present law are payable under the old-age and survivors insurance program. (As you know, the railroad retirement and old-age and survivors insurance programs are so coordinated that the qualified survivors of a worker with credits under both programs receive benefits under one program or the other based on combined credits.) The apparent objective of this proposed amendment is to take account of the changes in the old-age and survivors insurance definitions of insured status which were made in connection with the various extensions of old-age and survivors insurance coverage made in 1950 and subsequently. This Department would not object to this provision of H. R. 7166.

The other amendments to the Railroad Retirement and Railroad Unemployment Insurance Acts which would be made by H. R. 7166—that is, amendments other than that just mentioned and those

related to the disability freeze—are of a technical and administrative nature. While we do not have a full understanding of the background and purpose of some of these amendments, we have not found features which we believe to be objectionable. We assume that the Railroad Retirement Board will furnish your committee with information concerning the detailed purpose of each of the provisions. As you know, the Railroad Retirement Board has indicated that the bill would not add significantly to the cost of the railroad retirement and unemployment insurance systems, and would result in a saving in administrative costs.

For the above mentioned reasons we strongly recommend against enactment of the bill unless the disability freeze provisions are modified as suggested above or are deleted from the bill.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

M. B. FOLSOM, *Secretary.*

TREASURY DEPARTMENT,
Washington, D. C., August 20, 1957.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in reference to your request for the Department's views on H. R. 7166 to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act.

H. R. 7166 is intended to facilitate and improve the administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act by effecting changes developed in light of the experience of the Railroad Retirement Board. This Department is concerned primarily with sections 201 (b), 204, and 205 of the bill which would provide for including the railroad unemployment insurance administrative fund in the unemployment trust fund. At the present time the unemployment trust fund is administered by the Treasury Department and the railroad unemployment insurance administrative fund is administered by the Railroad Retirement Board. If enacted in its present form, H. R. 7166 would result in the Railroad Retirement Board certifying vouchers against an account administered by the Treasury Department. This divided responsibility would not accord with sound administrative practice.

In the Department's view, the objective of the proposed legislation would be better achieved if section 204 (c) were amended to provide the Railroad Retirement Board with an account from which its administrative expenses could be paid. This could be accomplished by an amendment as follows:

Section 204 (c) section 904 (f) of the Social Security Act is amended by striking out all that follows the first sentence and by inserting the following:

"The Secretary of the Treasury is authorized and directed to make such payments as the Railroad Retirement Board may duly certify out of the fund from the railroad unemployment insurance account for the payment of benefits and refunds and out of the railroad unemployment insurance administration fund for the payment of adminis-

trative expenses, such payments, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment, to be made to separate expenditure accounts on the books of the Treasury to be administered by the Railroad Retirement Board for such purposes."

Subject to the proposed amendment, the Department would have no objection to the enactment of H. R. 7166. The Department, however, is not commenting on other aspects of the bill which are related to the programs of the Department of Health, Education, and Welfare.

The Director, Bureau of the Budget, has advised the Treasury Department that there is no objection to the presentation of this report.

Sincerely yours,

DAN THROOP SMITH,
Deputy to the Secretary.

CIVIL SERVICE COMMISSION,
Washington, D. C., July 26, 1957.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. HARRIS: This is in further reply to your inquiry of May 7, 1957, as to the Commission's views on H. R. 7166, a bill to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act.

H. R. 7166 proposes a number of changes in the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act, two of which relate to subjects of concern to the Commission:

1. Section 3, page 11, would amend the Railroad Retirement Act to permit the payment of the expenses, tuition, and salary of Board employees designated by the Board to attend training courses conducted by Government or non-Government institutions, not to exceed 240 class hours in any 1 calendar year for any 1 employee. Section 205 (b), page 16, would make the railroad unemployment insurance administration fund, as well as moneys appropriated to the Board, available for such training.

2. Section 3, page 12, amends the Railroad Retirement Act by authorizing the Board to place 4 positions in GS-16, 4 positions in GS-17, and 1 position in GS-18.

The Civil Service Commission recognizes the need for legislation authorizing the training of employees of the Railroad Retirement Board in facilities outside the Department. Because the need is governmentwide, we believe that general legislation, such as that proposed in S. 385, is much more preferable than special authority granted to separate agencies. If early and favorable action is not taken on general legislation, we would recommend congressional approval of the training authority proposed in H. R. 7166 for the Railroad Retirement Board.

Insofar as the authority for supergrade positions is concerned, the Commission believes that, whenever legislation authorities additional positions in grades GS-16, GS-17, and GS-18, such positions should be classified according to the standards and procedures of the Classi-

fication Act. We believe that this is important to secure uniformity of action and equity at these key levels. Accordingly, we suggest that section 3 (2) of H. R. 7166 be amended to include such a provision:

"For purposes of its administration of this Act or the Railroad Unemployment Insurance Act, or both, the Board may hereafter place, *subject to the standards and procedures prescribed by section 505 of the Classification Act of 1949, as amended*, four positions in grade GS-16, four positions in grade GS-17, and one position in grade GS-18 of the General Schedule established by that Act. Such positions shall be in addition to the number of positions authorized to be placed in such grades by section 505 of the Classification Act." [Recommended amendment italicized.]

With this amendment, the Commission has no objection to section 3 (2).

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

By direction of the Commission:

Sincerely yours,

HARRIS ELLSWORTH, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., July 31, 1957.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This will acknowledge your letter of May 6, 1957, requesting the views of the Bureau of the Budget with respect to H. R. 7166, a bill to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act.

The bill contains various technical amendments designed to facilitate and improve the administration of these acts. The Railroad Retirement Board is of the opinion that benefit costs would not be increased by any significant amount and administrative costs would be decreased. Accordingly, while we have no objection to these technical amendments, the Bureau of the Budget desires to bring to your attention its views on several substantive provisions which are included in this bill.

The railroad unemployment insurance administration fund which is not now included in the "unemployment trust fund" would be so included by the amendments. It is our view that this would create additional accounting operations for the Treasury Department without discernible advantages and would require the payment of interest on these administrative funds. Under present law, at the end of each year, funds in excess of \$6 million in the administration fund are transferred to the unemployment trust fund and thereafter draw interest. This is in line with the practice relating to other trust fund administration accounts and it is our view that no reason exists for according an exception in this instance. However, your committee may wish to consider, as an alternative, a lesser sum than \$6 million which would be used as the transfer point.

Another amendment would authorize the Railroad Retirement Board to make "disability freeze" determinations under the provisions

of the Social Security Act for individuals with 10 or more years of railroad service, including those without current connection with the industry. Determinations where service is less than 10 years would be made by the Department of Health, Education, and Welfare. It is the Bureau of the Budget view that such a provision may result in different standards of determination for career railroad employees as against other employees. Attention is also directed to the fact that benefit payments based upon the disability freeze, whether under the railroad or old-age and survivors insurance programs, will be borne by the social security trust fund. Accordingly, it is our belief that such determinations should be subject to a review by the Department of Health, Education, and Welfare. It also should be noted that, although present provisions require individuals applying for disability determinations be referred to State agencies for vocational rehabilitation, this bill would exempt individuals from such requirement when determination was made by the Railroad Retirement Board. These provisions relating to disability freeze determinations contain important ramifications upon the social security program. In his letter to your committee concerning this bill, the Secretary of Health, Education, and Welfare has raised several serious objections to the proposed amendments to the disability freeze provisions of the Social Security Act. The Bureau of the Budget believes that these objections have merit, and concurs with the Secretary in recommending objections have merit, and concurs with the Secretary in recommending strongly against the enactment of these provisions without modification.

While there is no objection to the provision of "supergrades," it is suggested that a standard provision be used, viz.

"For purposes of its administration of this Act or the Railroad Unemployment Insurance Act, or both, the Board may hereafter place, subject to the standards and procedures prescribed by section 505 of the Classification Act of 1949, as amended, four positions in grade GS-16, four positions in grade GS-17, and one position in grade GS-18 of the General Schedule established by that Act. Such positions shall be in addition to the number of positions authorized to be placed in such grades by section 505 of the Classification Act."

Sincerely yours,

ROBERT E. MERRIAM,
Assistant Director.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., August 14, 1957.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: On July 31, 1957, this office reported on H. R. 7166, a bill to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act.

In the third paragraph of our report we commented on provisions of the bill which, by including the railroad unemployment insurance administrative fund in the "unemployment trust fund," would have resulted in the payment of interest on these administrative funds.

Because in a similar situation with respect to administrative funds in the Department of Labor, also financed by the "unemployment trust fund," no interest would be paid, we indicated that "it is our view that no reason exists for according an exception" to the railroad account.

However, we have since been advised by Treasury that the procedure with respect to the Department of Labor has been changed and that it will be possible for these funds to draw interest until they are set aside and used for administrative expenses of the Department of Labor. Thus this part of H. R. 7166 would provide similar treatment to the railroad account. Accordingly, we request the third paragraph in our report be considered as amended to interpose no objection to the provisions of the bill which make this change affecting the railroad unemployment insurance administrative fund.

Sincerely yours,

ROBERT E. MERRIAM, *Assistant Director.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
SOCIAL SECURITY ADMINISTRATION,
August 1, 1958.

HON. ORAN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is to inform you that the Railroad Retirement Board and this Department have reached an agreement on a legislative question pending before your committee.

The question involves a provision in H. R. 7166, a bill which would make several technical and administrative amendments to the Railroad Retirement and Railroad Unemployment Insurance Acts. The provision in question would give the Railroad Retirement Board authority to make disability freeze determinations under the old-age, survivors, and disability insurance program for workers with 10 or more years of railroad employment. You will recall that the Secretary, in his report to your committee on this bill, dated July 25, 1957, expressed concern about the effect this provision might have on the old-age, survivors, and disability insurance program, and recommended against the enactment of the bill unless the disability freeze provisions were deleted, or modified as suggested in the report.

The Railroad Retirement Board has now agreed to one of the two alternative approaches suggested in our report on H. R. 7166. Under the approach agreed upon, the Board would make freeze determinations conclusive for the purposes of determining benefit payments under the railroad retirement program, while this Department would continue to make disability freeze determinations for all old-age, survivors, and disability insurance purposes, and for purposes of the financial interchange provisions.

If the disability freeze provisions of H. R. 7166 are modified so as to put this proposal into effect, this Department would have no objections to the enactment of H. R. 7166. The two agencies will develop legislative language to amend H. R. 7166 to put the proposal into effect, and the Railroad Retirement Board will submit this language to your committee.

Sincerely yours,

CHARLES I. SCHOTTLANN,
Commissioner.

RAILROAD RETIREMENT BOARD,
Chicago, Ill., July 30, 1958.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House Office Building, Washington, D. C.

DEAR MR. HARRIS: On July 24, 1958, my colleagues on the Railroad Retirement Board, Mr. Horace W. Harper, representing railroad labor, and Mr. Thomas M. Healy, representing railroad management, and I met with the Honorable Elliot L. Richardson, Assistant Secretary for Legislation, Department of Health, Education, and Welfare, and Mr. Charles I. Schottland, Commissioner, Social Security Administration, and, with individuals on the staffs of our respective organizations, discussed the "disability freeze" provisions of the bill H. R. 7166, to which the Department had objected. I am pleased to report that this discussion resulted in a compromise between the Department and our agency with respect to this provision, and it is our understanding that, if H. R. 7166 is amended to reflect such compromise the Department will interpose no objection to the passage of the bill.

Representatives of our respective organizations are working together on the detailed amendments to H. R. 7166 necessary to carry out our agreement and we hope to be in a position to forward the same to you in the next day or two.

A letter to the foregoing effect is also being sent to the Honorable Wayne Morse, chairman, Subcommittee on Railroad Retirement, Committee on Labor and Public Welfare, United States Senate, with respect to S. 2020, the Senate bill identical to H. R. 7166.

Sincerely yours,

HOWARD W. HABERMEYER,
Chairman.

RAILROAD RETIREMENT BOARD,
Chicago, Ill., August 1, 1958.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR MR. HARRIS: No doubt you have received by now a letter from the Department of Health, Education, and Welfare informing you that differences between the Department and the Board with regard to the provisions of the bill H. R. 7166 for making "disability freeze" determinations have been resolved. This resolution makes necessary certain changes in the bill as introduced. A statement of those changes and others which were suggested to the Subcommittee on Railroad Retirement of the Senate Committee on Labor and Public Welfare in my oral testimony at the hearings before the subcommittee, or in correspondence connected therewith, on S. 2020 (the Senate measure identical to H. R. 7166) is attached.

In view of the resolution of the differences mentioned, the sponsorship of the bill by both the Association of American Railroads and the Railway Labor Executives' Association, and the improvement and simplification in the administration of the Railroad Retirement and Railroad Unemployment Insurance Acts which the bill would produce, the Board would appreciate early consideration of H. R. 7166 with the amendments suggested in the attachment.

Sincerely yours,

HOWARD W. HABERMEYER, Chairman.

SUGGESTED AMENDMENTS TO H. R. 7166

Page 2, lines 1 and 2, strike out "and all purposes of title II of the Social Security Act"; lines 19 and 20, strike out in their entirety; line 21, strike out "further".

Page 3, line 3, change "1957" to "1958"; strike out "And provided" and substitute therefor: "Provided". Lines 11 through 19, strike out the entire sentence beginning with "For purposes of" and ending with "this paragraph", and substitute therefor: "An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a 'period of disability' under section 216 (i) of the Social Security Act."

Page 7, line 10, strike out "after" and substitute "beginning with".

Page 9, strike out lines 7 through 12 and redesignate subsection "(f)" as "(e)" in line 13.

Page 10, lines 1 to 4, strike out the language beginning with "where such determination" and ending with "Social Security Act"; line 5, change "(g)" to "(f)"; line 12, change "(h)" to "(g)"; line 19, change "(i)" to "(h)".

Page 11, line 3, change "(j)" to "(i)"; line 23, strike out the dash; line 24, strike out the entire line.

Page 12, strike out all of lines 1 through 7 and "(2)" in line 8.

Page 16, line 6, strike out "(a)" where it first appears; lines 15 through 21, strike out all material.

Page 17, lines 5 and 8, change "1957" to "1958".

After section 207 (c), add the following: "Part III—Amendments to the Social Security Act.

"SEC. 301. Section 202 (t) of the Social Security Act is amended by changing the period at the end of paragraph (4) thereof to a comma and inserting thereafter the word 'or' and the following:

'(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this Act pursuant to the provisions of section 5 (k) (1) of the Railroad Retirement Act.'

"SEC. 302. The amendments made by section 301 of this Act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956."

RAILROAD RETIREMENT BOARD,
Chicago, Ill., August 5, 1958.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR MR. HARRIS: Please refer to my letter to you of August 1, 1958, concerning the resolution of the difference between the Department of Health, Education, and Welfare and the Board with regard to the provisions of the bill H. R. 7166, for making "disability freeze" determinations. This resolution made necessary certain changes in the bill, which changes were set out in a statement attached to my

said letter. In this connection we find that the following additional changes are required:

Page 13, in line 4, substitute "(i)" for "(j)"; in line 7, substitute "(g)" for "(h)"; in line 8, substitute "(h)" for "(i)"; in line 15, substitute "section 1 (b)" for "sections 1 (b) and 2 (e)"; in line 24, substitute "(f)" for "(g)".

Page 14, in line 3, substitute "(e)" for "(f)".

Sincerely yours,

HOWARD W. HABERMEYER, *Chairman.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
SOCIAL SECURITY ADMINISTRATION,
Washington, D. C., August 1, 1958.

MR. MAURICE H. STANS,
Director, Bureau of the Budget,
Washington, D. C.

DEAR MR. STANS: This Department has received word from the Railroad Retirement Board that the Board has agreed to a compromise proposal on the handling of social security disability freeze determinations for workers with 10 or more years of railroad service. This agreement followed the July 24 meeting of the representative of your Bureau with representatives of this Department and with the members of the Railroad Retirement Board.

The proposal agreed to was an alternative to the railroad proposal that the Board be given authority to make social security disability freeze determinations, binding on this Department, for workers with 10 or more years of railroad service. The proposal agreed on was suggested by this Department as a possible compromise approach if agreement could not be reached on an alternative approach which the Department considered somewhat more desirable. Under the compromise proposal agreed to the Board would make freeze determinations conclusive only for the purposes of determining benefit payments under the railroad retirement program, while this Department would continue to make disability freeze determinations for all old-age, survivors, and disability insurance benefit purposes, and for purposes of the financial interchange provisions.

We are also sending letters to the congressional committees handling the legislation which would have given the Railroad Retirement Board authority to make freeze determinations binding on this Department. As you know, H. R. 7166 is pending in the House Interstate and Foreign Commerce Committee, and S. 2020 is in Subcommittee on Railroad Retirement of the Senate Labor and Public Welfare Committee. In the letters we are sending to the chairmen of these 2 committees, we are letting them know of the agreement with the Railroad Retirement Board, and telling them that the 2 agencies will develop legislative language to amend H. R. 7166 and S. 2020 to put the proposal into effect, and that the Railroad Retirement Board will submit this language to the committees handling this legislation.

Sincerely yours,

CHARLES I. SCHOTTLAND, *Commissioner.*

○

1 “For purposes of this subsection ~~and all purposes of~~
2 ~~title II of the Social Security Act,~~ the Board shall have
3 the same authority to determine a ‘period of disability’
4 within the meaning of section 216 (i) of the Social Security
5 Act, with respect to any employee who will have filed
6 application therefor and (i) have completed ten years of
7 service or (ii) have been awarded an annuity, as the Sec-
8 retary of Health, Education, and Welfare would have to
9 determine such a period under such section 216 (i) if the
10 employee met the requirements of clauses (A) and (B)
11 of paragraph (3) of such section, considering for purposes
12 of such determination that all his service as an employee
13 after 1936 constitutes ‘employment’ within the meaning
14 of title II of the Social Security Act and determining his
15 quarters of coverage for such purposes by presuming his
16 compensation in a calendar year to have been paid in equal
17 proportions with respect to all months in which he will
18 have been in service as an employee in such calendar year:
19 *Provided,* ~~That no such period of disability shall be deemed~~
20 ~~to have begun if the employee died before July 1, 1955:~~
21 *Provided further,* That an application for an annuity filed
22 with the Board on the basis of disability shall be deemed
23 to be an application to determine such a period of dis-
24 ability, and such an application filed with the Board on or
25 before the date of the enactment of this paragraph shall,

1 for purposes of this subsection and section 216 (i) (4)
2 of the Social Security Act, be deemed filed after December
3 1954 and before July ~~1957~~ 1958: *And provided* *Provided*
4 *further*, That, notwithstanding any other provision of law,
5 the Board shall have the authority to make such determina-
6 tion on the basis of the records in its possession or evidence
7 otherwise obtained by it, and a determination by the Board
8 with respect to any employee concerning such a 'period of
9 disability' shall be deemed a final decision of the Board
10 determining the rights of persons under this Act for purposes
11 of section 11 of this Act. ~~For purposes of section 5 (k)~~
12 ~~(2) of this Act, any determination by the Board of a period~~
13 ~~of disability for an employee shall be considered a determina-~~
14 ~~tion of such a period for such employee by the Secretary of~~
15 ~~Health, Education, and Welfare under section 216 (i) of~~
16 ~~the Social Security Act, and for such purposes section 222~~
17 ~~(b) of the Social Security Act shall not apply with respect~~
18 ~~to any individual whose period of disability is determined~~
19 ~~by the Board under this paragraph. An application filed~~
20 ~~with the Board pursuant to this paragraph shall be deemed~~
21 ~~filed as of the same date also with the Secretary of Health,~~
22 ~~Education, and Welfare for the purpose of determining a~~
23 ~~'period of disability' under section 216 (i) of the Social~~
24 ~~Security Act."~~

1 (c) Section 3 (f) of such Act is amended to read as
2 follows:

3 “(f) (1) Annuities under section 2 (a) which will have
4 become due an individual but will not have been paid at the
5 time of such individual’s death shall be payable to the person,
6 if any, who is determined by the Board to be such individual’s
7 widow or widower and to have been living with such indi-
8 vidual at the time of such individual’s death and who will
9 not have died before receiving payment of such annuities.
10 If there be no such widow or widower, such annuities shall
11 be payable to any person or persons, equitably entitled there-
12 to, to the extent and in the proportions that he or they shall
13 have paid the expenses of burial of such individual, and to
14 the extent that he or they will not have been reimbursed
15 under section 5 (f) (1) for having paid such expenses.
16 If there be no person or persons so entitled, or if the total
17 of such annuities exceeds the amount payable under this
18 paragraph to such person or persons, such total, or the re-
19 mainder thereof, as the case may be, shall be paid to the
20 children, grandchildren, parents, or brothers and sisters of the
21 deceased individual in the same manner as if such unpaid
22 annuities were a lump sum payable under section 5 (f) (2).
23 “(2) Insurance annuities under section 5 which will
24 have become due a survivor of an employee but will not have
25 been paid at the time of such survivor’s death shall be pay-

1 able to the person, ~~of~~ *if* any, who is determined by the Board
2 to be such employee's widow or widower and to have been
3 living with such employee at the time of the employee's
4 death and who will not have died before receiving payment
5 of such annuities. If there be no such widow or widower,
6 such annuities shall be payable to the children, grandchildren,
7 parents, or brothers and sisters of the deceased employee in
8 the same manner as if such unpaid annuities were a lump
9 sum payable under section 5 (f) (2).

10 “(3) Annuities under section 2 (e) which will have
11 become due a spouse of an individual but which will not
12 have been paid at the time of such spouse's death shall be
13 payable to the individual from whose employment such
14 spouse's annuity derived and who will not have died before
15 receiving payment of such annuities. If there be no such
16 individual, such annuities shall be paid as provided in the
17 last two sentences of paragraph (1) of this subsection as if
18 such annuities were annuities due under section 2 (a) to an
19 individual but unpaid at the time of such individual's death.

20 “(4) Applications for accrued and unpaid annuities
21 provided for in paragraphs (1), (2), and (3) of this sub-
22 section shall be filed prior to the expiration of two years
23 after the death of the person to whom such annuities were
24 originally due.

25 “(5) For the purposes of this subsection and paragraphs

1 (1) and (2) of section 5 (f) of this Act, a widow or
2 widower of an individual shall be deemed to have been living
3 with the individual at the time of the individual's death if
4 the applicable conditions set forth in section 216 (h) (2)
5 or (3) of the Social Security Act are fulfilled.

6 “(6) If there is no person to whom all or any part of
7 the annuity payments described in paragraph (1), (2), or
8 (3) can be made, such payments or part thereof shall escheat
9 to the credit of the Railroad Retirement Account.”

10 (d) Section 3 (h) of such Act is amended by striking
11 out “\$2.50” and inserting in lieu thereof “\$5”.

12 (e) Section 3 of such Act is further amended by adding
13 at the end thereof the following new subsection:

14 “(i) If the amount of any annuity computed under this
15 section, or under section 2 or section 5, is not a multiple
16 of \$0.10, it shall be raised to the next higher multiple of
17 \$0.10.”

18 SEC. 2. (a) Section 5 (f) (1) of the Railroad Retirement
19 Act of 1937 is amended—

20 (1) by striking out the first three sentences and
21 inserting in lieu thereof the following: “Upon the death,
22 after the month in which this Act is enacted, of a com-
23 pletely or partially insured employee who will have
24 died leaving no widow, widower, child, or parent who
25 would on proper application therefor be entitled to re-

1 ceive an annuity under this section for the month in
2 which such death occurred, a lump sum of ten times the
3 employee's basic amount shall be paid to the person, if
4 any, who is determined by the Board to be the widow
5 or widower of the deceased employee and to have been
6 living with such employee at the time of such employee's
7 death and who will not have died before receiving pay-
8 ment of such lump sum. If there be no such widow or
9 widower, such lump sum shall be paid to any person
10 or persons, equitably entitled thereto, to the extent and
11 in the proportions that he or they shall have paid the
12 expenses of burial of such deceased employee.";

13 (2) by striking out "widow, widower, child, or
14 parent" in the fourth sentence and inserting in lieu
15 thereof "widow or widower"; and

16 (3) by striking out all of the fourth sentence ~~after~~
17 *beginning with* "a payment to any then surviving widow"
18 and inserting in lieu thereof the following: "a payment
19 equal to the amount by which such lump sum exceeds
20 such annuities so accrued after such deductions shall then
21 nevertheless be made under this paragraph to the person
22 (or, if more than one, in equal shares to the persons)
23 first named in the following order of preference: the
24 widow, widower, child, or parent of the employee then
25 entitled to a survivor annuity under this section."

1 (b) Section 5 (f) (2) of such Act is amended by
2 striking out “to the person or persons in the order provided
3 in paragraph (1) of this subsection, or in the absence of
4 such person or persons, to his or her estate, a lump sum”
5 and by inserting in lieu thereof the following: “to the fol-
6 lowing person (or, if more than one, in equal shares to the
7 persons) whose relationship to the deceased employee will
8 have been determined by the Board and who will not have
9 died before receiving payment of the lump sum provided for
10 in this paragraph:

11 “(i) the widow or widower of the deceased em-
12 ployee who was living with such employee at the time
13 of such employee’s death; or

14 “(ii) if there be no such widow or widower, to any
15 child or children of such employee; or

16 “(iii) if there be no such widow, widower, or child,
17 to any grandchild or grandchildren of such employee;
18 or

19 “(iv) if there be no such widow, widower, child,
20 or grandchild, to any parent or parents of such em-
21 ployee; or

22 “(v) if there be no such widow, widower, child,
23 grandchild, or parent, to any brother or sister of such
24 employee; or

25 “(vi) if there be no such widow, widower, child,

1 grandchild, parent, brother, or sister, to the estate of
2 such employee,
3 a lump sum”.

4 (c) The first sentence of section 5 (h) of such Act is
5 amended by striking out “prior to” and inserting in lieu
6 thereof “after”.

7 (d) Section 5 (i) (3) of such Act is amended (1) by
8 inserting “and” after the semicolon in subparagraph (i);
9 (2) by striking out all of subparagraph (ii) after “title II
10 of the Social Security Act” and inserting in lieu thereof a
11 period; and (3) by striking out subparagraphs (iii) and
12 (iv).

13 ~~(e) Section 5 (k) (1) of such Act is amended by~~
14 ~~striking out “for the purposes of section 203 and 216 (i)~~
15 ~~(3) of that Act” and inserting in lieu thereof “for the~~
16 ~~purposes of section 203 and, with respect to an employee~~
17 ~~who will have completed less than ten years of service,~~
18 ~~section 216 (i) (3) of that Act”.~~

19 ~~(f) (e) Section 5 (k) (3) of such Act is amended—~~

20 (1) by inserting in the first sentence after “serv-
21 ice” the following: “, of determinations under section
22 3 (e) of this Act, or section 216 (i) of the Social
23 Security Act, of periods of disability within the meaning
24 of such section 216 (i),”;

1 (2) by inserting in the first sentence after “this
2 section” the following: “, section 3 (e) of this Act,”;
3 and

4 (3) by inserting in the second sentence after
5 “therein” the following: “(except in the case of a
6 determination of disability under section 216 (i) of the
7 Social Security Act where such determination would
8 otherwise result in a denial, or a decrease in the amount,
9 of monthly or lump-sum benefits under either the
10 Railroad Retirement Act or the Social Security Act)”.

11 ~~(g)~~ (f) Section 5 (1) (6) of such Act is amended by
12 striking out the parenthetical phrases in the first and second
13 sentences and by inserting at the end thereof the following
14 sentence: “Wages, as defined in this paragraph, shall be
15 credited for the purposes of this section in the manner and
16 to the extent credited for corresponding purposes of title
17 II of the Social Security Act.”

18 ~~(h)~~ (g) Section 5 (1) (7) (ii) of such Act is amended
19 by striking out “forty or more quarters of coverage” and in-
20 serting in lieu thereof the following: “either will have had
21 forty or more quarters of coverage or would be fully insured
22 under title II of the Social Security Act if his service as an
23 employee after December 31, 1936, were included in the
24 term ‘employment’ as defined in that Act”.

25 ~~(i)~~ (h) Section 5 (1) (8) of such Act is amended (1)

1 by striking out “will have had (i)” and inserting in lieu
2 thereof “(i) will have had”, (2) by inserting “either will have
3 had” after “(ii)”, and (3) by inserting before the final period
4 a comma and the following: “or would be currently insured
5 under title II of the Social Security Act if his service as an
6 employee after December 31, 1936, were included in the
7 term ‘employment’ as defined in that Act”.

8 ~~(j)~~ (i) Section 5 (1) (9) of such Act is amended—

9 (1) by striking out “quarter in which he will have
10 died” each place it appears in clauses (A) and (B)
11 and by inserting in lieu thereof “employee’s closing
12 date”;

13 (2) by striking out the last proviso; and

14 (3) by inserting after the first sentence the follow-
15 ing new sentence: “An employee’s ‘closing date’ shall
16 mean (A) the first day of the first calendar year in
17 which such employee both had attained age 65 and was
18 completely insured; or (B) the first day of the calendar
19 year in which such employee died; or (C) the first day
20 of the calendar year following the year in which such
21 employee died, whichever would produce the highest
22 ‘average monthly remuneration’ as defined in the pre-
23 ceding sentence. If the amount of the ‘average monthly
24 remuneration’ as computed under this paragraph is not

1 a multiple of \$1, it shall be rounded to the next lower
2 multiple of \$1”.

3 SEC. 3. Section 10 (b) 4 of the Railroad Retirement
4 Act of 1937 is amended— *amended*

5 ~~(1)~~ by inserting before the period at the end of the
6 first sentence a comma and the following: “including ex-
7 penses, tuition, and salaries of employees of the Board
8 who are designated by the Board to attend courses of
9 instruction or training at institutions (whether or not
10 such courses are conducted by the United States), not
11 exceeding 240 class hours in any one calendar year for
12 any one such employee.”; and

13 ~~(2)~~ by inserting after the third sentence the
14 following new sentence: “For purposes of its admin-
15 istration of this Act or the Railroad Unemployment
16 Insurance Act, or both, the Board may hereafter place,
17 without regard to the numerical limitations contained
18 in section 505 of the Classification Act of 1949, as
19 amended, four positions in grade GS-16 of the General
20 Schedule established by that Act, four positions in
21 grade GS-17 of such Schedule, and one position in
22 grade GS-18 of such Schedule.

23 SEC. 4. Section 13 of the Railroad Retirement Act of
24 1937 is amended (1) by inserting “(a)” after “SEC. 13.”;
25 (2) by inserting “, or both” before the final period, and

1 (3) by adding at the end thereof the following new subsec-
2 tion:

3 “(b) All fines and penalties imposed by a court pur-
4 suant to this Act shall be paid to the court and be remitted
5 from time to time by order of the judge to the Treasury of
6 the United States to be credited to the Railroad Retirement
7 Account.”

8 SEC. 5. (a) The amendments made by sections 1 (a),
9 1 (d), 1 (e), and 2 ~~(j)~~ (i) shall be effective with respect
10 to annuities awarded under the Railroad Retirement Act
11 of 1937 on or after the date of the enactment of this Act.

12 (b) The amendments made by sections 2 ~~(h)~~ (g) and 2
13 ~~(i)~~ (h) shall be effective (1) with respect to deaths occurring
14 on or after the date of the enactment of this Act and (2)
15 with respect to any death occurring before such date if
16 none of the survivors of the deceased individual became
17 entitled before such date to monthly benefits, by reason of
18 the individual's death, under title II of the Social Security
19 Act.

20 (c) The amendments made by sections 1 ~~(b)~~ and 2 ~~(e)~~
21 section 1 (b) shall be effective with respect to determinations
22 of periods of disability, within the meaning of section 216 (i)
23 of the Social Security Act, made on or after the date of the
24 enactment of this Act.

25 (d) The amendments made by sections 1 (c), 2 (a),

1 and 2 (b) shall be effective with respect to deaths occurring
2 in months after the month in which this Act is enacted.

3 (e) The amendments made by sections 2 (c), 2 (d),
4 and 2 ~~(g)~~ (f) shall be effective with respect to annuities ac-
5 cruing for months after the month in which this Act is
6 enacted.

7 (f) The amendments made by sections 2 ~~(f)~~ (e) and 3
8 shall be effective on the date of the enactment of this Act.

9 (g) The amendment made by clause (3) of section 4
10 shall be effective with respect to offenses committed on or
11 after the date of the enactment of this Act; and the other
12 amendments made by section 4 shall be effective with respect
13 to fines and penalties imposed on or after such date.

14 PART II—AMENDMENTS TO THE RAILROAD UNEMPLOY-
15 MENT INSURANCE ACT

16 SEC. 201. (a) (1) The second proviso in section 1
17 (k) of the Railroad Unemployment Insurance Act is
18 amended by striking out “second” and inserting in lieu
19 thereof “first”, and by striking out “first” and inserting in
20 lieu thereof “second”.

21 (2) The second paragraph of such section 1 (k) is
22 amended by striking out “one dollar” and inserting in lieu
23 thereof “three dollars”.

1 (b) Section 1 (q) of such Act is amended by insert-
2 ing before the period at the end thereof the following: “in
3 the unemployment trust fund”.

4 SEC. 202. Section 4 (a-1) (ii) of the Railroad Un-
5 employment Insurance Act is amended by striking out all
6 that follows “sickness compensation law” and precedes the
7 first proviso and by inserting in lieu thereof the following:
8 “other than this Act, or any other social-insurance payments
9 under any law”.

10 SEC. 203. Section 8 (a) of the Railroad Unemploy-
11 ment Insurance Act is amended by inserting before the
12 period at the end thereof a semicolon and the following:
13 “and in determining such balance as of September 30 of any
14 year, the balance to the credit of the railroad unemployment
15 insurance administration fund as of the close of business on
16 such date shall be deemed to be a part of the balance to the
17 credit of such account”.

18 SEC. 204. (a) Section 904 (a) of the Social Security
19 Act is amended by inserting after “the railroad unemploy-
20 ment insurance account” the following: “or the railroad
21 unemployment insurance administration fund”.

22 (b) Section 904 (e) of the Social Security Act is
23 amended by striking out “and the railroad unemployment

1 insurance account” and inserting in lieu thereof the follow-
2 ing: “, the railroad unemployment insurance account, and
3 the railroad unemployment insurance administration fund”.

4 (c) Section 904 (f) of the Social Security Act is
5 amended by striking out “fund as the Railroad Retirement
6 Board” and all that follows and by inserting in lieu thereof
7 the following: “railroad unemployment insurance account for
8 the payment of benefits, and out of the railroad unemploy-
9 ment insurance administration fund for the payment of ad-
10 ministrative expenses, as the Railroad Retirement Board may
11 duly certify, not exceeding the amount standing to the credit
12 of such account or such fund, as the case may be, at the time
13 of such payment.”

14 SEC. 205. ~~(a)~~ Section 11 (a) of the Railroad Un-
15 employment Insurance Act is amended by striking out the
16 first sentence and the first two words of the second sentence,
17 and by inserting in lieu thereof the following: “The Secretary
18 of the Treasury shall maintain in the unemployment trust
19 fund established pursuant to section 904 of the Social
20 Security Act an account to be known as the railroad un-
21 employment insurance administration fund. This unemploy-
22 ment insurance administration fund”.

23 ~~(b)~~ Section 11 ~~(c)~~ of such Act is amended by inserting
24 after “when authorized by the Board” the following: “and

1 expenses, tuition, and salaries of employees designated by the
2 Board to attend courses of instruction or training at institu-
3 tions ~~(whether or not such courses are conducted by the~~
4 ~~United States)~~, not exceeding two hundred and forty class
5 hours in any one calendar year for any one such employee”.

6 SEC. 206. The second paragraph of section 12 (1) of the
7 Railroad Unemployment Insurance Act is amended by strik-
8 ing out “Classification Act of 1923, except that the Board
9 may fix the salary of a Director of Unemployment Insurance
10 at \$10,000 per annum” and inserting in lieu thereof the
11 following: “Classification Act of 1949, as amended”.

12 SEC. 207. (a) The amendments made by section 201
13 (a) shall be effective with respect to registration periods in
14 benefit years after the benefit year ending on June 30, ~~1957~~
15 *1958*.

16 (b) The amendments made by section 202 shall be ef-
17 fective with respect to days in benefit years after the benefit
18 year ending on June 30, ~~1957~~ *1958*.

19 (c) The remaining amendments made by this part shall
20 be effective, except as otherwise indicated therein, on the
21 date of the enactment of this Act.

22 *PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT*

23 SEC. 301. Section 202 (t) of the Social Security Act is
24 amended by changing the period at the end of paragraph (4)

1 *thereof to a comma and inserting thereafter the word "or"*
2 *and the following:*

3 *"(E) the individual on whose employment such bene-*
4 *fit is based had been in service covered by the Railroad*
5 *Retirement Act which was treated as employment covered*
6 *by this Act pursuant to the provisions of section 5 (k)*
7 *(1) of the Railroad Retirement Act."*

8 *SEC. 302. The amendments made by section 301 of this*
9 *Act shall apply with respect to monthly benefits under section*
10 *202 of the Social Security Act for months after December*
11 *1956, and with respect to lump-sum death payments under*
12 *such section 202 in the case of deaths occurring after De-*
13 *cember 1956.*

Amend the title so as to read: "A bill to amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Social Security Act."

Union Calendar No. 1107

85TH CONGRESS
2^D SESSION

H. R. 7166

[Report No. 2641]

A BILL

To amend the Railroad Retirement Act of 1937
and the Railroad Unemployment Insurance
Act.

By Mr. HARRIS

MAY 2, 1957

Referred to the Committee on Interstate and Foreign
Commerce

AUGUST 15, 1958

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

Health, Education, and Welfare would have to determine such a period under such section 216 (1) if the employee met the requirements of clauses (A) and (B) of paragraph (3) of such section, considering for purposes of such determination that all his service as an employee after 1936 constitutes 'employment' within the meaning of title II of the Social Security Act and determining his quarters of coverage for such purposes by presuming his compensation in a calendar year to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year: *Provided*, That an application for an annuity filed with the Board on the basis of disability shall be deemed to be an application to determine such a period of disability, and such an application filed with the Board on or before the date of the enactment of this paragraph shall, for purposes of this subsection and section 216 (1) (4) of the Social Security Act, be deemed filed after December 1954 and before July 1958: *Provided further*, That, notwithstanding any other provision of law, the Board shall have the authority to make such determination on the basis of the records in its possession or evidence otherwise obtained by it, and a determination by the Board with respect to any employee concerning such a 'period of disability' shall be deemed a final decision of the Board determining the rights of persons under this act for purposes of section 11 of this act. An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a 'period of disability' under section 216 (1) of the Social Security Act."

(c) Section 3 (f) of such act is amended to read as follows:

"(f) (1) Annuities under section 2 (a) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under section 5 (f) (1) for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such persons or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).

"(2) Insurance annuities under section 5 which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).

"(3) Annuities under section 2 (e) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be

TECHNICAL AMENDMENTS TO RAILROAD RETIREMENT ACT

Mr. HARRIS. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 7166) to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act.

The Clerk read as follows:

PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

SECTION 1. (a) Section 3 (c) of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new sentence: "If the 'monthly compensation' computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1."

(b) Section 3 (e) of such act is amended by inserting at the end thereof the following new paragraph:

"For purposes of this subsection the Board shall have the same authority to determine a 'period of disability' within the meaning of section 216 (1) of the Social Security Act, with respect to any employee who will have filed application therefor and (1) have completed 10 years of service or (2) have been awarded an annuity, as the Secretary of

payable to the individual from whose employment such spouse's annuity derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of paragraph (1) of this subsection as if such annuities were annuities due under section 2 (a) to an individual but unpaid at the time of such individual's death.

"(4) Applications for accrued and unpaid annuities provided for in paragraphs (1), (2), and (3) of this subsection shall be filed prior to the expiration of 2 years after the death of the person to whom such annuities were originally due.

"(5) For the purposes of this subsection and paragraphs (1) and (2) of section 5 (f) of this act, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216 (h) (2) or (3) of the Social Security Act are fulfilled.

"(6) If there is no person to whom all or any part of the annuity payments described in paragraph (1), (2), or (3) can be made, such payments or part thereof shall escheat to the credit of the railroad retirement account."

(d) Section 3 (h) of such act is amended by striking out "\$2.50" and inserting in lieu thereof "\$5."

(e) Section 3 of such act is further amended by adding at the end thereof the following new subsection:

"(1) If the amount of any annuity computed under this section, or under section 2 or section 5, is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10."

Sec. 2. (a) Section 5 (f) (1) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out the first three sentences and inserting in lieu thereof the following: "Upon the death, after the month in which this act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of 10 times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such deceased employee.";

(2) by striking out "widow, widower, child, or parent" in the fourth sentence and inserting in lieu thereof "widow or widower"; and

(3) by striking out all of the fourth sentence beginning with "a payment to any then surviving widow" and inserting in lieu thereof the following: "a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section."

(b) Section 5 (f) (2) of such act is amended by striking out "to the person or persons in the order provided in paragraph (1) of this subsection, or in the absence of such person or persons, to his or her estate, a lump sum" and by inserting in lieu thereof the following: "to the following person (or, if more than one, in equal shares to the per-

sons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

"(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

"(ii) if there be no such widow or widower, to any child or children of such employee; or

"(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

"(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

"(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

"(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee,

a lump sum."

(c) The first sentence of section 5 (h) of such act is amended by striking out "prior to" and inserting in lieu thereof "after."

(d) Section 5 (i) (3) of such act is amended (1) by inserting "and" after the semicolon in subparagraph (1); (2) by striking out all of subparagraph (ii) after "title II of the Social Security Act" and inserting in lieu thereof a period; and (3) by striking out subparagraphs (iii) and (iv).

(e) Section 5 (k) (3) of such act is amended—

(1) by inserting in the first sentence after "service" the following: ", of determinations under section 3 (e) of this act, or section 216 (1) of the Social Security Act, of periods of disability within the meaning of such section 216 (1).";

(2) by inserting in the first sentence after "this section" the following: ", section 3 (e) of this act."; and

(3) by inserting in the second sentence after "therein" the following: "(except in the case of a determination of disability under section 216 (1) of the Social Security Act."

(f) Section 5 (l) (6) of such act is amended by striking out the parenthetical phrases in the first and second sentences and by inserting at the end thereof the following sentence: "Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act."

(g) Section 5 (l) (7) (ii) of such act is amended by striking out "40 or more quarters of coverage" and inserting in lieu thereof the following: "either will have had 40 or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that act."

(h) Section 5 (l) (8) of such act is amended (1) by striking out "will have had (1)" and inserting in lieu thereof "(1) will have had"; (2) by inserting "either will have had" after "(1)", and (3) by inserting before the final period a comma and the following: "or would be currently insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that act."

(i) Section 5 (l) (9) of such act is amended—

(1) by striking out "quarter in which he will have died" each place it appears in clauses (A) and (B) and by inserting in lieu thereof "employee's closing date";

(2) by striking out the last proviso; and

(3) by inserting after the first sentence the following new sentence: "An employee's 'closing date' shall mean (A) the first day

of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest 'average monthly remuneration' as defined in the preceding sentence. If the amount of the 'average monthly remuneration' as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1."

Sec. 3. Section 10 (b) 4 of the Railroad Retirement Act of 1937 is amended by inserting after the third sentence the following new sentence: "For purposes of its administration of this act or the Railroad Unemployment Insurance Act, or both, the Board may hereafter place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, 4 positions in grade GS-16 of the general schedule established by that act, 4 positions in grade GS-17 of such schedule, and 1 position in grade GS-18 of such schedule."

Sec. 4. Section 13 of the Railroad Retirement Act of 1937 is amended (1) by inserting "(a)" after "Sec. 13."; (2) by inserting ", or both" before the final period, and (3) by adding at the end thereof the following new subsection:

"(b) All fines and penalties imposed by a court pursuant to this act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account."

Sec. 5. (a) The amendments made by sections 1 (a), 1 (d), 1 (e), and 2 (1) shall be effective with respect to annuities awarded under the Railroad Retirement Act of 1937 on or after the date of the enactment of this act.

(b) The amendments made by sections 2 (g) and 2 (h) shall be effective (1) with respect to deaths occurring on or after the date of the enactment of this act and (2) with respect to any death occurring before such date if none of the survivors of the deceased individual became entitled before such date to monthly benefits, by reason of the individual's death, under title II of the Social Security Act.

(c) The amendments made by section 1 (b) shall be effective with respect to determinations of periods of disability, within the meaning of section 216 (1) of the Social Security Act, made on or after the date of the enactment of this act.

(d) The amendments made by sections 1 (c), 2 (a), and 2 (b) shall be effective with respect to deaths occurring in months after the month in which this act is enacted.

(e) The amendments made by sections 2 (c), 2 (d), and 2 (f) shall be effective with respect to annuities accruing for months after the month in which this act is enacted.

(f) The amendments made by sections 2 (e) and 3 shall be effective on the date of the enactment of this act.

(g) The amendment made by clause (3) of section 4 shall be effective with respect to offenses committed on or after the date of the enactment of this act; and the other amendments made by section 4 shall be effective with respect to fines and penalties imposed on or after such date.

PART II—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Sec. 201. (a) (1) The second proviso in section 1 (k) of the Railroad Unemployment Insurance Act is amended by striking out "second" and inserting in lieu thereof "first", and by striking out "first" and inserting in lieu thereof "second."

(2) The second paragraph of such section 1 (k) is amended by striking out "one dollar" and inserting in lieu thereof "three dollars."

(b) Section 1 (q) of such act is amended by inserting before the period at the end thereof the following: "in the unemployment trust fund."

Sec. 202. Section 4 (a-1) (11) of the Railroad Unemployment Insurance Act is amended by striking out all that follows "sickness compensation law" and precedes the first proviso and by inserting in lieu thereof the following: "other than this act, or any other social-insurance payments under any law."

Sec. 203. Section 8 (a) of the Railroad Unemployment Insurance Act is amended by inserting before the period at the end thereof a semicolon and the following: "and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account."

Sec. 204. (a) Section 904 (a) of the Social Security Act is amended by inserting after "the railroad unemployment insurance account" the following: "or the railroad unemployment insurance administration fund."

(b) Section 904 (e) of the Social Security Act is amended by striking out "and the railroad unemployment insurance account" and inserting in lieu thereof the following: "the railroad unemployment insurance account, and the railroad unemployment insurance administration fund".

(c) Section 904 (f) of the Social Security Act is amended by striking out "fund as the Railroad Retirement Board" and all that follows and by inserting in lieu thereof the following: "railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment."

Sec. 205. Section 11 (a) of the Railroad Unemployment Insurance Act is amended by striking out the first sentence and the first two words of the second sentence, and by inserting in lieu thereof the following: "The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund".

Sec. 206. The second paragraph of section 12 (1) of the Railroad Unemployment Insurance Act is amended by striking out "Classification Act of 1923, except that the Board may fix the salary of a Director of Unemployment Insurance at \$10,000 per annum" and inserting in lieu thereof the following: "Classification Act of 1949, as amended."

Sec. 207. (a) The amendments made by section 201 (a) shall be effective with respect to registration periods in benefit years after the benefit year ending on June 30, 1958.

(b) The amendments made by section 202 shall be effective with respect to days in benefit years after the benefit year ending on June 30, 1958.

(c) The remaining amendments made by this part shall be effective, except as otherwise indicated therein, on the date of the enactment of this act.

PART III—AMENDMENTS TO THE SOCIAL-SECURITY ACT

Sec. 301. Section 202 (t) of the Social Security Act is amended by changing the period at the end of paragraph (4) thereof to a comma and inserting thereafter the word "or" and the following:

"(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act

which was treated as employment covered by this act pursuant to the provisions of section 5 (k) (1) of the Railroad Retirement Act."

Sec. 302. The amendments made by section 301 of this act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956.

Amend the title so as to read: "A bill to amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Social Security Act."

The SPEAKER. Is a second demanded?

Mr. O'HARA of Minnesota. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MORANO. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MORANO. I just heard it said that no further effort can be made to bring up the railroad retirement bill. As I understand, that bill, reported from the House Committee on Interstate and Foreign Commerce, is on the calendar. After we pass a resolution in both Houses to adjourn sine die, can we then bring that bill up under suspension?

The SPEAKER. That would be a matter in the discretion of the Chair.

Mr. HARRIS. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, the amendments proposed by the bill (H. R. 7166) are technical and are designed principally to simplify and improve administration of the Railroad Retirement and Railroad Unemployment Insurance Acts. They would also correct certain inequities and anomalies, eliminate references to obsolete laws, and insure that the provisions conform with comparable provisions in the Social Security Act. This latter change is especially important because of the provision in the Railroad Retirement Act guaranteeing that monthly benefits shall not be less than would be payable under the Social Security Act.

This bill would not affect the cost of benefits under the systems in any significant amount. Actually, through the simplification and improvement of operations, administrative costs would be lowered.

EXPLANATION OF BILL

I. AMENDMENTS TO THE RAILROAD RETIREMENT ACT

Part I of the bill would amend the Railroad Retirement Act by making the following changes:

First. Computation of the monthly compensation, average monthly remuneration, and the amounts of retirement and survivor annuities would be simplified—sections 1 (a), 1 (e), and 2 (d).

Second. Payments of small annuities in the form of commuted lump sums would be made on the same basis for retirement as for survivor annuities—section 1 (d).

Third. Calculation of the average monthly remuneration would be simplified by using closing dates consistent

with those provided in the Social Security Act—section 2 (i).

Fourth. The provision for maximum family benefits to survivors would be applied to the benefits remaining after work deductions have been made as in the Social Security Act—section 2 (c).

Fifth. The provision for deductions from benefits of lump-sum payments under the 1935 Social Security Act and of certain unpaid taxes would be eliminated—section 2 (d).

Sixth. The provision for crediting wages and self-employment income toward survivor benefits would be made consistent with the present language of the Social Security Act—section 2 (f).

Seventh. An employee insured under the Railroad Retirement Act would have an insured status no less favorable than under the Social Security Act—sections 2 (g) and 2 (h).

Eighth. The Board would have the authority to make disability-freeze determinations for career railroad employees with 10 or more years of service—sections 1 (b), 2 (e) (1), 2 (e) (2), and 2 (e) (3).

Ninth. Changes would be made in the order of payment of annuities to retired employees, spouses, and survivors which are due but unpaid at death—section 1 (c).

Tenth. Changes would be made in the order of payment of insurance lump-sum and residual payments—sections 2 (a) and 2 (b).

Eleventh. The penalties for false or fraudulent reports to the Board would be made consistent with similar provisions under the Railroad Unemployment Insurance Act and would be deposited in the railroad retirement account—section 4.

Twelfth. The Board would be authorized to establish nine positions in grades GS-16 to GS-18—section 3.

A brief explanation of these matters follows:

First. Simplification of computations: The method of computing benefits would be simplified by rounding to the next lower multiple of \$1 the monthly compensation used in the computation of retirement benefits and the average monthly remuneration used in the computation of survivors insurance benefits. The amount of a retirement or survivor annuity which is not a multiple of \$0.10 would be raised to the next higher multiple of \$0.10. These changes would greatly simplify the calculations of the averages of earnings on which amounts of benefits are based. They would also make possible the preparation of relatively simple annuity tables based on the averages and other figures, thus eliminating the actual computation of annuities in hundreds of thousands of future benefit claims, and thereby speeding up their handling. The amendments would have a trivial effect on the amounts of annuities, either individually or in the aggregate, since the reduction of the monthly compensation and average monthly remuneration to the next lower multiple of \$1 would be made up, substantially, by raising the retirement or survivor annuity to the next higher multiple of \$0.10.

Second. Lump-sum payments of small retirement annuities: Under present law, a retirement annuity must be less than \$2.50 before it may be paid in a single sum equal to its commuted value. However, a survivor annuity of up to \$5 may be commuted. Under the bill, the same limit—\$5—would apply in the commutation for both the retirement and survivor annuities. Actually, the provision would have little application, since only in extremely special cases would annuities in such small amounts be payable.

Third. Closing dates: Under present law, the closing date (that is, the date after which earnings are not counted) in the calculation of average monthly remuneration is the first day of the calendar quarter in which the employee died or in which he reached age 65 and was completely insured. Under this bill, the closing date would always be the first day of the calendar year as under the Social Security Act. Conformity with the provisions of the Social Security Act would substantially simplify the computation of survivor benefits under the regular railroad formulas.

Fourth. Application of maximum survivor benefit provision after work deductions: Under the Railroad Retirement Act, the maximum survivor benefit provision is now applied before making deductions under the work clause. Under the Social Security Act, the family maximum is applied after the application of work-clause deductions. This change would create consistency with the Social Security Act and would also simplify application of the maximum provisions. At present, the social security minimum guaranty provision sometimes applies only because of this lack of consistency. The provision for calculating the minimum survivor annuity before making work deductions would not be affected. The principal effect of this change, therefore, would be to improve administration of the survivor benefit provisions by eliminating the confusion resulting from the conflicting treatment of work deductions in maximum benefit cases.

Fifth. Deductions from benefits of lump-sum payments and unpaid taxes: The bill would eliminate present provisions of the act which require deductions from monthly annuities of certain obsolete types of payments, such as lump-sum payments under the Social Security Act and of unpaid taxes for 1939 of employees over age 65. This change would agree with similar amendments in the Social Security Act, which were made because little or no basis for such deductions existed.

Sixth. Crediting of wages and self-employment income: The provisions for crediting social-security wages and self-employment income in the computation of railroad survivor benefits would be made consistent with the corresponding provisions of the Social Security Act as amended in 1954 by the removal of language made unnecessary as a result of such amendments.

Seventh. Insured status of employees: Under present law, there are some employees who are only partially insured at death under the Railroad Retirement Act but who, by reason of the new start

provisions of the Social Security Act, would have died fully insured if their employment had been covered by that act. The amendment would provide for such employees to have a completely insured status under the Railroad Retirement Act, which is comparable to a fully insured status under the Social Security Act. This provision would be important, for practical purposes, only for employees whose total railroad service does not include at least 10 years of such service after 1936.

Eighth. Disability freeze determinations: The bill would transfer to the Railroad Retirement Board the authority to make "disability freeze" determinations under the Social Security Act with respect to career railroad workers, whose benefits or whose survivor's benefits under the Railroad Retirement Act might be affected by such a determination under the "overall social-security minimum" provision of the Railroad Retirement Act. This change would rectify the condition whereby the Social Security Administration was given the exclusive authority to make "freeze" determinations in the Social Security Amendments of 1954 with respect to career railroad workers whose rights to benefits otherwise were exclusively within the jurisdiction of the Railroad Retirement Board. This provision would, accordingly, avoid undesirable conflict on questions of jurisdiction and adjudication and further the general purpose of the bill to effect more efficient, quicker, and cheaper administration.

The condition to be corrected by the bill arose from the inclusion of the provision in the Social Security Amendments of 1954 (providing for these determinations of "freeze periods") to amend section 5 (k) (1) of the Railroad Retirement Act so as to give the Social Security Administration the right to use railroad service as employment qualifying a person for a "freeze period" and giving exclusive jurisdiction over the determination of such a period to the Social Security Administration. These provisions would be modified by the bill to permit the Railroad Retirement Board, as well as the Social Security Administration, when railroad service is used as qualifying a person for a "disability freeze" determination, to make the determination in the career railroadman's case, that is, in cases in which the railroadman had full 10 years' service before becoming disabled and possibly qualifying for the "freeze."

The career railroad employee with 10 years of railroad service who is totally and permanently disabled for all employment and would be qualified for a "period of disability" or the "freeze," would always, regardless of his age, be eligible also for a full disability annuity under the Railroad Retirement Act because the statutory definitions of the qualifying disability for both purposes are identical as a practical matter. The bill, consequently, would give the Railroad Retirement Board the same authority as the Secretary of Health, Education, and Welfare would otherwise have to make determinations as to a "period of disability" for the men with 10 years' railroad service. This determination would not be

conclusive, under the bill, on the Social Security Administration, but for all practical purposes it would have no effect on employee benefits under the Social Security Act at any time unless the employee had already acquired sufficient service subject to that act to qualify him for benefits thereunder. The bill would not affect the jurisdiction of the Social Security Administration to make the "disability determination" for the employee, however, even though he had 10 or more years of railroad service, and even though he had already obtained the determination from the Railroad Retirement Board.

The essence of this disability freeze provision is to give the board the same authority as the Social Security Administration has to make determinations in these cases. The effect, insofar as the railroad retirement system is concerned, would be in the application of the so-called overall social security minimum provision of the Railroad Retirement Act under which benefits payable to an employee and his family cannot be less than the benefits or additional benefits that would be payable under the Social Security Act if his railroad service after 1936 were employment subject to the Social Security Act. The effect would be principally on the benefits to the survivors of railroad employees because survivor benefits are generally payable under the so-called social-security minimum, whereas the employee's own benefit, and that of his spouse, usually are not. As indicated, the only employees who would be affected by this change are career railroad employees, most of whom would have no service under the social security system and, therefore, no relationship whatever with that system. The determinations made by the board would be made at the time of the application of these career railroadmen for disability benefits under the Railroad Retirement Act. The Railroad Retirement Board would have all relevant evidence as to the condition of the employee as of the pertinent time, acquired for purposes of the application to the board for a disability annuity under the railroad retirement system. And since the bill would provide also that the application of such employee to the Railroad Retirement Board for the freeze would be regarded as filed with the Social Security Administration as of the same date, the employee would be spared the burden and effort of filing another application. The disability freeze provisions of the bill would add to efficiency and economy of administration, and would promote the interests of the disabled worker and his family without at the same time adversely affecting the jurisdictional authority of either agency concerned.

Ninth. Annuities due but unpaid at death: The bill attempts to simplify the treatment of annuities due but unpaid at death of the beneficiary by modifying the order of precedence in which survivors may receive them. A retirement annuity which is due but unpaid at death would be paid to the employee's widow (or widower) if she was living with the employee at the time of his death. If there were no such surviving widow (or widower) the payment would be made,

on a prorata basis, to the persons who paid the employee's burial expenses. Any excess over the amount of the burial expenses would be paid to children, grandchildren, parents, or brothers and sisters of the deceased employee, in the order named.

Payment of accrued survivor annuities would be paid in the same order as for accrued retirement annuities. However, no payments would be paid to persons who paid the burial expenses of the employee because of the difficulty of establishing the facts concerning payment of such expenses of an employee who had been dead for some time. Thus, the order of payment of accrued survivor annuities would be widow, widower, children, grandchildren, parents, and brothers and sisters.

Accrued annuities due a deceased spouse would be paid, first, to the employee himself, and next in the order specified for accrued retirement annuities.

Tenth. Insurance and residual lump-sum benefits: Payment of the regular insurance lump-sum benefit would be limited to the employee's widow (or widower) who has been living with the employee at the time of his death and who will not have died before receiving such lump sum, or to persons who paid the employee's burial expenses. No one else could receive the regular insurance lump sum. This change would eliminate payment of many small amounts to other relatives of the deceased employee (i. e., adult children, nondependent parents, etc.) which would generally become part of the residual benefit. The deferred insurance lump sum would still be paid to the widow or widower, child or parent of the employee; this payment is made when survivor annuities in the year following the death of the employee are less than the full amount of insurance lump sum.

The residual lump-sum benefit would be paid to a designated beneficiary as under present law, or if no beneficiary has been designated, in the order provided in section 2 (b) of the bill.

Eleventh. Penalties for false reports: This proposal is to require that fines and penalties, if any, collected for false and fraudulent reports be deposited in the railroad retirement account, and, in general, would conform to the corresponding provisions in the Railroad Unemployment Insurance Act.

Twelfth. Establishment of super-grades: The Board would be authorized to place nine positions in grades GS-16 to GS-18. These would include 4 positions in grade GS-16, 4 in grade GS-17, and 1 in grade GS-18. This provision would enable the Board to compensate adequately persons in important and key positions which are vital to its operations.

II. AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Part II of the bill would also make a number of changes in the Railroad Unemployment Insurance Act:

First. Compensation for a working day, which includes part of 2 consecutive calendar days, would be considered compensation for the first day, instead of

compensation for the second day as at present, and would result in no substantive change—section 201 (a) (1).

Second. The amount of earnings which may be considered as "subsidiary remuneration," and therefore not affecting payment of benefits, would be increased from \$1 to \$3 a day—section 201 (a) (2).

Third. The railroad unemployment insurance administration fund would be included in the "unemployment trust fund" in order to earn interest the same as the railroad unemployment insurance account—sections 201 (b), 204, and 205.

Fourth. For the purpose of determining the contribution rate for any calendar year, the balance in the railroad unemployment insurance administration fund as of September 30 of the next preceding calendar year would be considered part of the balance in the railroad unemployment insurance account—section 203.

Fifth. The disqualification with respect to any day for which an employee receives other social insurance payments would be changed to apply to such payments under any law instead of being restricted to State or Federal laws—section 202.

Sixth. The provision referring to the Classification Act of 1923, would be changed to agree with existing civil service law, and the provision for hiring a Director of Unemployment Insurance at \$10,000 per annum would be stricken—section 206.

A brief explanation of these matters follows:

First. Compensation for overlapping shift: At the present time, compensation for a night shift which includes parts of 2 calendar days is defined by law as earned on the second of the 2 days. However, the general practice in the railroad industry is to consider that such remuneration is earned on the first of the 2 days. The change proposed would modify the Railroad Unemployment Insurance Act so as to make it conform with the practice in the industry. This would eliminate misunderstanding which has caused difficulties and delays in obtaining information and deciding claims, and would not result in any substantive change.

Second. Subsidiary remuneration: Under the present law, an employee who earns not more than \$1 a day for part-time or subsidiary work may receive unemployment or sickness benefits for that day if otherwise eligible. The bill recognizes the changes in pay scales which have occurred over the last 20 years, and would increase the amount of subsidiary remuneration permitted for part-time work to \$3 per day.

Third. Inclusion of administration funds in trust fund: The unemployment trust fund was established by section 904 of the Social Security Act as a joint fund in which State unemployment insurance contributions are deposited. The railroad unemployment insurance account is now part of this fund but the railroad unemployment administration fund is not. The bill would amend the Railroad Unemployment Insurance Act, and where necessary the Social Security Act, so that the administration fund would

be included in the unemployment trust fund. This would require the Secretary of the Treasury to credit the railroad administration fund with a proportionate part of the interest earnings of the unemployment trust fund. Such interest is not now paid although funds collected under the Railroad Retirement Act and not immediately needed for administration do draw interest. This difference in treatment of money collected under the two laws should be eliminated.

Fourth. Determination of contribution rates: At the present time, the unemployment contribution rate for a calendar year is determined from the balance in the railroad unemployment insurance account in accordance with a table in section 8 (a) of the Railroad Unemployment Insurance Act. The change proposed would include the balance in the railroad unemployment insurance administration fund as part of the balance in the account for this purpose. In other words, the determination would be based on all the money available for the system where now the administration fund is excluded.

Fifth. Disqualification for other payments: At the present time, an employee who is entitled to social insurance payments under the law of any State or of the United States may be disqualified for unemployment or sickness payments if he receives the other payments for the same days. This has proven to be a discrimination against United States employees as compared with employees in foreign countries. The bill would remove this discrimination by changing the disqualification to apply to other social insurance payments under any law.

Sixth. Reference to civil-service laws: The bill would bring the Railroad Unemployment Insurance Act up to date by eliminating a reference to civil-service laws and the Classification Act of 1923, and replacing it with a reference to the Classification Act of 1949, as amended. The section would also remove the statement that the Board may fix the salary of a Director of Unemployment Insurance at \$10,000 a year.

III. AMENDMENTS TO THE SOCIAL SECURITY ACT

The restriction on payment of social-security benefits, which is applicable with certain exceptions to noncitizens of the United States who become eligible for benefits generally under the so-called new start provisions of that act, would be modified to exclude persons whose benefits are based in whole or in part on railroad employment through transfer of this credit to the social-security system. This transfer occurs where the employee does not have 10 years of service creditable under the Railroad Retirement Act. This amendment would affect principally Canadian residents employed by American railroads conducting a minor part of their operations in Canada and Canadian railroads operating into the United States. These persons are not those who come to this country solely to obtain advantage of the currently liberal eligible provision of the Social Security Act for persons at or near retirement age and return to their native land to enjoy the benefits, and against

whom the restriction is obviously directed. Rather, they acquire the credits through the demands of, and in the course of, their regular railroad employment instead of by special design to obtain social-security benefits.

Mr. O'HARA of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to my distinguished colleague from Minnesota.

Mr. O'HARA of Minnesota. Mr. Speaker, if I may be permitted to ask this question of my distinguished chairman: Is it not a fact that these technical amendments are those which have been recommended by the Railroad Retirement Board?

Mr. HARRIS. Yes, that is true; the Railroad Retirement Board and the Social Security Administration itself.

Mr. O'HARA of Minnesota. And the Social Security Administration.

Mr. HARRIS. These amendments are necessary to permit better coordination between the railroad retirement system and the social-security system insofar as railroad employees are concerned. It is agreed by everyone, and there is no objection. Therefore, Mr. Speaker, I urge the House to suspend the rules and pass the bill.

Mr. HARRIS. Mr. Speaker, I ask unanimous consent to revise and extend the remarks I made in explanation of the bill H. R. 7166.

The SPEAKER. Is there objection? There was no objection.

Mr. HARRIS. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Speaker, I think these technical amendments are much needed and will help to make the retirement system more efficient and less costly.

However, one responsibility bears heavily on this Congress and that is to pass a retirement system before adjournment. We have helped the farmer, the businessman, our civil service employees, social security recipients, and practically every other segment of society—except our railroad workers and their dependents. Our job is not completed until this has been accomplished. We cannot treat this group as though they were second-class citizens.

I believe every Member of this House wants to be fair; therefore, I urge each and every Member to remain here until a railroad retirement bill is passed.

The SPEAKER. The question is on the motion to suspend the rules and pass the bill.

The question was taken, and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

Mr. HARRIS. Mr. Speaker, there is a similar bill on the Speaker's desk (S. 2020) to amend the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act. I ask unanimous consent to substitute the Senate bill S. 2020.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc.—

PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

SECTION 1. (a) Section 3 (c) of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new sentence: "If the 'monthly compensation' computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1."

(b) Section 3 (e) of such act is amended by inserting at the end thereof the following new paragraph:

"For the purposes of this subsection, the Board shall have the same authority to de-

termine a 'period of disability' within the meaning of section 216 (1) of the Social Security Act, with respect to any employee who will have filed application therefor and (1) have completed 10 years of service or (2) have been awarded an annuity, as the Secretary of Health, Education, and Welfare would have to determine such a period under section 216 (1) if the employee met the requirements of clauses (A) and (B) of paragraph (3) of such section, considering for purposes of such determination that all his service as an employee after 1936 constitutes 'employment' within the meaning of title II of the Social Security Act and determining his quarters of coverage for such purposes by presuming his compensation in a calendar year to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year: *Provided*, That an application for an annuity filed with the Board on the basis of disability shall be deemed to be an application to determine such a period of disability, and such an application filed with the Board on or before the date of the enactment of this paragraph shall, for purposes of this subsection and section 216 (1) (4) of the Social Security Act, be deemed filed after December 1954 and before July 1958: *Provided further*, That, notwithstanding any other provision of law, the Board shall have the authority to make such determination on the basis of the records in its possession or evidence otherwise obtained by it, and a determination by the Board with respect to any employee concerning such a 'period of disability' shall be deemed a final decision of the Board determining the rights of persons under this act for purposes of section 11 of this act. An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a 'period of disability' under section 216 (1) of the Social Security Act."

(c) Section 3 (f) of such act is amended to read as follows:

"(f) (1) Annuities under section 2 (a) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under section 5 (f) (1) for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).

"(2) Insurance annuities under section 5 which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sis-

ters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).

"(3) Annuities under section 2 (e) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such spouse's annuity derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of paragraph (1) of this subsection as if such annuities were annuities due under section 2 (a) to an individual but unpaid at the time of such individual's death.

"(4) Applications for accrued and unpaid annuities provided for in paragraphs (1), (2), and (3) of this subsection shall be filed prior to the expiration of 2 years after the death of the person to whom such annuities were originally due.

"(5) For the purposes of this subsection and paragraphs (1) and (2) of section 5 (f) of this act, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216 (h) (2) or (3) of the Social Security Act are fulfilled.

"(6) If there is no person to whom all or any part of the annuity payments described in paragraph (1), (2), or (3) can be made, such payments or part thereof shall escheat to the credit of the Railroad Retirement Account."

(d) Section 3 (h) of such act is amended by striking out "\$2.50" and inserting in lieu thereof "\$5."

(e) Section 3 of such act is further amended by adding at the end thereof the following new subsection:

"(1) If the amount of any annuity computed under this section, or under section 2 or section 5, is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10."

Sec. 2. (a) Section 5 (f) (1) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out the first three sentences and inserting in lieu thereof the following: "Upon the death, after the month in which this act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of 10 times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such deceased employee."

(2) by striking out "widow, widower, child, or parent" in the fourth sentence and inserting in lieu thereof "widow or widower"; and

(3) by striking out all of the fourth sentence beginning with "a payment to any then surviving widow" and inserting in lieu thereof the following: "a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section."

(b) Section 5 (f) (2) of such act is amended by striking out "to the person or

persons in the order provided in paragraph (1) of this subsection, or in the absence of such person or persons, to his or her estate, a lump sum" and by inserting in lieu thereof the following: "to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

"(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

"(ii) if there be no such widow or widower, to any child or children of such employee; or

"(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

"(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

"(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

"(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee, a lump sum."

(c) The first sentence of section 5 (h) of such act is amended by striking out "prior to" and inserting in lieu thereof "after."

(d) Section 5 (i) (3) of such act is amended (1) by inserting "and" after the semicolon in subparagraph (1); (2) by striking out all of subparagraph (ii) after "title II of the Social Security Act" and inserting in lieu thereof a period; and (3) by striking out subparagraphs (iii) and (iv).

(e) Section 5 (k) (3) of such act is amended—

(1) by inserting in the first sentence after "service" the following: ", of determinations under section 3 (e) of this act, or section 216 (i) of the Social Security Act, of periods of disability within the meaning of such section 216 (i).";

(2) by inserting in the first sentence after "this section" the following: ", section 3 (e) of this act,"; and

(3) by inserting in the second sentence after "therein" the following: "(except in the case of a determination of disability under section 216 (i) of the Social Security Act."

(f) Section 5 (l) (6) of such act is amended by striking out the parenthetical phrases in the first and second sentences and by inserting at the end thereof the following sentence: "Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act."

(g) Section 5 (l) (7) (ii) of such act is amended by striking out "forty or more quarters of coverage" and inserting in lieu thereof the following: "either will have had forty or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that act."

(h) Section 5 (l) (8) of such act is amended (1) by striking out "will have had (1)" and inserting in lieu thereof "(1) will have had", (2) by inserting "either will have had" after "(1)", and (3) by inserting before the final period a comma and the following: "or would be currently insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that act."

(i) Section 5 (l) (9) of such act is amended—

(1) by striking out "quarter in which he will have died" each place it appears in clauses (A) and (B) and by inserting in lieu thereof "employee's closing date";

(2) by striking out the last proviso; and

(3) by inserting after the first sentence the following new sentence: "An employee's 'closing date' shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest 'average monthly remuneration' as defined in the preceding sentence. If the amount of the 'average monthly remuneration' as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1."

Sec. 3. Section 10 (b) (4) of the Railroad Retirement Act of 1937 is amended by inserting after the third sentence the following new sentence: "For purposes of its administration of this act or the Railroad Unemployment Insurance Act, or both, the Board may hereafter place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, 4 positions in grade GS-16 of the general schedule established by that act, 4 positions in grade GS-17 of such schedule, and 1 position in grade GS-18 of such schedule."

Sec. 4. Section 13 of the Railroad Retirement Act of 1937 is amended (1) by inserting "(a)" after "Sec. 13."; (2) by inserting ", or both" before the final period, and (3) by adding at the end thereof the following new subsection:

"(b) All fines and penalties imposed by a court pursuant to this act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account."

Sec. 5. (a) The amendments made by sections 1 (a), 1 (d), 1 (e), and 2 (1) shall be effective with respect to annuities awarded under the Railroad Retirement Act of 1937 on or after the date of the enactment of this act.

(b) The amendments made by sections 2 (g) and 2 (h) shall be effective (1) with respect to deaths occurring on or after the date of the enactment of this act and (2) with respect to any death occurring before such date if none of the survivors of the deceased individual became entitled before such date to monthly benefits, by reason of the individual's death, under title II of the Social Security Act.

(c) The amendments made by section 1 (b) shall be effective with respect to determinations of periods of disability, within the meaning of section 216 (i) of the Social Security Act, made on or after the date of the enactment of this act.

(d) The amendments made by sections 1 (c), 2 (a), and 2 (b) shall be effective with respect to deaths occurring in months after the month in which this act is enacted.

(e) The amendments made by sections 2 (c), 2 (d), and 2 (f) shall be effective with respect to annuities accruing for months after the month in which this act is enacted.

(f) The amendments made by sections 2 (e) and 3 shall be effective on the date of the enactment of this act.

(g) The amendment made by clause (3) of section 4 shall be effective with respect to offenses committed on or after the date of the enactment of this act; and the other amendments made by section 4 shall be effective with respect to fines and penalties imposed on or after such date.

PART II—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Sec. 201. (a) (1) The second proviso in section 1 (k) of the Railroad Unemployment Insurance Act is amended by striking out "second" and inserting in lieu thereof "first", and by striking out "first" and inserting in lieu thereof "second."

(2) The second paragraph of such section 1 (k) is amended by striking out "one dollar" and inserting in lieu thereof "three dollars."

(b) Section 1 (q) of such act is amended by inserting before the period at the end thereof the following: "In the unemployment trust fund."

Sec. 202. Section 4 (a-1) (ii) of the Railroad Unemployment Insurance Act is amended by striking out all that follows "sickness compensation law" and precedes the first proviso and by inserting in lieu thereof the following: "other than this act, or any other social-insurance payments under any law."

Sec. 203. Section 8 (a) of the Railroad Unemployment Insurance Act is amended by inserting before the period at the end thereof a semicolon and the following: "and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account."

Sec. 204. (a) Section 904 (a) of the Social Security Act is amended by inserting after "the railroad unemployment insurance account" the following: "or the railroad unemployment insurance administration fund."

(b) Section 904 (e) of the Social Security Act is amended by striking out "and the railroad unemployment insurance account" and inserting in lieu thereof the following: ", the railroad unemployment insurance account, and the railroad unemployment insurance administration fund."

(c) Section 904 (f) of the Social Security Act is amended by striking out "fund as the Railroad Retirement Board" and all that follows and by inserting in lieu thereof the following: "railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment."

Sec. 205. (a) Section 11 of the Railroad Unemployment Insurance Act is amended by striking out the first sentence and the first two words of the second sentence, and by inserting in lieu thereof the following: "The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund."

Sec. 206. The second paragraph of section 12 (l) of the Railroad Unemployment Insurance Act is amended by striking out "Classification Act of 1923, except that the Board may fix the salary of a director of unemployment insurance at \$10,000 per annum" and inserting in lieu thereof the following: "Classification Act of 1949, as amended."

Sec. 207. (a) The amendments made by section 201 (a) shall be effective with respect to registration periods in benefit years after the benefit year ending on June 30, 1958.

(b) The amendments made by section 202 shall be effective with respect to days in benefit years after the benefit year ending on June 30, 1958.

(c) The remaining amendments made by this part shall be effective, except as otherwise indicated therein, on the date of the enactment of this act.

PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT

Sec. 301. Section 202 (t) of the Social Security Act is amended by changing the period at the end of paragraph (4) thereof to

a comma and inserting thereafter the word "or" and the following:

"(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this act pursuant to the provisions of section 5 (k) (1) of the Railroad Retirement Act."

SEC. 302. The amendments made by section 301 of this act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill was laid on the table.

Public Law 85-927
85th Congress, S. 2020
September 6, 1958

AN ACT

72 Stat. 1778.

To amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Social Security Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

SECTION 1. (a) Section 3 (c) of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new sentence: "If the 'monthly compensation' computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1."

(b) Section 3 (e) of such Act is amended by inserting at the end thereof the following new paragraph:

"For the purposes of this subsection, the Board shall have the same authority to determine a 'period of disability' within the meaning of section 216 (i) of the Social Security Act, with respect to any employee who will have filed application therefor and (i) have completed ten years of service or (ii) have been awarded an annuity, as the Secretary of Health, Education, and Welfare would have to determine such a period under such section 216 (i) if the employee met the requirements of clauses (A) and (B) of paragraph (3) of such section, considering for purposes of such determination that all his service as an employee after 1936 constitutes 'employment' within the meaning of title II of the Social Security Act and determining his quarters of coverage for such purposes by presuming his compensation in a calendar year to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year: *Provided*, That an application for an annuity filed with the Board on the basis of disability shall be deemed to be an application to determine such a period of disability, and such an application filed with the Board on or before the date of the enactment of this paragraph shall, for purposes of this subsection and section 216 (i) (4) of the Social Security Act, be deemed filed after December 1954 and before July 1958: *Provided further*, That, notwithstanding any other provision of law, the Board shall have the authority to make such determination on the basis of the records in its possession or evidence otherwise obtained by it, and a determination by the Board with respect to any employee concerning such a 'period of disability' shall be deemed a final decision of the Board determining the rights of persons under this Act for purposes of section 11 of this Act. An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a 'period of disability' under section 216 (i) of the Social Security Act."

(c) Section 3 (f) of such Act is amended to read as follows:

"(f) (1) Annuities under section 2 (a) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of

Railroad Retirement Act of 1937, amendments.

"Monthly compensation."

50 Stat. 311.
45 USC 228c.

45 USC 228c.

"Period of disability."
66 Stat. 771.
42 USC 416.

42 USC 401-425.

42 USC 416.

42 USC 416.
45 USC 228c.
Annuities.

burial of such individual, and to the extent that he or they will not have been reimbursed under section 5 (f) (1) for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).

"(2) Insurance annuities under section 5 which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under section 5 (f) (2).

"(3) Annuities under section 2 (e) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such spouse's annuity derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of paragraph (1) of this subsection as if such annuities were annuities due under section 2 (a) to an individual but unpaid at the time of such individual's death.

"(4) Applications for accrued and unpaid annuities provided for in paragraphs (1), (2), and (3) of this subsection shall be filed prior to the expiration of two years after the death of the person to whom such annuities were originally due.

"(5) For the purposes of this subsection and paragraphs (1) and (2) of section 5 (f) of this Act, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216 (h) (2) or (3) of the Social Security Act are fulfilled.

"(6) If there is no person to whom all or any part of the annuity payments described in paragraph (1), (2), or (3) can be made, such payments or part thereof shall escheat to the credit of the Railroad Retirement Account."

(d) Section 3 (h) of such Act is amended by striking out "\$2.50" and inserting in lieu thereof "\$5".

(e) Section 3 of such Act is further amended by adding at the end thereof the following new subsection:

"(i) If the amount of any annuity computed under this section, or under section 2 or section 5, is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10."

SEC. 2. (a) Section 5 (f) (1) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out the first three sentences and inserting in lieu thereof the following: "Upon the death, after the month in which this Act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of ten times the employee's basic amount shall be paid to the person, if any, who is determined by the

71 Stat. 519.
42 USC 416.

45 USC 228c.

45 USC 228c.

45 USC 228e.

Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such deceased employee.”;

(2) by striking out “widow, widower, child, or parent” in the fourth sentence and inserting in lieu thereof “widow or widower”; and

(3) by striking out all of the fourth sentence beginning with “a payment to any then surviving widow” and inserting in lieu thereof the following: “a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section.”

(b) Section 5 (f) (2) of such Act is amended by striking out “to the person or persons in the order provided in paragraph (1) of this subsection, or in the absence of such person or persons, to his or her estate, a lump sum” and by inserting in lieu thereof the following: “to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph: 45 USC 228a.

“(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

“(ii) if there be no such widow or widower, to any child or children of such employee; or

“(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

“(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

“(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

“(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee, a lump sum”.

(c) The first sentence of section 5 (h) of such Act is amended by striking out “prior to” and inserting in lieu thereof “after”. 45 USC 228a.

(d) Section 5 (i) (3) of such Act is amended (1) by inserting “and” after the semicolon in subparagraph (i); (2) by striking out all of subparagraph (ii) after “title II of the Social Security Act” and inserting in lieu thereof a period; and (3) by striking out subparagraphs (iii) and (iv). 45 USC 228a. 42 USC 401-425.

(e) Section 5 (k) (3) of such Act is amended— 45 USC 228a.

(1) by inserting in the first sentence after “service” the following: “, of determinations under section 3 (e) of this Act, or section 216 (i) of the Social Security Act, of periods of disability within the meaning of such section 216 (i),”; 42 USC 416.

(2) by inserting in the first sentence after “this section” the following: “, section 3 (e) of this Act,”; and

(3) by inserting in the second sentence after “therein” the following: “(except in the case of a determination of disability under section 216 (i) of the Social Security Act)”. 42 USC 416.

45 USC 228e. (f) Section 5 (1) (6) of such Act is amended by striking out the parenthetical phrases in the first and second sentences and by inserting at the end thereof the following sentence: "Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act."

42 USC 401-425. (g) Section 5 (1) (7) (ii) of such Act is amended by striking out "forty or more quarters of coverage" and inserting in lieu thereof the following: "either will have had forty or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act".

45 USC 228e. (h) Section 5 (1) (8) of such Act is amended (1) by striking out "will have had (i)" and inserting in lieu thereof "(i) will have had", (2) by inserting "either will have had" after "(ii)", and (3) by inserting before the final period a comma and the following: "or would be currently insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act".

42 USC 401-425. (i) Section 5 (1) (9) of such Act is amended—
45 USC 228e. (1) by striking out "quarter in which he will have died" each place it appears in clauses (A) and (B) and by inserting in lieu thereof "employee's closing date";

(2) by striking out the last proviso; and

(3) by inserting after the first sentence the following new sentence: "An employee's 'closing date' shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest 'average monthly remuneration' as defined in the preceding sentence. If the amount of the 'average monthly remuneration' as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1".

Supergrades.
45 USC 228j. SEC. 3. Section 10 (b) (4) of the Railroad Retirement Act of 1937 is amended by inserting after the third sentence the following new sentence: "For purposes of its administration of this Act or the Railroad Unemployment Insurance Act, or both, the Board may hereafter place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, four positions in grade GS-16 of the General Schedule established by that Act, four positions in grade GS-17 of such schedule, and one position in grade GS-18 of such schedule."

45 USC 228m. SEC. 4. Section 13 of the Railroad Retirement Act of 1937 is amended (1) by inserting "(a)" after "Sec. 13."; (2) by inserting "or both" before the final period, and (3) by adding at the end thereof the following new subsection:

"(b) All fines and penalties imposed by a court pursuant to this Act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account."

Effective dates.
50 Stat. 307.
45 USC 228a-228z. SEC. 5. (a) The amendments made by sections 1 (a), 1 (d), 1 (e), and 2 (i) shall be effective with respect to annuities awarded under the Railroad Retirement Act of 1937 on or after the date of the enactment of this Act.

(b) The amendments made by sections 2 (g) and 2 (h) shall be effective (1) with respect to deaths occurring on or after the date of the enactment of this Act and (2) with respect to any death occurring

before such date if none of the survivors of the deceased individual became entitled before such date to monthly benefits, by reason of the individual's death, under title II of the Social Security Act.

42 USC 401-425.

(c) The amendments made by section 1 (b) shall be effective with respect to determinations of periods of disability, within the meaning of section 216 (i) of the Social Security Act, made on or after the date of the enactment of this Act.

42 USC 416.

(d) The amendments made by sections 1 (c), 2 (a), and 2 (b) shall be effective with respect to deaths occurring in months after the month in which this Act is enacted.

(e) The amendments made by sections 2 (c), 2 (d), and 2 (f) shall be effective with respect to annuities accruing for months after the month in which this Act is enacted.

(f) The amendments made by sections 2 (e) and 3 shall be effective on the date of the enactment of this Act.

(g) The amendment made by clause (3) of section 4 shall be effective with respect to offenses committed on or after the date of the enactment of this Act; and the other amendments made by section 4 shall be effective with respect to fines and penalties imposed on or after such date.

PART II—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

SEC. 201. (a) (1) The second proviso in section 1 (k) of the Railroad Unemployment Insurance Act is amended by striking out "second" and inserting in lieu thereof "first", and by striking out "first" and inserting in lieu thereof "second".

Railroad Un-employment Insurance Act, amendments. 52 Stat. 1094. 45 USC 351.

(2) The second paragraph of such section 1 (k) is amended by striking out "one dollar" and inserting in lieu thereof "three dollars".

(b) Section 1 (q) of such Act is amended by inserting before the period at the end thereof the following: "in the unemployment trust fund".

45 USC 351.

SEC. 202. Section 4 (a-1) (ii) of the Railroad Unemployment Insurance Act is amended by striking out all that follows "sickness compensation law" and precedes the first proviso and by inserting in lieu thereof the following: "other than this Act, or any other social-insurance payments under any law".

45 USC 354.

SEC. 203. Section 8 (a) of the Railroad Unemployment Insurance Act is amended by inserting before the period at the end thereof a semicolon and the following: "and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account".

45 USC 358.

SEC. 204. (a) Section 904 (a) of the Social Security Act is amended by inserting after "the railroad unemployment insurance account" the following: "or the railroad unemployment insurance administration fund".

Social Security Act, amendments. 42 USC 1104.

(b) Section 904 (e) of the Social Security Act is amended by striking out "and the railroad unemployment insurance account" and inserting in lieu thereof the following: ", the railroad unemployment insurance account, and the railroad unemployment insurance administration fund".

42 USC 1104.

(c) Section 904 (f) of the Social Security Act is amended by striking out "fund as the Railroad Retirement Board" and all that follows and by inserting in lieu thereof the following: "railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the pay-

42 USC 1104.

ment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment."

45 USC 361. SEC. 205. Section 11 (a) of the Railroad Unemployment Insurance Act is amended by striking out the first sentence and the first two words of the second sentence, and by inserting in lieu thereof the following: "The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund".

42 USC 1104. SEC. 206. The second paragraph of section 12 (1) of the Railroad Unemployment Insurance Act is amended by striking out "Classification Act of 1923, except that the Board may fix the salary of a director of unemployment insurance at \$10,000 per annum" and inserting in lieu thereof the following: "Classification Act of 1949, as amended".

45 USC 362. SEC. 207. (a) The amendments made by section 201 (a) shall be effective with respect to registration periods in benefit years after the benefit year ending on June 30, 1958.

Effective dates.
Ante, p. 1782.

Ante, p. 1782.

(b) The amendments made by section 202 shall be effective with respect to days in benefit years after the benefit year ending on June 30, 1958.

(c) The remaining amendments made by this part shall be effective, except as otherwise indicated therein, on the date of the enactment of this Act.

PART III—AMENDMENTS TO THE SOCIAL SECURITY ACT

70 Stat. 835.
42 USC 402.

SEC. 301. Section 202 (t) of the Social Security Act is amended by changing the period at the end of paragraph (4) thereof to a comma and inserting thereafter the word "or" and the following:

45 USC 228e.

"(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this Act pursuant to the provisions of section 5 (k) (1) of the Railroad Retirement Act."

42 USC 402.

SEC. 302. The amendments made by section 301 of this Act shall apply with respect to monthly benefits under section 202 of the Social Security Act for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956.

Approved September 6, 1958.

Office Memorandum • UNITED STATES GOVERNMENT

TO : Administrative, Supervisory
and Technical Employees

14:A:K

DATE: September 10, 1958

FROM : Robert M. Ball, Acting Director
Bureau of Old-Age and Survivors Insurance

SUBJECT: Director's Bulletin No. 289
Enactment of Railroad Retirement Legislation--Public Law 85-927

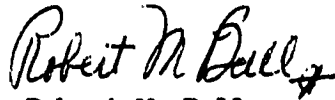
On September 6 the President signed S. 2020, a bill which makes certain amendments in the Railroad Retirement Act and one amendment in the Social Security Act. The new legislation (Public Law 85-927) includes three provisions relating to the coordination of the railroad retirement and old-age, survivors, and disability insurance programs.

Under one of these provisions, the Railroad Retirement Board is given authority to make disability freeze determinations for long-term railroad workers (those having 10 or more years service). The determinations made by the Railroad Retirement Board will be conclusive only for the purpose of determining benefit payments under the railroad retirement program. The Department of Health, Education, and Welfare will continue to make disability freeze determinations for all OASDI benefit purposes, and for purposes of the provisions under which cost adjustments are made between the railroad retirement and OASDI programs. The arrangement now provided by P.L. 85-927 was agreed upon after extended negotiations between the two agencies which began with a proposal in May 1955, by the Railroad Retirement Board, that disability determinations for workers having railroad service be made by that Board.

Under another provision of P.L. 85-927, a worker having a current connection with the railroad industry and 10 or more years of railroad service is insured for survivor benefit purposes under the railroad retirement program if by deeming his railroad service after 1936 to be social security employment he would be insured under the OASDI program. The objective of this change is to make possible the payment of railroad benefits in certain survivor cases where formerly such payments, if any, could have been made only under the OASDI program. In effect, the change is accomplished by applying in these cases the liberalizations in the OASDI definition of insured status, made by the 1950 and subsequent amendments. This change will, for practical purposes, be important only to railroad employees whose qualifying 10 years of railroad service was not all after 1936.

**Administrative, Supervisory
and Technical Employees--9/10/58**

A third provision amends section 202(t) of the Social Security Act, relating to suspension of benefits in the case of certain aliens residing outside the United States. As a result of this change, benefits will not be suspended under section 202(t) in the case of OASDI beneficiaries whose benefits are based on work which includes railroad employment. This amendment was proposed by the Railroad Retirement Board and is intended to protect the benefits of Canadian workers employed by the United States railroads in Canada or by Canadian railroads operating into the United States.



Robert M. Ball
Acting Director

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S. 226 (Reported with amendments)--*April 24, 1959*
- C. Senate Debate--Congressional Record--*April 29, 1959*

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Listing of Reference Material

Calendar No. 211

86TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 222

AMENDING THE RAILROAD RETIREMENT ACT OF 1937, THE RAILROAD RETIREMENT TAX ACT, AND THE RAILROAD UNEMPLOYMENT INSURANCE ACT

APRIL 24, 1959.—Ordered to be printed

Mr. MORSE, from the Committee on Labor and Public Welfare,
submitted the following

R E P O R T

together with

INDIVIDUAL VIEWS

[To accompany S. 226]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 226) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

PURPOSE OF THE BILL

The purpose of the bill is to increase the benefits under, and to strengthen and place on a sound, self-supporting basis, the railroad retirement and unemployment insurance systems, (1) by eliminating the present long-range actuarial deficit in the railroad retirement system, (2) by providing much-needed increases in benefits under both systems, (3) by changing the form of some benefits to eliminate certain inequitable features of each system, (4) by extending the periods during which unemployment benefits are paid under the unemployment insurance system, and (5) by providing for the financing of these increases, changes, and extensions. The bill would carry through to completion earlier proposals for increased benefits and their financing which were only partially fulfilled in the enactment of legislation in 1956.

In the last Congress, bills were introduced in both Houses for these same purposes, S. 1313 in the Senate and H.R. 4353 in the House. The bill S. 1313, which was introduced by Senator Morse for himself and a number of other Senators and which was later modified, was passed by the Senate on August 22, 1958. This bill reached the House on August 23, 1958 (the last day of the session), and was not acted upon by the House. The present bill S. 226, except for (i) changes in the effective date for the increase in annuities and pensions and the increases in tax and contribution rates, (ii) an increase in the maximum unemployment contribution rate from 3½ percent to 4 percent, (iii) an amendment to provide the Railroad Retirement Board with borrowing authority for unemployment insurance purposes in emergencies, (iv) the extension of the period for temporary unemployment insurance compensation from April 1, 1959, to July 1, 1959, (v) a technical amendment to section 1(k) of the Railroad Unemployment Insurance Act, and (vi) an amendment to protect a small group of veteran pensioners and annuitants is exactly the same as the bill S. 1313 that was passed by the Senate last year.

Comparison between (1) S. 1313, 85th Cong., as originally introduced; (2) S. 1313 as reported by the Senate committee; (3) S. 1313 as passed by the Senate on Aug. 22, 1958, and S. 226, 86th Cong., as originally introduced (these are both in 1 column because they are alike in all respects); and (4) S. 226 as reported by the Senate committee

RETIREMENT ACT BENEFIT CHANGES

S. 1313 as originally introduced	S. 1313 as reported	S. 1313 as passed Senate and S. 226, 86th Cong.	S. 226 as reported
1. Annuities and pensions up 10 percent.....	1. Annuities and pensions up 10 percent....	1. Annuities accruing Jan. 1, 1959, and thereafter, and pensions due on Feb. 1, 1959, and thereafter, are increased by 10 percent.	1. Annuities accruing in the first calendar month next following the month of enactment and thereafter, and pensions due in calendar months after the month next following the month of enactment and thereafter, are increased by 10 percent.
2. Disability retirees able to earn up to \$1,200 per year instead of \$100 per month.	2. Disability retirees able to earn up to \$1,200 per year instead of \$100 per month.	2. Disability retirees able to earn up to \$1,200 per year instead of \$100 per month.	2. Same as item 2 in col. 3.
3. Women employees less than 30 years service could retire on reduced basis at age 62, upon election.	3. Women employees less than 30 years service could retire on reduced basis at age 62, upon election.	3. Women employees less than 30 years service could retire on reduced basis at age 62, upon election.	3. Same as item 3 in col. 3.
4. Spouse's annuity on reduced basis at age 62, upon election.	4. Spouse's annuity on reduced basis at age 62, upon election.	4. Spouse's annuity on reduced basis at age 62, upon election.	4. Same as item 4 in col. 3.
5. Insurance lump sum payable despite deceased being survived by person eligible for survivor annuity.	5. Insurance lump sum payable despite deceased being survived by person eligible for survivor annuity.	5. -----	5. Eliminated, as shown in item 5 in col. 3.
6. Creditable compensation up to \$400 per month.	6. Creditable compensation up to \$400 per month.	6. Creditable compensation up to \$400 per month effective Jan. 1, 1959.	6. Creditable compensation up to \$400 per month effective with respect to compensation earned in months after the month of enactment.
7. Residual lump sum is increased to reflect increase in base to maximum of \$400 a month, and increase in tax rates.	7. Residual lump sum is increased to reflect increase in base to maximum of \$400 a month, and increase in tax rates.	7. Residual lump sum is increased to reflect increase in base to maximum of \$400 a month, and increase in tax rates.	7. The same as item 7 in col. 3.
8. Survivor beneficiaries working outside United States get same work limitations as those in United States.	8. Survivor beneficiaries who work outside United States get same work limitation as those in United States.	8. Survivor beneficiaries who work outside United States to get same work limitation as those in United States.	8. The same as item 8 in col. 3.
9. -----	9. -----	9. -----	9. Sec. 20 of the Railroad Retirement Act is amended for the benefit of a small group of annuitants and pensioners who are veterans and who would otherwise, in many cases, be denied the benefits of this bill.

AMENDING THE RAILROAD RETIREMENT ACT

Comparison between (1) S. 1313, 85th Cong., as originally introduced; (2) S. 1313 as reported by the Senate committee; (3) S. 1313 as passed by the Senate on Aug. 22, 1958, and S. 226, 86th Cong., as originally introduced (these are both in 1 column because they are alike in all respects); and (4) S. 226 as reported by the Senate committee—Continued

RAILROAD RETIREMENT TAX ACT CHANGES

S. 1313 as originally introduced	S. 1313 as reported	S. 1313 as passed Senate and S. 226, 86th Cong.	S. 226 as reported
1. Tax base increased from \$350 to \$400 per month effective July 1, 1957.	1. Tax base increased from \$350 to \$400 per month effective Jan. 1, 1960.	1. Tax base increased from \$350 to \$400 per month effective Jan. 1, 1959.	1. Tax base increased from \$350 to \$400 per month effective with respect to compensation earned in months after the month of enactment.
2. Tax rate up from 6¼ percent to 7¼ percent effective July 1, 1957.	2. Tax rate up from 6¼ percent to 7½ percent effective Jan. 1, 1960.	2. Tax rate up to 6¾ percent effective Jan. 1, 1959. Rate up to 7¼ percent effective Jan. 1, 1962.	2. Tax rate up to 6¾ percent effective with respect to compensation earned in months after the month of enactment. Rate up to 7¼ percent effective Jan. 1, 1962.
3. Tax rates on employee representatives up from 12¼ percent on \$350 to 15 percent on \$400 effective July 1, 1957.	3. Tax rates on employee representatives up from 12¼ percent to 15 percent and \$350 to \$400 effective Jan. 1, 1960.	3. Tax rates on employee representatives up to 13½ percent on \$400 effective Jan. 1, 1959, up to 14½ percent effective Jan. 1, 1962.	3. Tax rates on employee representatives up to 13½ percent on \$400 effective with respect to compensation earned in months after the month of enactment, and up to 14½ percent effective Jan. 1, 1962.
4. Standby tax increase effective Jan. 1, 1970, to the extent that social security rates exceed 5.5 percent.	4. Standby tax increase effective Jan. 1, 1965, to the extent that social security rates exceed 5.5 percent.	4. Standby tax increase effective Jan. 1, 1965, to the extent that social security rates exceed 5.5 percent.	4. The same as item 4 in col. 3.

RAILROAD UNEMPLOYMENT INSURANCE ACT CHANGES

1. Daily benefit rate up from 50 to 60 percent of daily rate.	1. Daily benefit rate up from 50 to 60 percent of daily rate.	1. Daily benefit rate up from 50 to 60 percent of daily rate.	1. The same as item 1 in col. 3.																		
2. Maximum daily rate up from \$8.50 to \$10.20.	2. Maximum daily rate up from \$8.50 to \$10.20.	2. Maximum daily rate up from \$8.50 to \$10.20.	2. The same as item 2 in col. 3.																		
3. Sundays and holidays treated as days of unemployment.	3. Sundays and holidays treated as days of unemployment.	3. Sundays and holidays treated as days of unemployment.	3. The same as item 3 in col. 3.																		
4. Days of benefits in 1st registration period up from 7 to 10.	4. Days of benefits in 1st registration up from 7 to 10.	4. Days of benefits in 1st registration up from 7 to 10.	4. The same as item 4 in col. 3.																		
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7.	7.	7.	7. Sec. 1(k), with regard to subsidiary remuneration, is amended to change "\$400" to "\$500."																		

RAILROAD UNEMPLOYMENT INSURANCE CONTRIBUTION RATE CHANGES

<p>1. Bill provides new contribution schedule as of Jan. 1 of any year based on the balance in the unemployment insurance account on Sept. 30 of the preceding year.</p> <table border="0"> <tr> <td style="text-align: right;">If balance is—</td> <td style="text-align: right;"><i>Rate is</i> <i>(percent)</i></td> <td></td> </tr> <tr> <td>\$450,000,000 or more.....</td> <td align="right">2</td> <td></td> </tr> <tr> <td>\$400,000,000 to \$450,000,000.....</td> <td align="right">2½</td> <td></td> </tr> <tr> <td>\$350,000,000 to \$400,000,000.....</td> <td align="right">3</td> <td></td> </tr> <tr> <td>\$300,000,000 to \$350,000,000.....</td> <td align="right">3½</td> <td></td> </tr> <tr> <td>Less than \$300,000,000.....</td> <td align="right">4</td> <td></td> </tr> </table>	If balance is—	<i>Rate is</i> <i>(percent)</i>		\$450,000,000 or more.....	2		\$400,000,000 to \$450,000,000.....	2½		\$350,000,000 to \$400,000,000.....	3		\$300,000,000 to \$350,000,000.....	3½		Less than \$300,000,000.....	4		<p>1. Bill provides new contribution schedule as of Jan. 1 of any year based on the balance in unemployment insurance account on Sept. 30 of the preceding year.</p> <table border="0"> <tr> <td style="text-align: right;">If balance is—</td> <td style="text-align: right;"><i>Rate is</i> <i>(percent)</i></td> <td></td> </tr> <tr> <td>\$450,000,000 or more.....</td> <td align="right">2</td> <td></td> </tr> <tr> <td>\$400,000,000 to \$450,000,000.....</td> <td align="right">2½</td> <td></td> </tr> <tr> <td>\$350,000,000 to \$400,000,000.....</td> <td align="right">3</td> <td></td> </tr> <tr> <td>\$300,000,000 to \$350,000,000.....</td> <td align="right">3½</td> <td></td> </tr> <tr> <td>Less than \$300,000,000.....</td> <td align="right">4</td> <td></td> </tr> </table>	If balance is—	<i>Rate is</i> <i>(percent)</i>		\$450,000,000 or more.....	2		\$400,000,000 to \$450,000,000.....	2½		\$350,000,000 to \$400,000,000.....	3		\$300,000,000 to \$350,000,000.....	3½		Less than \$300,000,000.....	4		<p>1. Bill provides new contribution schedule as of Jan. 1 of any year based on the balance in unemployment insurance account on Sept. 30 of the preceding year.</p> <table border="0"> <tr> <td style="text-align: right;">If balance is—</td> <td style="text-align: right;"><i>Rate is</i> <i>(percent)</i></td> <td></td> </tr> <tr> <td>\$450,000,000 or more.....</td> <td align="right">1½</td> <td></td> </tr> <tr> <td>\$400,000,000 to \$450,000,000.....</td> <td align="right">2</td> <td></td> </tr> <tr> <td>\$350,000,000 to \$400,000,000.....</td> <td align="right">2½</td> <td></td> </tr> <tr> <td>\$300,000,000 to \$350,000,000.....</td> <td align="right">3</td> <td></td> </tr> <tr> <td>Less than \$300,000,000.....</td> <td align="right">3½</td> <td></td> </tr> </table>	If balance is—	<i>Rate is</i> <i>(percent)</i>		\$450,000,000 or more.....	1½		\$400,000,000 to \$450,000,000.....	2		\$350,000,000 to \$400,000,000.....	2½		\$300,000,000 to \$350,000,000.....	3		Less than \$300,000,000.....	3½		<p>1. Same as item 1 in col. 3, except that if the balance in the account is less than \$300,000,000, the rate will go up to 4 percent.¹</p> <p>2. Sec. 10(d) of the Railroad Unemployment Insurance Act is amended to confer upon the Board authority to borrow money from the railroad retirement account for the payment of benefits and refunds under the Railroad Unemployment Insurance Act, in emergencies.²</p>
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¹ In view of the cost figures submitted by the Railroad Retirement Board, showing that the maximum contribution rate provided in S. 226 of 3½ percent would be inadequate to retain the railroad unemployment insurance account on a sound financial basis, the maximum contribution rate in the newly proposed table for unemployment insurance contributions is changed from 3½ to 4 percent, but this table, as well as the increase in the monthly taxable base from \$350 to \$400 a month, is made effective with respect to compensation earned in months after the month of enactment of these amendments.

² The money borrowed to be on a reimbursable, and 3 percent interest, basis. This amendment was proposed by the Board and was officially requested by a joint letter to

the Senate committee from the Association of American Railroads and the Railway Labor Executives' Association. (See hearings on S. 226, p. 56.) The Board estimated that it may be necessary to borrow \$50,000,000 for the benefit year beginning July 1, 1959. The testimony before the committee is to the effect that the 1948 amendments, which reduced the original 3 percent contribution rate for unemployment insurance purposes to ½ of 1 percent on a sliding scale basis, saved the railroads more than \$1,100,000,000 from the amount they would have paid into the fund had the 1948 amendments not been made. (See hearings on S. 226, p. 237.)

The postponement of the increase in tax and contribution rates (and of the increase in the taxable and creditable base from \$350 to \$400 a month), to compensation earned after the month of enactment, applies also to lump sums with respect to deaths occurring after such month, instead of after December 31, 1958. The effective date with regard to the work restrictions on disability annuitants, and survivor beneficiaries working outside the United States, and the inclusion of social security wages for the purpose of computing survivor benefits (effective for calendar years beginning with the calendar year 1959), are not changed because they all require computation on an annual basis. Also, the provisions for increasing and extending benefits under the Railroad Unemployment Insurance Act, and the effective dates of such increases and extensions, are not changed.

BRIEF HISTORY OF THE RAILROAD RETIREMENT SYSTEM AND REASONS FOR ITS SEPARATION AND DIFFERENCE FROM THE SOCIAL SECURITY SYSTEM

The railroad retirement system has always been a complete system separate from the social security system although coordinated with that system in certain respects, primarily in connection with payment of survivor benefits, and the financial interchange provision whereby the account out of which social security benefits are paid is to be placed in the same position it would be in if railroad employment were not excluded from coverage by the social security system. The railroad retirement system developed from, and as a substitute for, the previously existing private pension systems on the various railroads for retirements for age and disability, which in the depression years 1929 and later, because of their establishment, generally, on the pay-as-you-go basis, could not stand the strain of the economic depression and began to fail to meet expectations and commitments. The national railway labor organizations, after considering many proposals, worked out a system for a unified retirement system for the railroad industry to be under neutral Government management and soundly financed, and to be paid for altogether by the industry itself with the employees bearing a share. Their efforts resulted in the Railroad Retirement Act of 1934, which was declared unconstitutional by the Supreme Court in *Alton v. Railroad Retirement Board* (295 U.S. 330).

In the meantime, in view of the constitutional attack, other legislation for a railroad retirement system, based on a different constitutional theory (the right of Congress to provide for the general welfare), was worked out and enacted, first, as the Railroad Retirement Act of 1935, on August 29, 1935, and again on June 24, 1937, in somewhat revised form. At the same time, other people interested in establishing a general social security (retirement) system for other industry proposed legislation to that effect on the same theory of constitutional power in the Congress to provide for the general welfare, which proposal was enacted on August 14, 1935, as the Social Security Act. Since, however, the social security system contemplated (and provided) benefits on a much smaller scale than those to be provided by the independent railroad system and would not go into effect, insofar as benefits were concerned, until 1942 (although the taxes needed to support the system would begin in 1937), and

otherwise would not meet the needs of railroad workers for retirement annuities of substantial amounts, the social security system was wholly unacceptable to those interested in establishing a federally operated railroad retirement system as a substitute for the currently existing private pension systems of the railroads.

FINANCIAL AND OPERATING CONDITION OF THE RAILROAD INDUSTRY

Testimony at hearings before the subcommittee revealed that the railways have recovered substantially from the 1957-58 recession, which they weathered without permanent injury (pp. 238-242). According to this testimony, only 17 railroads failed to earn their fixed and contingent charges for 1958 and dividends to stockholders were reduced only moderately. In the months September through December 1958, total net railway operating income for all roads was \$368,932,000, 20 percent above the same period for 1957 and only 6 percent under 1956, a year in which such net exceeded \$1 billion. In the last third of 1958 net railway operating income was at an annual rate of \$1 billion, which is not far below the levels of such record prosperity years as 1953, 1955, and 1956. Railroads are sharing in the continuing recovery in 1959, with actual carloadings in the early weeks of the year substantially above (some 6.2 percent) last year's level. Carloading predictions by shippers' advisory boards and other authorities indicate a substantial increase for the entire year.

The basic railroad financial position is excellent. The capital structure of the railroad industry today is stronger than it has ever been. Before World War II total funded debt of the industry held by the public was in excess of \$10 billion. This debt was supported by investment in road and equipment of just over \$20 billion. But at the end of 1957, investment was over \$27.5 billion while the debt was down to just over \$8 billion. Prior to the war interest alone sometimes required as much as 18 percent of total yearly revenues. In 1957 interest took less than 4 percent. In 1929, one of the best predepression years, income before fixed charges covered such charges by a ratio of only 2 to 1. In 1957 the comparable ratio was almost 3 to 1.

During the war and postwar periods, the railroad carriers have been making enormous investments in additions and betterments. Such investments, which were financed primarily through earnings and depreciation accruals, brought about great improvement. Overall, with good maintenance, the railway plant and equipment would be as good as at any time in history.

Unit cost of railway operations has not increased proportionately with the general hourly wage increases of railroad and other American workers and the general price level. Since the end of the war, total railway cost per ton-mile has increased by only 42.6 percent. In the same period consumers' prices have risen 60.6 percent and the wholesale price index by 73.3 percent.

Output per man-hour, the generally accepted measure of employee productivity, is measured for the railroad industry in terms of revenue traffic units per man-hour. From 1921 to 1958, revenue traffic units per man-hour increased by 225 percent, an average (compounded) rate of increase of 3.3 percent per year. Employee efficiency in the railroad industry is at its all-time peak; the current rate of productivity progress is the highest in history.

Other testimony (pp. 273, 274) was to the effect that while other transportation facilities are growing faster than the railways, railway traffic is not shrinking. The rails handled 500 billion traffic units in 1929 and over 700 billion units in 1956. Railway traffic last year was greater, per capita of our population, and much greater per dollar net investment, than in 1930, or in the preceding decade—greater even than in 1929. Competitive handicaps under which the railways operate have not prevented their growth faster than the general growth of our population.

The 1956 figures published by the First National City Bank of New York show the railways' net income per dollar of gross revenue to have been 8.3 cents; the average for all transportation was 7.5 cents, for all industry 6.3 cents and for manufacturing 6 cents. In 1929 railway workers received 42.6 cents of every revenue dollar and 48.9 cents of every dollar of gross national product went to American workers. In 1956, railway wage cost took 51.1 cents of every dollar of railway revenue but workers in American industry generally received 58 cents in compensation of every dollar in the gross national product.

THE PRINCIPAL FEATURES OF THE BILL

AMENDMENTS TO THE RAILROAD RETIREMENT ACT

The bill would in general provide directly, either by changes in the formula for computing benefits or by a straight percentage increase, an increase of, generally, 10 percent in all retirement and survivor monthly and insurance lump-sum benefits, including the monthly benefits being paid under the regular minimum formula, as well as under the social security minimum formula which requires that the payment to a worker and his family of the benefits, or the additional benefits, under the Railroad Retirement Act be in the amount that would be payable under the social security system if railroad employment were covered by that system. The increase would be slightly more than that for most employee retirement annuities and survivor annuities computed under the regular railroad retirement formulas (as much as 1.4 percent more for some survivor benefits), because the increased percentages proposed by the bill in these formulas reflect "rounding out" the result, after application of an exact 10 percent increase in the computation factors. A further increase in benefits awarded in the future would be provided by raising the maximum compensation, used in computing benefits, on the basis of compensation for services rendered, from \$350 to \$400 a month, effective, for benefit purposes, with respect to compensation paid for services rendered after the month in which these amendments are enacted. The increase in tax rates from 6¼ percent to 6¾ percent and the change in taxable compensation from a maximum of \$350 to \$400 a month per employee would be effective with respect to compensation paid for services rendered after the month of such enactment. After December 31, 1961, the tax rate would be 7¼ percent on the compensation base of \$400.

The need for these increases is obvious in the light of the fact that living costs are at their highest in history and the average retirement benefit of the worker, even with the increase of 10 percent effected by the 1956 amendments, is now about \$117 a month.

Another feature of the bill would permit women with less than 30 years of service to receive a retirement annuity, or those eligible for a wife's annuity to receive it, as early as at age 62, but it would be reduced by one one-hundred-and-eightieth for each month the annuitant is under 65 when her annuity begins. This provision would conform generally the railroad retirement system in these respects to the social security system as it was recently amended, although, of course, women with 30 years of service would continue to be eligible under the railroad retirement system for unreduced retirement annuities at age 60. The husband of a railroad employee, also, could receive the spouse's annuity at age 62 on the same reduced basis as the wife of an employee.

The bill would, also, correct an inequity now in effect as regards disability annuitants who now lose their annuity for any month in which they have more than \$100 in earnings, even though they worked only casually or intermittently. The bill would permit them to earn as much as \$1,200 in a year without loss of annuity. Even if the disabled man's earnings came to more than \$1,200 in the year he could be paid this annuity, under the bill, for each month in which he earned no more than \$100 and he could lose no more than 1 month's annuity for each \$100 earned in excess of \$1,200 in the year, treating as \$100 the last \$50 or more of such excess.

The bill would provide for taking account as of the month after the month of enacting these amendments, in computing the residual benefit, the increase in the credit base from \$350 to \$400 a month, and the increase in retirement taxes which the bill would provide in amending the Railroad Retirement Tax Act, by providing for this calculation on the present basis on earnings up to the end of December 1958, plus 7½ percent of creditable compensation after 1958 through December 1961 and 8 percent thereafter.

Still another provision of the bill would modify the work limitation on survivor beneficiaries who work outside the United States, and who are, in this respect, as compared to beneficiaries working in the United States, discriminated against under present law. As now provided, these survivor beneficiaries working outside the United States lose their monthly benefit for each month in which they work more than 6 days in remunerative employment, regardless of how small the earnings, whereas beneficiaries working in the United States may earn up to \$1,200 in a year without loss in benefits and they lose a month's benefit only for months in which \$100 a month is earned in work for hire or the beneficiary engages substantially in self-employment, with the number of months of forfeited benefits limited to 1 for each \$80 in excess of \$1,200 a year. This difference in treatment is especially discriminatory against survivors of railroadmen living and working in Canada since living and working conditions there are so similar to those in the United States, and in all other respects these men and their survivors are treated, for retirement benefit purposes, as if U.S. citizens and residents. The bill proposes to remove the discrimination by applying to all survivor beneficiaries, wherever they work, the work limitations applicable to those working in the United States.

The bill would, also, amend the Railroad Retirement Act of 1937 so as to provide that pensions and annuities under such act and the Railroad Retirement Act of 1935 would not be deemed income for purposes of determining veterans' income in cases involving non-

service-connected disability pensions now afforded veterans who are totally and permanently disabled. The amendment would obviate the necessity for veterans to waive annuities and pensions, or parts thereof, in order to preserve rights to the pension for total and permanent disablement. Thus, veterans with rights under the veterans' pension laws would be enabled to exercise those rights fully while concurrently exercising their rights to pensions and annuities under the Railroad Retirement Acts. Without the amendment, these severely handicapped veterans would not be able fully to enjoy the increase in pensions and annuities recommended by the committee. From an actuarial point of view, the cost of the amendment would be negligible according to the Chief Actuary of the Railroad Retirement Board.

AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

Of course, to provide the added revenues needed to pay for the increased benefits under the railroad retirement system that the bill would allow, and, just as importantly, to eliminate the present actuarial deficiency, it is necessary, if the system is to be maintained on a sound, self-supporting basis, to obtain additional tax revenue from the workers covered by the system and their employers.

The bill proposes, therefore, to provide, with respect to compensation paid after the month in which these amendments are enacted for services rendered after such month, an increase from 6¼ percent to 6¾ percent, and with respect to compensation paid after December 31, 1961, for services rendered after such date, an increase to 7¼ percent, in the rate of employment tax imposed on both the employee and the employer to pay for the railroad retirement system and to increase the tax base for this purpose from up to \$350 a month of an employee's earnings up to \$400 a month, effective after the month in which these amendments are enacted. In addition to these changes, further increases in the rate would be provided for with respect to compensation paid for services rendered after 1964 by the same number of percentage points (or fractions of percentage points) by which the then current social security tax rate exceeds 2¾ percent. These increases would go into effect, however, only on the condition and to the extent that the scheduled social security rate increases above 2¾ percent actually go into effect. These rate increases for the railroad retirement system, which, as indicated, would be conditional only, are provided for because of the financial interchange between the social security system and the railroad retirement system under which the railroad system is charged with the taxes that would be paid by railroad employees and their employers (and is credited with the amount of benefits that would be paid to railroad employees) if railroad employment were covered by the social security system. The tax on employee representatives, who are charged with the equivalent of both the employee and employer tax, would be raised, similarly, in rate from 12½ percent to 13½ percent beginning with the month after these amendments are enacted and to 14½ percent beginning on January 1, 1962, with an increase in the base from \$350 a month to \$400, effective for months after the month in which these amendments are enacted, and further, but only on a contingent basis,

beginning in 1965, as provided with respect to taxes on employers and employees.

In conclusion of the discussion of the railroad retirement program, it is pertinent to note that the third paragraph on page 180 of the hearings on S. 226 quotes from the magazine *Business Week* a statement to the effect that the cost to employers in other industries for monthly benefits supplementary to the social security benefits is "anywhere from 5 to 10 percent of payroll." When this cost is added to the current social security tax rate on employers, the total cost to such employers is far in excess of the 6¼ percent on railroad employers (provided in the bill) from the effective date to January 1, 1962, and the 7¼ percent from January 1, 1962; and is even in excess of the ultimate possible 9 percent, scheduled conditionally, from 1969, provided the tax increases scheduled in the 1958 Amendments to the Social Security Act become effective.

AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

In keeping with the inflated living costs and to provide more adequately for unemployment resulting from loss of work and from sickness the bill would provide a new schedule of daily rates for unemployment and sickness benefits, ranging up to \$1.70 higher than present rates; and would increase the alternative benefit rate of pay in the employee's last railroad service in the base year to 60 percent of such rate of pay. The maximum benefit rate would be raised from \$8.50 to \$10.20. Because of the urgent need, these increases would be effective at once and even retroactively; that is, they would be effective with respect to the benefit years beginning on July 1 of last year.

The bill would further provide for increasing, effective with respect to compensation paid after the month of enactment of these amendments, for services rendered after such month, from \$350 to \$400 a month the maximum amount of an employee's earnings for which credit would be given in determining the benefit rate. Further, in view of the higher rates of pay now in effect in the railroad industry as compared with former years, the bill would raise from \$400 to \$500 the minimum amount of earnings in a base year effective with respect to the "base" years after 1957 which would qualify a worker for benefits in the next succeeding benefit year; and would provide that if subsidiary remuneration is used to provide the qualifying amount of \$500 compensation in a base year, such remuneration would not be considered "subsidiary remuneration" in determining days of unemployment.

A very important provision of the bill would provide an extension of benefit years or periods during which unemployment benefits may be paid. It is intended to help take care of the widespread unemployment in the railroad industry resulting not only from the recent recession, but the substantially increased productivity and efficiency of the railroads and the men working for them. This increased productivity and efficiency has more than just a temporary effect. In many instances it results in permanent displacement of long-time railroad workers whose experience and skills are wholly within the railroad industry and who, though willing and anxious to work, cannot obtain employment elsewhere. Thus, the provision would allow employees with 10 or more years of railroad service, who have

exhausted their rights to unemployment in the ordinary benefit year, to have the benefit year extended in accordance with a schedule based on length of service. In accordance with the proposed schedule the unemployed man with 10 years of service but less than 15 could have his benefit year extended for seven more 14-day periods, but in which benefits would be limited to 65 days, and the man with 15 or more years of service could get an extension of 13 more such periods with additional benefits limited to 130 days.

For an employee with 10 or more years of service who did not voluntarily leave work without good cause or voluntarily retire, who has 14 days of unemployment and is not otherwise qualified for benefits when the unemployment commences but would be a qualified employee in the next succeeding general benefit year, such year would begin in his case on the first day of the month in which such unemployment commences and continue to such time as it otherwise would.

An employee with less than 10 years of service who has after June 30, 1957, and before April 1, 1959, exhausted his rights to unemployment benefits would be paid benefits for up to 65 days of unemployment which occur in registration periods beginning on and after June 19, 1958, and before July 1, 1959, if such days of unemployment are not otherwise days for which he would receive unemployment benefits and if he has not established a claim for benefits under the Temporary Unemployment Compensation Act of 1958, as amended.

The limitation on benefits to an amount not in excess of the employee's qualifying compensation, even where that is the reason for exhaustion of benefits, applies neither to the temporary extension of benefits in the period June 19, 1958-July 1, 1959, nor to the permanently provided for extended benefits period for employees with 10 or more years of service.

The provision for extended periods of unemployment would apply to extend the benefit year for sickness benefit purposes for as long as the benefit year would be extended for unemployment purposes; that is, it would do so for the unemployed man who had exhausted his unemployment rights in a normal benefit year and to the extent indicated in the schedule. The number of days of sickness for which benefits would be paid in the extended benefit year would be restricted, however, to the present maximum of 130 (or to the extent of an amount equal to the base year compensation if lower) applicable to normal benefit years.

The bill would, also, extend from 7 to 10 the maximum number of days in the first registration period in a benefit year for which unemployment (but not sickness) benefits would be paid. This provision would not increase the number of days for which benefits would be paid in a benefit year, but would merely result in the treatment of the first registration period in a benefit year just as later periods are treated. The bill would thus eliminate the inequity of requiring more days of unemployment in the first registration period in a benefit year than in later registration periods in order for benefits to be paid.

The bill would also eliminate the provision and the resulting inequity which prevents Sundays and holidays, not immediately preceded and followed by a day of unemployment, from being regarded as days of unemployment.

To pay for the increased unemployment and sickness benefits provided in the bill, the schedule of contribution rates charged against employers would be changed, and the earnings base for contributions would be raised from a maximum of \$350 a month to \$400 a month. The contribution rate, under the bill, would be 1½ percent of compensation paid to employees (not in excess of \$400 a month) when the amount in the railroad unemployment insurance account as of September 30 in the preceding year should be \$450 million or more and such rate would be increased by steps to a maximum of 4 percent when such balance, as of such date, should be less than \$300 million. This increase in contribution rate would go into effect with respect to compensation paid for services rendered in calendar months after the month in which these amendments are enacted, and since the Board has determined that the balance as of September 30, 1958, was less than \$300 million, the contribution rate, which went to 3 percent on January 1, 1959, would go to 4 percent on compensation earned after the month in which these amendments are enacted.

The balance in the railroad unemployment insurance account had been reduced as of February 28, 1959, to \$50 million. This amount together with the contributions to be received for the next several months may be insufficient to pay benefits and refunds due in succeeding months. In view of this situation the Railroad Retirement Board, railroad management, and the railroad labor organizations are in agreement that authority is needed to allow the Board to borrow from the railroad retirement account in order to obtain the funds required to pay benefits and refunds due under the Railroad Unemployment Insurance Act.

The bill accordingly authorizes the Board, whenever it finds that the balance in the railroad unemployment insurance account will be insufficient to pay benefits and refunds due, to request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such funds as the Board estimates are required to pay such benefits and refunds. The Secretary of the Treasury is directed to make such transfer upon request by the Board. The bill also provides for retransfer to the credit of the Railroad Retirement Account of the funds borrowed plus interest at the rate of 3 percent when the Board finds that the borrowed funds are no longer needed for the payment of benefits and refunds. For the purpose of determining the balance in the railroad unemployment insurance account as of September 30 of any year, the amount in such account which has not yet been retransferred to the credit of the Railroad Retirement Account, plus 3 percent interest thereon, will be disregarded.

DETAILED STATEMENT OF IMMEDIATE EFFECT ON BENEFICIARIES OF
AMENDMENTS TO THE RAILROAD RETIREMENT ACT

The bill proposes to increase retirement and survivor annuities by, generally, 10 percent as of the month following the enactment of the bill. For the purposes of these estimates the effective date is assumed to be July 1, 1959.

Employee annuities

An estimated 364,000 employee annuities now averaging \$118, in course of payment on July 1, 1959, would be increased by 10 percent to an average of almost \$130.

For an employee retiring on July 1, 1959, the maximum annuity that could be paid would rise from about \$186 to \$205. Subsequently, the maximum, because of the new \$400 ceiling on taxable earnings, would rise, slowly, up to the end of 1966. Thereafter, the maximum will rise more rapidly, since more than 30 years of service will become creditable toward annuities.

An estimated 44,500 retirement annuity awards, averaging about \$140, would be made in fiscal year 1959-60. This includes some 500 awards to women employees aged 62-64 who would elect to accept a reduced annuity.

Spouse annuities

The estimated 133,000 spouses on the rolls on July 1, 1959, would have their annuities increased by 10 percent. The average spouse annuity in current payment status on that date would be increased to about \$57. The estimated 16,000 unreduced spouse annuities to be awarded in fiscal year 1959-60 would average \$58. The new maximum spouse annuity would be \$66.60 in July 1959, and \$69.90 in February 1960.

There are an estimated 36,000 spouses aged 62-64 who could avail themselves of the opportunity of receiving reduced spouse annuities. In the absence of specific experience, and for the purposes of this report, it has been arbitrarily assumed that about three-fourths of them, or 27,000, would choose to accept such reduced benefits. The reduced benefits would average about \$51.

TABLE 1.—Estimated number of monthly benefits in current-payment status on the effective date,¹ and estimated average monthly amount before and after increases under the bill S. 226, by type of benefit

Type of benefit	Benefits in current-payment status				
	Number			Average monthly amount	
	Total	Benefit computed under—		Present law	Proposed bill
		Railroad formula	Social security formula ²		
Total.....	742, 900	523, 200	219, 700	-----	-----
Retirement:					
Employee annuities.....	364, 000	328, 000	³ 36, 000	\$117. 70	\$129. 50
Pensions.....	1, 200	1, 200	-----	81. 70	89. 90
Spouse annuities.....	133, 000	123, 000	10, 000	51. 60	56. 80
Monthly survivor:					
Aged widows' annuities.....	187, 000	66, 000	121, 000	57. 50	63. 30
Widowed mothers' annuities.....	11, 300	300	11, 000	76. 60	84. 30
Children's annuities.....	42, 200	1, 500	40, 700	49. 80	54. 80
Parents' annuities.....	1, 100	100	1, 000	58. 40	64. 30
Survivor (option) annuities.....	3, 100	3, 100	-----	50. 50	55. 60

¹ Assumed to be July 1, 1959.

² Bill provides minimum benefits equal to 110 percent of the amount under social security formulas.

³ Includes 7,000 disability annuitants aged 50 to 64.

TABLE 2.—Estimated number of awards in first full year,¹ and average benefit under present law and the bill S. 226, by type of benefit

Type of benefit	Awards under—			
	Present law		Proposed bill	
	Number	Average amount	Number	Average amount
Retirement:				
Employee annuities.....	43,000	\$127.20	44,000	\$140.00
Reduced age annuities to women.....			2,500	85.00
Reduced spouse annuities.....			27,000	51.00
Unreduced spouse annuities.....	22,000	52.50	16,000	57.80
Monthly survivor:				
Aged widows' annuities.....	21,000	67.10	21,000	73.90
Widowed mothers' annuities.....	2,300	85.60	2,300	94.20
Children's annuities.....	5,800	57.90	5,800	63.70
Parents' annuities.....	100	74.50	100	82.00
Survivor (option) annuities.....	50	55.00	50	60.50
Lump-sum payments:				
Insurance benefits.....	18,000	510.00	18,000	560.00
Residual payments.....	6,500	1,700.00	6,500	1,600.00

¹ Assumed to be July 1, 1959, to June 30, 1960.

² There will be an estimated 36,000 spouses of retired employees, and 1,000 women employees with less than 30 years of service, aged 62 to 64, eligible to elect reduced annuities. It is assumed that $\frac{3}{4}$ of the spouses and $\frac{1}{2}$ of the women employees would make such elections.

Pensions

The estimated 1,200 pensioners on the rolls on July 1, 1959, would receive 10 percent increases, bringing their average benefit to about \$90, compared with the average of \$82 under the present law.

Survivor annuities and insurance lump-sum benefits

Of the estimated 244,700 beneficiaries in current payment status, all will receive an increase of at least 10 percent. The maximum basic amount possible on July 1, 1959, under the new formula would be \$80, while the maximum family benefits would be \$193.60 and \$279 under the railroad and social security guaranty formulas, respectively.

An estimated 18,000 insurance lump-sum benefits would be paid in the fiscal year 1959-60. The average lump sum would be \$560.

Disability work clause

The immediate effect of the change in the disability work clause is comparatively small. About 1,000 annuities are withheld each month under the present provision. This proposed change in the disability work clause would, it is estimated, reduce the amount withheld in the first year by about \$200,000.

Disregarding annuity and pension income for purposes of section 522 of title 38 of the United States Code

On July 1, 1959, there will be about 1,800 retired employees who waived part of their annuities to permit them to qualify for veterans' non-service-connected disability pensions.

Total benefit payments

Total benefit payments under the provisions of the bill in the fiscal year 1959-60 are estimated at about \$928 million, or \$98 million more than would otherwise be payable under the present law. Of the additional \$98 million, \$83 million is attributable to the 10 percent increase in monthly and lump-sum benefits and the remaining \$15

million to the new benefits for women employees and spouses aged 62-64, but this \$15 million will be largely offset by the reduction in annuities in later years.

Tabular summary

The two tables set forth previously illustrate the effect of the proposed amendments. Table 1 shows the effect on benefits in course of payments on July 1, 1959, and table 2 covers benefit awards in fiscal year 1959-60.

IMMEDIATE EFFECT OF AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

The bill proposes to amend the Railroad Retirement Tax Act, effective as of the first of the month following the enactment of the amendments, by raising the monthly limit on taxable earnings from \$350 to \$400 and increasing the combined employee-employer tax rate from 12.5 to 13.5 percent through 1961 and to 14.5 percent in 1962-64. In addition the combined rate of tax in 1965 and thereafter would be increased, on a conditional basis, by the excess of future actual social security combined rates over 5.5 percent. For purposes of the estimates made, the increase in tax rates and in the monthly limit on taxable compensation is assumed to be effective July 1, 1959.

Assuming that the railroad industry will be recovering from the low level of activity experienced during the 1957-58 economic recession with consequent gradual increase in employment and assuming the amendments to be effective July 1, 1959, the effect of the proposed legislation on railroad retirement taxes in the fiscal year 1960 would be as follows:

[Millions]

Item	Present law	Proposed law
1. Taxable payroll.....	\$4,600	\$5,100
2. Taxes at 12.5 percent.....	575	638
3. Taxes at 13.5 percent.....		689
4. Total additional taxes.....		114
(a) Due solely to higher tax base.....		63
(b) Due to higher tax on old base.....		46
(c) Due to higher tax rate on addition to old base.....		5

It should be emphasized that the above figures pertain only to the first-year effect of the monthly limit and tax increases. The long-range estimates are shown later in this report.

ACTUARIAL EFFECTS OF AMENDMENTS TO THE RAILROAD RETIREMENT ACT AND THE RAILROAD RETIREMENT TAX ACT

It is estimated that the proposed amendments pertaining to the retirement and survivor programs would increase the cost of benefits by about \$146 million a year on a level basis. It is further estimated that the additional immediate and deferred taxes would bring in about an extra \$57 million in 1959, an average of \$115 million in each of the years 1960 and 1961, and \$174 million in 1962-64. In 1969, if the contingent increase in taxes becomes effective, as scheduled after 1964, the amount would reach about \$370 million a year. Of the \$114 million in additional taxes (\$57 million to be paid by the em-

ployers and an equal amount by the employees) in fiscal year 1959-60, \$63 million would be due to taxing compensation between \$350 and \$400 a month at the rate of 12½ percent, and the remaining \$51 million a year would be due to the additional 1 percentage point of tax on the total estimated payroll of \$5.1 billion for the year. The rise in 1962 would result mainly from the additional percentage point in the combined tax rate with similar situations occurring in later years.

Considering both additional outgo and additional income, the estimates indicate that the added revenues would exceed the added disbursements by about \$179 million a year, which is equivalent to 3.20 percent of a \$5.6 billion taxable payroll. Since the actuarial deficiency for the present law, calculated as of December 31, 1958, is estimated at 3.81 percent of that payroll (adjusted from 4.18 percent of a \$5.1 billion payroll), the enactment of the amendments would leave the railroad retirement system with an actuarial deficiency of 0.61 percent of payroll (3.81 minus 3.20) or about \$34 million a year. The derivation of the above actuarial deficiency figure is shown in table 4 together with a breakdown of the major cost figures for the proposed program by source of cost or savings as the case may be.

An analysis of the cost effects of the proposed amendments considered by themselves is presented in table 5. As previously indicated, the total level additional disbursements are estimated at \$146 million a year, or 2.61 percent of taxable payroll, while the additional revenues come to 5.81 percent of payroll or \$325 million a year on a level basis.

The disbursements due to the increase in the limit on creditable compensation (\$44 million a year after considering the proposed 10 percent increase in benefits) would be felt to only a very minor extent during the first several years following enactment of this provision. However, the additional income on the extra creditable compensation would begin to accrue in full almost immediately. On the other hand, the lowering of the retirement age for women on an elective basis would result in considerable additional disbursements in the immediate future, but these would later be largely offset by reductions in benefits payable after age 65.

From an actuarial point of view, only the additional net costs of the change in the retirement age for women had to be considered. It is estimated that the net additional cost would come to some 0.03 percent of payroll or, in round figures, \$1.5 million a year on a level basis. This figure is but a small fraction of the possible additional disbursements in the first year due to this amendment.

For the proposed liberalization in the work clause for disability annuities, this estimate allows an additional cost of 0.02 percent of payroll, or about \$1 million a year on the average. The smallness of the allowance is in conformity with the total work clause savings which has been estimated at about 0.05 percent of payroll. The present estimate assumes that the liberalization in the disability work clause would take up about one-half of the savings which would exist under the provisions of the present law. Whether this assumption will or will not be borne out by actual experience is not very important because of the relative smallness of the amounts involved.

The cost figures here discussed are based on the seventh actuarial valuation as adjusted for the effect of the 1958 amendments to the Social Security Act and as subsequently revised to produce costs as of

December 31, 1958. As indicated in table 4, the gross costs of the amended benefit program, including administrative expenses, would come to 20.89 percent of taxable payroll (approximately \$1.2 billion a year on a level basis), and the reduction on account of funds on hand (which will produce interest equivalent to 1.96 percent of payroll estimated as \$5.6 billion) and the financial interchange with social security (producing gains equivalent to 1.12 percent of payroll) would come to 3.08 percent (\$173 million a year), thus leaving a net cost of 17.81 percent (\$997 million a year) to be financed by future payroll taxes. The future tax income is estimated to be equivalent to a level rate of 17.20 percent (\$963 million a year), thus leaving an actuarial deficiency of 0.61 percent of payroll, or about \$34 million a year.

Because of the very small margins for contingencies contained in the assumptions, there is very little likelihood that the actual future cost of the railroad retirement program after giving effect to the proposed amendments will be lower than estimated. An error in the opposite direction is considered to be much more likely although the extent of the probable error in the estimated costs for the proposed amendments could not be determined with any degree of accuracy.

TABLE 3.—Estimated additional tax income under the amendments to the Railroad Retirement Tax Act contained in the bill

[Dollar amounts in millions]

Calendar year	Rate of tax (percent)		Taxable payroll for \$350 limit		Additional taxes under bill ¹	
	Employer	Employee	Level assumption	Short-range projection	Level assumption	Short-range projection
1959 ²	6½	6½	\$5,100	\$4,600	\$59	\$57
1960.....	6½	6½	5,100	4,700	118	114
1961.....	6½	6½	5,100	4,900	118	116
1962.....	7¼	7¼	5,100	5,100	174	174
1963.....	7¼	7¼	5,100	5,100	174	174
1964.....	7¼	7¼	5,100	5,100	174	174
1965.....	8	8	5,100	5,200	268	262
1966.....	8½	8½	5,100	5,200	314	319
1967.....	8½	8½	5,100	5,200	314	319
1968.....	8½	8½	5,100	5,200	314	319
1969 and thereafter.....	9	9	5,100	5,200	370	376

¹ Difference between combined employer and employee taxes at proposed rates on taxable payrolls for \$400 limit and 12½ percent of payroll with \$350 limit. The taxable payroll for the \$400 limit is estimated to be \$500,000,000 a year higher than for the \$350 limit on monthly compensation.

² Assuming effective date of July 1, 1959, so that additional taxes will be applicable to ½ the year.

TABLE 4.—*Cost estimate for the railroad retirement program as it would be amended by the bill*

[Level cost figures are as of Dec. 31, 1958, and relate to a taxable payroll of \$5,600,000,000 a year; the effective date is assumed to be July 1, 1959]

Item	Percent of payroll (\$400 limit)	Amount per year (millions)
A. Gross cost of benefits, total.....	20.89	\$1,170
Employee annuities and pensions.....	¹ 14.20	795
Spouses' annuities.....	1.40	78
Aged widows' annuities.....	3.94	221
Other survivor annuities.....	.62	35
Insurance lump sums.....	.20	11
Residual payments.....	.39	22
Administrative expenses.....	.14	8
B. Deductions from gross costs, total.....	3.08	173
Funds on hand.....	² 1.96	110
Gains from financial interchange.....	1.12	63
C. Net cost.....	17.81	997
D. Future tax income, total.....	17.20	963
Independent of OASDI rates.....	14.39	806
Additional taxes after 1964 dependent upon OASDI rates.....	2.81	157
E. Actuarial deficiency (excess of net costs over total future tax income).....	.61	34

¹ Includes 0.08 percent of payroll for benefits payable with respect to dependents of disability annuitants under the social security minimum provision.

² Excludes an estimated \$325,000,000 accrued under the financial interchange for the period July 1957-December 1958 but not yet received. Had this amount been included, the 1.96 would have been increased to 2.13 and the next figure of 1.12 would have been correspondingly reduced to 0.95.

TABLE 5.—*Changes in actuarial deficiency due to the bill*¹

[Taxable payroll of \$5,600,000,000 a year for \$400 limit on monthly compensation; the effective date is assumed to be July 1, 1959]

Item	Percent of payroll (\$400 limit)	Amount per year (millions)
Actuarial deficiency under law before amendments (as of Dec. 31, 1958).....	² 3.81	\$213
Benefits at present rates due to higher compensation base.....	+ .71	40
Increase in benefits by 10 percent.....	+1.82	102
Elective reduced benefits to spouses and women employees at age 62.....	+ .03	3
Increase in residual benefit.....	+ .03	
Liberalization of work clause for disability annuitants.....	+ .02	1
Taxes at rate of 12½ percent on additional taxable compensation.....	-1.10	-62
Increase in schedule of taxes independent of OASDI rates.....	-1.90	-106
Additional taxes after 1964 dependent upon OASDI rates.....	-2.81	-157
Actuarial deficiency under law after amendments (as of Dec. 31, 1958).....	-.61	-34

¹ The additional cost due to sec. 4 of the bill, which would eliminate the need for waiving parts of the railroad retirement annuity or pension in certain veterans' pension cases, is too small to be of actuarial significance.

² Equivalent to 4.18 percent of payroll with a \$360 limit on monthly compensation. In both instances this is equivalent to \$213,000,000 a year.

DETAILED STATEMENT OF IMMEDIATE EFFECT ON BENEFICIARIES OF AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

The immediate effect of the proposals to amend the Railroad Unemployment Insurance Act may be most conveniently illustrated by reference to actual experience of the Board in the benefit year 1957-58. Each of the proposals is discussed in turn.

Except for several thousand beneficiaries with earnings under \$500 who would no longer be qualified, if the bill had been in effect prior

to the 1957-58 benefit year, the benefits of all beneficiaries would have been increased substantially. Also, many employees who would not have been paid benefits at all under the present law would have been eligible, mainly for relatively small amounts.

Increase in qualifying earnings requirement

In 1957-58, 4,300 (1.4 percent) of the unemployment beneficiaries and 600 (0.4 percent) of the sickness beneficiaries had base-year earnings under \$500 and so would not have been qualified. However, no employee currently on the benefit rolls would be denied benefits in this benefit year by the proposed change; it would be effective with the 1958 base year and so would not affect benefit payments until July 1959.

Benefit rates

The 1957-58 beneficiaries with base-year earnings of \$500 or more would, it is estimated, have been paid at an average daily benefit rate of \$9.40 for unemployment and \$9.74 for sickness (prior to adjustment for receipt of other social insurance benefits). For each type of benefit the average benefit rate would be about one-fifth larger than under the present law. The increase in benefit rates for those with rates determined under the proviso with respect to the daily rate of pay would obviously be this much generally, since 60 percent is one-fifth larger than 50 percent. The new schedule in the bill, as shown in the table below, would cause an increase of from 8 to 25 percent, depending on the compensation range. However, increasing the limit on creditable earnings would add to this by shifting many beneficiaries to a higher compensation group, with a consequent higher benefit rate. Thus, for some beneficiaries, particularly in the higher compensation brackets, the total increase would be substantially more than 20 percent, and the average increase for those paid schedule rates would be about one-fifth also.

It is possible under the present law for a beneficiary who was fully employed in the base year to qualify for a benefit rate approaching 60 percent of his rate of pay. Similarly, under the bill it would be possible for some beneficiaries to be paid at benefit rates near 70 percent of the daily rate of pay. For example, an employee paid at a rate of \$14 a day, if employed 5 days a week without overtime for 50 weeks, would earn \$3,500. This would qualify him for a benefit rate of \$9.50 under the schedule in the bill, or 68 percent of his daily rate of pay.

Comparison of benefit rates in schedule under Railroad Unemployment Insurance Act with proposed schedule

Range of base-year compensation	Daily benefit rate		Percent increase
	Present Railroad Unemployment Insurance Act	Proposed schedule	
\$400 to \$499	\$3.50		
\$500 to \$699	4.00	\$4.50	12.5
\$700 to \$749	4.00	5.00	25.0
\$750 to \$999	4.50	5.00	11.1
\$1,000 to \$1,299	5.00	5.50	10.0
\$1,300 to \$1,599	5.50	6.00	9.1
\$1,600 to \$1,899	6.00	6.50	8.3
\$1,900 to \$1,999	6.00	7.00	16.7
\$2,000 to \$2,199	6.50	7.00	7.7
\$2,200 to \$2,499	6.50	7.50	15.4
\$2,500 to \$2,799	7.00	8.00	14.3
\$2,800 to \$2,999	7.00	8.50	21.4
\$3,000 to \$3,099	7.50	8.50	13.3
\$3,100 to \$3,499	7.50	9.00	20.0
\$3,500 to \$3,999	8.00	9.50	18.8
\$4,000 and over	8.50	10.20	20.0

NOTE.—Since the compensation ranges of the 2 schedules differ, it was necessary, for this comparison, to divide some rate groups into 2 parts.

Extended benefit periods

It is estimated that, for 1957-58, extended benefit periods and early beginning dates of benefit years would have provided additional benefits to about 25,000 railroad employees, averaging over \$500 each. Furthermore, about 2,500 of the 25,000 would have received additional sickness benefits, averaging nearly \$200 each. Although the maximum number of days of sickness is not increased, payment of sickness benefits that would not be paid under present law could occur because providing extended benefit periods or beginning benefit years early lengthens the benefit year and so provides increased opportunity for payment of sickness benefits for the year up to the maximum specified in the law.

Reduction of noncompensable days of unemployment and eliminating the Sunday and holiday disqualifications

These two provisions together, in 1957-58, would have increased by about \$12 million the unemployment benefits paid to about 250,000 beneficiaries who either did not exhaust benefit rights in that year, or would be entitled to extended benefit periods. In addition, thousands of employees who did not receive benefits in 1957-58 would have received small payments. In these cases the payments would have been made for claims with 5 to 7 days' unemployment which otherwise would not be compensable.

The removal of the Sunday and holiday disqualification provision in the law would increase the number of such claims because, for a man normally working a 5-day week, any day of unemployment in a workweek could be a compensable day. The wage contracts for non-operating employees now provide payment for holidays. Nevertheless, in the course of a year there will be a large number of employees who will not get paid for one or more holidays for one reason or another; in such cases, because any days of unemployment over four would be compensable, benefits might be paid for the holiday. It is

estimated that the number of additional beneficiaries resulting from the 2 provisions may be in the neighborhood of 50,000.

Temporary extension of duration for employees with under 10 years' service

Additional benefits would have been paid to about 35,000 1957-58 beneficiaries with less than 10 years' service who exhausted benefit rights for that year under the temporary provision, extending their duration of benefits a maximum of 13 weeks. About 45,000 1958-59 beneficiaries would also receive additional payments from this change. It is estimated that the total amount payable under the provision would be about \$25 million.

Estimates of the additional benefits that would have resulted from the different provisions of the bill in 1957-58 are shown separately in the following table:

Provision	Unemployment		Sickness	
	Amount	Percent	Amount	Percent
Total benefits, present law ¹	\$175,723,000	100.0	\$53,253,000	100.0
Savings due to \$500 qualifying earnings.....	1,632,000	.9	173,000	.3
Increases for qualified beneficiaries:				
1. Benefit rate schedule (including effect of \$400 a month maximum creditable earnings).....	14,892,000	8.5	7,902,000	14.8
2. 60 percent benefit rate proviso.....	20,413,000	11.6	4,314,000	8.1
3. Extended benefit periods and early beginning of benefit years.....	13,450,000	7.7	500,000	.9
4. Elimination of waiting periods for unemployment.....	8,176,000	4.7		
5. Removal of sec. 4(a-2)(iv).....	3,873,000	2.2		
6. Temporary additional duration for employees with under 10 years' service.....	(?)	(?)		
Net increase.....	59,172,000	33.7	12,543,000	23.6

¹ Net benefits payable for year, which differ slightly from published figures of actual amounts paid in the year.

² \$25,000,000 in 1 year only; not included in totals, and percentage not shown, because not a cost factor for later years.

IMMEDIATE EFFECT ON BENEFITS AND FINANCING

The immediate effect of the bill on benefit payments in this fiscal year would be larger than shown in the preceding table because retroactive payments for extended benefit periods starting in the preceding benefit year and payments under the provisions for temporary additional duration would be made in addition to increases applying to current benefit year claims. Also, payments under the present law may be somewhat larger this year than in 1957-58.

Additional benefits

The most recent estimates indicate that payments under the present law for 1958-59 will total about \$230 million. The bill, if enacted, would increase these payments by approximately \$100 million, assuming that enactment would occur early enough for all the retroactive payments to be made by June 30, 1959. About \$60 million of the increase would be additional benefits for unemployment or sickness which occurred before January 1, 1959.

Effect on balance in the account

Under the present law, it is expected that the balance in the railroad unemployment insurance account will be reduced to a figure under

\$50 million by June 30, 1959. There will be no additional income from the bill by that time since any contributions accumulating in the April-June quarter would not be payable until the following quarter and it would be necessary to borrow \$50 million or more to make the payments due. Additional borrowing would be necessary in the 1959-60 period pending receipt of contributions at the new rate.

Immediate cost to the railroads

The bill would provide a maximum contribution rate of 4.0 percent and maximum taxable earnings of \$400 a month, both of which would become effective on the first day of the month following the enactment of the bill. Under provisions of law, which would not be changed, the effective rate for 1959 is based on the balance to the credit of the railroad unemployment insurance account at the close of business on September 30, 1958. Because that balance has already been determined and proclaimed by the Board to be less than \$300 million, the amendment providing that the effective rate would be 4.0 percent when the balance is under \$300 million would apply as of the effective date to cause the contribution rate for the balance of 1959 to be 4.0 percent. The rate for 1959 is 3 percent under the unamended law. Thus, the increase in rate would be 1 percent for compensation paid after the effective date in calendar year 1959. The average increase in costs accruing for the railroads, as shown by the following table, would be nearly \$70 million a year.

Calendar year	Total contributions at 3 percent for present law (millions)	Contributions at 4 percent with \$400 limit on taxable earnings (millions)	
		Total	Increase over present law
1959	\$138	\$171	\$33
1960	141	208	67
1961	147	216	69
1962	153	224	71

¹ Assuming effective date of July 1, 1959.

NOTE.—Figures are estimates of contributions that would be payable on compensation paid in these years.

FUTURE COSTS

There is no adequate statistical basis for estimates of the exact cost of the changes proposed by this bill. The cost would be greatly influenced by such unpredictable things as the frequency and extent of cyclical fluctuations in railroad traffic, international conflicts, and technological developments. It appears, however, that the future cost of the proposals would be somewhat larger, relatively, than the cost for 1957-58. The more important reasons for this are as follows:

1. The cost of the extended benefit periods and of early beginning of benefit years would probably be larger than the estimate for 1957-58 indicates. Exhaustions in 1957-58 occurred later in the year than in most years, so the additional benefits in many cases would only replace payments made in following benefit year without increasing the total paid. The cost of this provision may be substantially higher in 1958-59 when exhaustions have occurred earlier.

2. A substantial increase in daily benefit rates would probably be accompanied by some increase in the frequency with which benefits are claimed. For example, the sickness beneficiary rates (number of beneficiaries per 100 qualified employees) since the 1954 amendments are higher than those for earlier years.

3. Increases in pay rates in the future will tend to increase benefits more than taxable payrolls, because the effect of the benefit rate proviso is limited only by the \$10.20 maximum, while the increase in taxable payroll will be limited by the \$400 maximum on creditable compensation. Also, rising wage rates will make even less significant the savings in benefits that would result from the increase in the qualifying earnings requirement to \$500.

4. The cost of the reduction of noncompensable days of unemployment and removal of the Sunday and holiday disqualification would have more effect, relatively, in years in which there is less unemployment, with shorter duration of benefits and relatively more partial or intermittent unemployment.

According to the latest estimates that have been made, benefits under the present provisions of the Railroad Unemployment Insurance Act will average about \$145 million over a period of years, \$94 million for unemployment and \$51 million for sickness, including maternity. The estimate of taxable payrolls is \$5.1 billion a year. Including administrative expenses, the total cost of the present program is estimated at 2.9 percent of the taxable payroll.

For the proposals contained in the bill it appears reasonable, and in accordance with a desire for sound financing, to assume for the future an increase of a little more than two-fifths in the average amount of unemployment benefits and an increase of one-third in the amount of sickness benefits. This results in an average annual benefit cost for the future, if the bill should be enacted, of \$202 million, of which \$135 million would be for unemployment and \$67 million for sickness. At the same time, the \$400 limit on creditable earnings would, it is estimated, increase the taxable payroll to \$5.6 billion. Including an allowance of 0.20 percent of payroll for administration and deducting 0.05 percent for interest on the balance in the account, the total cost of the program would then be about 3¼ percent of payroll. Costs for the present law and with the bill are summarized in the following table.

Item	Present law	With proposed changes
Average benefits, total.....	\$145,000,000	\$202,000,000
For unemployment.....	94,000,000	135,000,000
For sickness.....	51,000,000	67,000,000
Taxable payroll.....	5,100,000,000	5,600,000,000
Benefits as percent of payroll.....	2.85	3.60
Administration costs as percent of payroll.....	.15	.20
Allowance for interest on balance in account.....	-.10	-.05
Net total cost as percent of payroll.....	2.90	3.75

These cost figures are, of course, only an approximation based on what appear to be reasonable interpretations of available data, and on forecasts of the future of the railroad industry. With somewhat different assumptions, which may be just as reasonable, a variation

of as much as one-quarter percent of payroll in either direction might be obtained. The figures can thus be interpreted as indicating that the cost of the benefit program under the Railroad Unemployment Insurance Act, if the bill is enacted, would be somewhere between 3½ and 4 percent of payroll.

Financing

The bill provides the following schedule of contribution rates:

If the balance on September 30 in the railroad unemployment insurance account is—	The contribution rate for the next calendar year shall be—
\$450 million or more.....	1½ percent.
\$400 million, but less than \$450 million.....	2 percent.
\$350 million, but less than \$400 million.....	2½ percent.
\$300 million, but less than \$350 million.....	3 percent.
Less than \$300 million.....	4 percent.

The balance in the account on September 30, 1958, was \$135 million. Thus, as stated, the maximum rate of 4 percent would become effective the first day of the calendar month following enactment.

It appears, in view of the cost estimates, that the maximum rate of 4.0 percent provided by the bill would prove adequate to finance the benefits. In the future, since it appears that the cost as percent of payroll would be somewhat less than the maximum contribution rate provided, there may be some years in which the contribution rate would be 3.0 percent rather than the maximum of 4.0 percent.

SECTION-BY-SECTION EXPLANATION OF THE BILL

PART I. AMENDMENTS TO THE RAILROAD RETIREMENT ACT

Section 1. Reduced annuities for women and for spouses at age 62, upon election; limitation on reduction of disability annuities because of earnings by annuitant; and increase in maximum amount of spouse's annuity

Subsection (a) of this section would amend section 2(a)3 of the Railroad Retirement Act to provide that women who do not have the 30 years of service required for a full annuity at age 60 or over, may, upon election, receive a reduced annuity after attaining age 62. The annuity would be reduced by one one-hundred-and-eightieth for each month the woman is under age 65 when the annuity begins to accrue. Women at age 62 may now, as a result of the 1956 amendments to the Social Security Act, obtain reduced retirement benefits under that system and this change would remove the disparity. Because of the reduction the cost of this annuity would not be significantly more than the cost of the full annuity at age 65.

Under the present provision of section 2(d) of the act, the disability annuity of an individual under age 65 is not paid for any month in which he earns above \$100 in any form of employment. Subsection (b) would amend such section 2(d) to provide that the annuity for a month or months which is withheld because of such earnings or any deduction which is applied for 1 or more months by reason of a failure to report earnings for such month or months is to be restored if the earnings of the disability annuitant for the whole calendar year do

not exceed \$1,200. Further, where the annuitant's total earnings exceed \$1,200 in a calendar year the number of months for which his annuity is not paid in such year because of earnings of over \$100 in each such month is in no event to exceed 1 month for each \$100 of earnings over \$1,200 (with the last \$50 or more of such excess being treated as \$100). Earnings for service to an "employer" under the act or to the last person by whom the employee was employed before his annuity began to accrue would be disregarded in computing the total earnings for a year. This is because in no event could he receive an annuity for a month in which such service occurred. If the annuity is changed in such year payments of annuity which become payable solely because of this limitation would be made for the months for which the annuity is larger.

Under the present provisions of section 2(e) of the act, the maximum amount payable as a spouse's annuity for a month is an amount equal to the maximum amount which could be paid to anyone with respect to such month as a wife's insurance benefit under the Social Security Act. Subsection (c) would amend such section 2(e) of the act to increase the maximum amount payable as a spouse's annuity for a month to 110 percent of this maximum amount anyone could receive under the Social Security Act as a wife's benefit for such month.

Subsection (d) of section 1 of the bill would provide for a technical amendment to section 2(g) of the Railroad Retirement Act which is required by reason of the proposed addition to section 2 of the act of a new subsection (h) to provide for a spouse's annuity at age 62 on a reduced basis.

Subsection (e) would further amend section 2 of the Railroad Retirement Act by adding subsection (h) to provide that a wife (or husband if employee is a woman) may, upon election, receive a spouse's annuity on a reduced basis upon attaining age 62. The reduction would be in the amount of one one-hundred-and-eightieth for each calendar month that the woman (or man) is under age 65 when the annuity begins to accrue. Under the present law a man may not obtain a spouse's annuity prior to attaining age 65 and a woman may not either unless she has a child in her care who would be entitled to a child's insurance annuity upon the death of her husband. Under the amendment, she (or he) may receive such reduced annuity after attaining age 62 upon election, without, in the woman's case, having such a child in her care. As a result of the 1956 amendments to the Social Security Act a reduced wife's insurance benefit may be paid under that system if she has attained age 62. This change would eliminate this disparity. Because of the reduction, the total cost of annuities awarded as early as age 62 to women (or to men) would approximate the cost of those awarded at age 65.

Section 2. Increase in amounts of annuities and pensions

Subsection (a) of this section would amend section 3(a) of the Railroad Retirement Act by increasing the percentage factors to be applied to an individual's "average monthly compensation" in computing the amount of his retirement annuity. The change would produce an increase in the annuity so computed of approximately 10 percent. Subsection (b) would amend section 3(c) of the act to provide that as much as \$400 of an employee's compensation for any month which begins after the enactment of this amendment shall be

recognized in computing the monthly compensation. Subsection (c) would amend section 3(e) of the act to provide for an increase of approximately 10 percent in the factors determining the regular minimum annuity. Under the change, if 110 percent of an individual's monthly compensation is less than the regular minimum annuity so determined, his or her minimum annuity would be 110 percent of his or her monthly compensation instead of equal to the monthly compensation if such monthly compensation is less than the regular minimum amount determined by the application of the calculation factors as under present law. Spouse's annuities deriving from such minimum annuities would automatically receive a like increase. This section would still further amend section 3(e) to provide that an employee's annuity together with his spouse's annuity, or the total of survivor annuities deriving from the same employee, for a month, shall in no case be less than 110 percent of the amount or of the additional amount which would have been payable to all persons under the Social Security Act for such month if such individual's railroad service after December 31, 1936, were employment subject to the Social Security Act. A spouse who elected to receive a reduced spouse's annuity under the new section 2(h) would, for purposes of the social security minimum provision of section 3(e), described above, be deemed to be entitled to a wife's insurance benefit under section 202(q) of the Social Security Act. Most survivor annuities (about 75 percent) are paid under the social security minimum provision, and the proposal for payment of not less than 110 percent of the amount otherwise payable under the "social security minimum" provision would produce an increase in those annuities greater than would be produced simply by the proposed increase in the calculation factors of the regular railroad retirement formula for such annuities.

Section 3. Increase in the residual lump-sum benefit, in survivor annuities, and the insurance lump sum

Subsection (a) would amend section 5(f)(2) of the act to increase the percentage of the employee's average monthly compensation used in computing the residual lump-sum benefit to 7½ percent of his (her) compensation paid after December 31, 1958, and before January 1, 1962, and to 8 percent of compensation paid after December 31, 1961. The amendment would increase from \$350 to \$400 the amount of monthly compensation paid for months after the month in which this amendment is enacted, to which such percentages may apply. This increase takes into account the higher tax rate and larger compensation base.

Subsection (b) would amend section 5(h) of the act to increase the maximum and minimum of survivor annuities payable for a month, with respect to an employee's death, by approximately 10 percent.

Subsection (c) would amend section 5(i)(1)(ii) of the act so as to provide that the earnings test, respecting deductions for work for survivor annuities, be the same for work outside the United States as for work within the United States. This would remove a discrimination against employees of American railroads operating into Canada, many of whose survivors continue to live and work there.

Subsection (d) would amend clause (A)(i) of section 5(l)(9) of the act to increase from \$350 to \$400 the amount of the employee's monthly compensation which can be used for calendar months which

begin after the enactment of the amendment in determining the "average monthly remuneration," a factor used in computing the employee's "basic amount," which in turn determines the amounts of the survivor annuities and the insurance lump-sum benefit.

Subsection (e) would amend clause (A)(ii) of such section to provide that if the employee's creditable railroad compensation for any calendar year after 1958 is less than \$4,800, and his "average monthly remuneration" computed on compensation alone is less than \$400, his "wages" under the Social Security Act in such years of up to \$4,800 may be included with the total of his creditable railroad compensation in computing his "average monthly remuneration." The total could not exceed \$4,800 for years after 1958. At present, with respect to years after 1954, only so much of a year's "wages" may be taken into account as will, with the compensation for the year, not exceed \$4,200 and then only when the employee's "average monthly compensation" computed on compensation alone is less than \$350. By amendments of section 5(1)(10) of the act, subsection (f) would also change the formula for determining the employee's "basic amount" so as to produce a "basic amount" higher by approximately 10 percent. This, of course, would mean an increase of some 10 percent in the annuities based on the "basic amount" and in the insurance lump sum.

Section 4. Disregarding pensions and annuities for purposes of income limitations in section 522 of title 38 of the United States Code

This section would amend section 20 of the Railroad Retirement Act of 1937 to provide that pensions and annuities under that act and the Railroad Retirement Act of 1935 would not be considered as income for purposes of the "income limitations" prescribed by section 522 of title 38 of the United States Code under which non-service-connected disability pensions, otherwise due, are not to be paid to "any unmarried veteran whose annual income exceeds \$1,400 or to any married veteran or any veteran with children whose annual income exceeds \$2,700." The amendment would eliminate the need for any veteran annuitant entitled otherwise to the veteran's disability pensions described to waive, as he is now permitted to do by section 20 of the Railroad Retirement Act, all or part of any railroad retirement pension or annuity. He could thus receive in full both the railroad retirement benefit and this veteran's benefit.

Section 5. Increase in pensions, joint and survivor annuities, and annuities under the Railroad Retirement Act of 1935

This section would increase by 10 percent the amounts of pensions under section 6 of the Railroad Retirement Act, of all joint and survivor annuities, and all survivor annuities deriving from joint and survivor annuities under such act awarded before the month following the month of enactment of these amendments, of all widows' and widowers' insurance annuities which began to accrue before the second month following the month of such enactment and which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937, are payable in the amount of the spouse's annuity to which the widow or widower was entitled, and of all annuities under the Railroad Retirement Act of 1935. This provision respecting widows' and widowers' insurance annuities which are based on the amount of spouses' annuities is made applicable to such widows' and widowers' annuities which begin to accrue before

the second month following the month of enactment of these amendments. The reason for this provision is that such widows' and widowers' annuities, accruing in the first month following the enactment of these amendments, could not be based on a spouse's annuity which has been increased under the bill because neither the employee's annuity nor the spouse's annuity is payable for the month in which the employee dies. It was therefore necessary to make special provisions in the bill for an increase of 10 percent in such annuities.

Section 6. Effective dates of amendments to the Railroad Retirement Act, and provision for effecting changes in awards already made without application therefor

Subsection (a) of this section would provide that the increase in annuities, including the lifting of income limitations for veterans' purposes, be effective respecting annuities accruing after the month in which these amendments are enacted; that the increase in pensions under section 6, including the lifting of the income limitations for veterans' purposes, be effective with respect to pensions due in the calendar months after the month next following the month of such enactment; and that the amendments relative to the insurance and residual lump-sum benefits be effective respecting deaths occurring after the month of such enactment. The amendment in section 3(c) relative to deduction from survivor annuities because of work outside the United States would be made applicable to such annuities accruing after December 1958. The amendments made by section 1(b) of this act modifying the disability work provision would be effective respecting disability annuities accruing after December 1958.

Subsection (b) of section 6 would provide that recertifications required by reason of the amendments be made by the Railroad Retirement Board without application therefor.

PART II. AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

Section 201. Increasing the tax rate and the compensation base

This section would increase the tax rate and the compensation base to which the tax rate applies for the purpose of making sufficient additional funds available for the Railroad Retirement Account in order to provide for the added costs to be produced by the increase in and extension of benefits, and to produce sufficient funds to cover the existing deficit in the financing of the railroad retirement system.

Subsection (a), together with subsection (d), would amend sections 3201 and 3221 of the Railroad Retirement Tax Act so that the rate of tax to be paid by the employee and by the employer on compensation paid to such employee for his services rendered in months beginning after the enactment of the amendment, and before January 1, 1962, would be increased to 6.75 percent and on compensation paid for services after December 31, 1961, would be increased to 7.25 percent. Subsections (a) and (d) would make the tax rate (and by amending sec. 3202(a) of the Tax Act, the withholding of employee taxes required by that section) applicable to so much of the employee's compensation for services rendered in months beginning after the enactment of the amendment as is not in excess of \$400 in a calendar month. The existing rate for employees and for employers is 6.25 percent applicable to monthly compensation not in excess of \$350.

Subsection (c) would amend section 3211 of the Railroad Retirement Tax Act to increase the tax rate to be paid by an employee representative on his income as such representative for months after the enactment of the amendment, and before January 1, 1962, to 13.5 percent and to 14.5 percent on his income as such representative after December 31, 1961, which increase would apply to so much of his compensation for a calendar month beginning after the enactment of this amendment as is not in excess of \$400. At present, his rate is 12.5 percent applicable to \$350 of his compensation for a month.

Subsections (a) and (d) would also amend the Railroad Retirement Tax Act to provide that the tax rate on both employees and employers be increased on a contingent basis respecting compensation after 1964 by an amount equal at any given time to the amount by which the rate of tax under the Federal Insurance Contributions Act (for social security purposes) at that time exceeds the rate provided by paragraph (2) of section 3101 and section 3111 of that act as amended by the Social Security Amendments of 1956; that is, the rate of 2¼ percent set by the 1956 amendments for the years after 1959 and before 1965. It is to be noted that the Social Security Amendments of 1958 increased the rate for the years after 1959 and before 1965 but the present amendment to be effected by the bill is related to the 2¼ percent rate as fixed by the 1956 Social Security Amendments. Under the amendment, if the rate under the Federal Insurance Contributions Act is increased as scheduled after 1964 to be 3.5 percent for the calendar year 1965 and 4 percent for the years 1966-68, inclusive, and 4.5 percent after 1968, the rate under the Railroad Retirement Tax Act, for both employees and employers, would be increased without further legislation from 7¼ percent to 8 percent for the calendar year 1965, to 8.5 percent for the calendar years 1966-68, and to 9 percent after 1968, and on a similar basis if the rates under the Federal Insurance Contributions Act are increased further by new legislation. It should be observed that the rate will increase only if, and to the extent that, the rate of tax goes above 2¼ percent under the Federal Insurance Contributions Act. Under the amendment of subsection (c) the tax rate on employee representatives would be increased by twice the amount of the increase in rate under the Federal Insurance Contributions Act. Under the conditions set forth above his rate would increase to 16 percent for 1965, to 17 percent for 1966 through 1968, and to 18 percent after 1968, and would be further increased depending on changes in the tax for social security purposes.

This provision for contingent tax increases is essential because if taxes to support the social security system are increased that would detract from the relative position of the railroad retirement system under the financial interchange provisions with the consequence that the additional revenue to be produced by the contingent increase in the rate under the Railroad Retirement Tax Act would be needed to compensate for the increased obligation under the interchange provisions.

Section 202 would make the amendments to the Railroad Retirement Tax Act effective, except as otherwise provided in the provisions for amendment, only with respect to compensation paid respecting months beginning after the enactment of the amendment, for services rendered in months beginning after such enactment.

PART III. AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Section 301. Increasing the compensation base

Subsection (a) of this section would amend section 1(i) of the Railroad Unemployment Insurance Act to provide that as much as \$400 of compensation paid to an employee in a calendar month which begins after the enactment of the amendment shall be recognized and thus taken into account in computing benefits under such act. The present limit on monthly compensation is \$350.

Subsection (b) would amend section 1(k) of the Railroad Unemployment Insurance Act to provide that "subsidiary remuneration" should be considered as remuneration barring payment of unemployment benefits where such remuneration causes an employee's base-year compensation to come to \$500 instead of to \$400 as under present law. This conforms to the increase to \$500 from \$400 in the base-year compensation needed to qualify for benefits.

Section 302. Increasing the number of days for which benefits may be paid in the first registration period and increasing the amount of benefits

Subsection (a) of this section would amend clause (i) of section 2(a) of the Railroad Unemployment Insurance Act so that benefits may be paid for days of unemployment after 4 days of unemployment have passed in the first registration period in a benefit year, leaving 10 days for which benefits may be paid in such period instead of 7 as under present provisions. The provision for payment of benefits for 10 days in subsequent registration periods would remain in effect.

Subsection (b) of this section would amend section 2(a) of the Railroad Unemployment Insurance Act to provide a new schedule of daily benefit rates in connection with the various ranges of compensation in the base year, the number of which would be increased to 12 from the present 11. The alternative, or minimum, daily benefit rate based on the daily rate of compensation for the employee's last employment for an employer in a base year would be increased by subsection (c) from 50 percent of such daily rate to 60 percent. The maximum daily benefit rate produced by either method of computing would be increased from \$8.50 to \$10.20, and the minimum rate under the table would be increased from \$3.50 to \$4.50.

Section 303. Extending the benefit year for employees with certain qualifications

Subsection (a) of this section would amend section 2(c) of such act to extend the benefit year for employees who have 10 or more years of service creditable as such for purposes of the Railroad Retirement Act and who did not voluntarily leave work without good cause or voluntarily retire and who have exhausted benefit rights they had in the benefit year. The benefit year in such case would be extended by 7 periods of 14 successive days each (registration periods) for the employee with more than 10 and less than 15 years of service creditable under the Railroad Retirement Act, and by 13 such registration periods for those with over 15 years of service. In the first case, additional benefits would be limited to 65 days and in the second case, additional benefits would be limited to 130 days. However, under the amendment a benefit year would not be extended beyond the beginning

of the first registration period in a benefit year in which such employee again qualifies for benefits on the basis of compensation earned after the first 14-day period of extension begins.

This section would further amend section 2(c) of such act to provide that in the case of an employee who has 10 or more years of creditable railroad service, who did not voluntarily leave work without good cause or voluntarily retire, who has 14 or more consecutive days of unemployment, and who is not otherwise qualified for benefits in the general benefit year in which such unemployment commences but is or becomes qualified for benefits in the next succeeding general benefit year, the next succeeding benefit year in his case begins on the first day of the month in which such unemployment commences. This extension of benefit periods will not only provide unemployment benefits to laid-off employees with long service, but it will provide an additional incentive for railroads to find employment for displaced older men with experience and recognized skills in the railroad industry.

Subsection (b) of this section would provide, without amending the Railroad Unemployment Insurance Act itself, that an employee who has less than 10 years of service and who has, after June 30, 1957, and before April 1, 1959, exhausted his rights to unemployment benefits shall be paid unemployment benefits for days of unemployment not exceeding 65, which occur in registration periods beginning on or after June 19, 1958, and before July 1, 1959, if for such days he could not otherwise be entitled to unemployment benefits under the Railroad Unemployment Insurance Act, except that an employee who established a first claim for benefits under the Temporary Unemployment Compensation Act of 1958 could not be entitled to benefits under this provision. Subsection (c) would provide for the interchange of information between the Board and the Secretary of Labor respecting the administration of this provision added by subsection (b) and of the Temporary Unemployment Compensation Act of 1958.

The number of days for which benefits could be received in any extended benefit period and by employees with less than 10 years of service as temporary benefits in the period on, or after, June 19, 1958, and before July 1, 1959, would not be restricted by the limitation on benefits in a regular benefit year to an amount not in excess of the employee's compensation in the base year. The limitation respecting compensation in the base year applicable to the regular benefit year would not apply respecting extended benefit periods even though the extended benefit period began because benefits in the regular benefit year had been exhausted because of the base-year compensation limitation. Sickness benefits would be payable in the extended benefit periods subject only to the regular limitations under present law as to the number of days in the benefit year for which such benefits may be received.

Section 304. Increasing the compensation required in the base year to qualify the workman for unemployment and sickness benefits

This section would amend section 3 of the Railroad Unemployment Insurance Act so that an employee is required to have \$500 instead of \$400 of compensation in the "base year" to qualify for benefits.

Section 305. Eliminating the restriction on Sundays and holidays as days of unemployment

This section would amend section 4(a-2) of the Railroad Unemployment Insurance Act by striking paragraph (iv) under which Sundays and holidays, unless preceded and succeeded by a day of unemployment, are not days of unemployment. As a result of the amendment, Sundays and holidays could be compensable days of unemployment just as other days, but, of course, no payment would be made for the registration period unless the employee had more than 4 days of unemployment in the period.

Section 306. Increasing the compensation base for contributions and increasing the rate of contributions

This section would amend section 8(a) of the Railroad Unemployment Insurance Act by increasing to \$400 the maximum amount of an employee's compensation in any calendar month beginning after the enactment of the amendment respecting which the employer must pay contributions. It also would amend section 8(a) of such act to provide that where compensation totaling more than \$400 is paid by more than one employer to an employee respecting a calendar month which begins after the enactment of the amendment, the contributions required are to be apportioned in the manner specified.

This section would further amend section 8(a) of the Railroad Unemployment Insurance Act to increase the scheduled rates of contributions required of employers with respect to compensation paid for services rendered in months beginning after the enactment of the amendment. These rates vary according to the amount of the balance in the railroad unemployment insurance account. At the present time the highest rate is 3 percent which is applicable when the balance in the account is less than \$250 million. This highest rate would be raised by the bill to 4 percent, which rate would be applicable when the balance is determined by the Board as of September 30 of the preceding year to be less than \$300 million. The applicable rate would, as at present, decrease by steps as the balance in the fund increases, and, at the top of the scale, when the balance is \$450 million or more, the contribution rate would be 1.5 percent, instead of one-half of 1 percent as at present.

Section 307. Increase in contribution rate of an employee representative and the compensation to which the rate applies

This section would amend section 8(b) of the Railroad Unemployment Insurance Act to increase from 3 to 4 percent the contribution required of employee representatives and to increase to \$400 the amount of compensation for calendar months which begin after enactment of the amendment.

Section 308. Providing for the transfer of funds from the railroad retirement account to the railroad unemployment insurance account under certain circumstances and the retransfer of such funds

This section would amend section 10(d) of the Railroad Unemployment Insurance Act to require the Secretary of the Treasury upon request of the Board, when it finds that the balance to the credit of the railroad unemployment insurance account is insufficient to pay the benefits and refunds which it estimates are due or will become due, to transfer from the railroad retirement account to the credit of

the railroad unemployment insurance account such moneys as the Board estimates would be necessary. The Secretary of the Treasury would be required, upon request of the Board when it finds that the balance in the railroad unemployment insurance account without regard to the amounts transferred under the provision referred to in the preceding sentence is sufficient to pay such benefits and refunds, to retransfer to the credit of the railroad retirement account from the railroad unemployment insurance account such moneys as in the Board's judgment are not needed for the payment of such benefits and refunds plus interest at the rate of 3 percent per annum. In determining the balance to the credit of the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a) of the Railroad Unemployment Insurance Act amounts which have been transferred to the railroad unemployment insurance account, which have not been retransferred as of that date, plus the accrued interest thereon shall be disregarded.

Section 309. Effective dates of the amendments to the Railroad Unemployment Insurance Act

Except as otherwise indicated the amendments to the Railroad Unemployment Insurance Act are to be effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, including those providing increased benefit rates. The amendments are to be effective respecting extended benefit periods which would begin after December 31, 1957. The increase to \$500 in the amount of compensation paid to an employee in a year required for qualification is to be effective respecting base years after the base year ending December 31, 1957. The increase to \$500 of the amount of base-year compensation which, if it includes subsidiary remuneration, bars payment of benefits for days on which subsidiary remuneration is paid, is to be effective respecting days of unemployment after June 30, 1959. The amendments respecting the contributions required of employee representatives is to apply with respect to compensation for services rendered in calendar months beginning after the enactment of the amendment. The amendments respecting the change in rates of contributions required of employers will be effective with respect to compensation paid for services rendered in the calendar months which begin after the enactment of the amendment. The balance to the credit of the railroad unemployment insurance account at the close of business on September 30, 1958, has already been determined and proclaimed by the Board to be less than \$300 million. Therefore, the applicable rate for compensation paid for service rendered in months beginning after the enactment of the amendment and during the remainder of the year 1959 would be 4 percent if the amendment of section 8(a) is enacted.

CHANGES IN THE EXISTING LAW

In compliance with subsection (4) of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PART I

RAILROAD RETIREMENT ACT OF 1937

* * * * *
"ANNUITIES

"SEC. 2. (a) * * *

"1. * * *

* * * * *

["3. Individuals who will have attained the age of sixty and will have completed thirty years of service, but the annuity of such an individual shall be reduced by one one-hundred-and-eightieth for each calendar month that he is under age sixty-five when his annuity begins to accrue."] *"3. Individuals who will have attained the age of sixty and will have completed thirty years of service or, in the case of women, who will have attained the age of sixty-two and will have completed less than thirty years of service, but the annuity of such individual shall be reduced by one one-hundred-and-eightieth for each calendar month that he or she is under age sixty-five when the annuity begins to accrue.*

* * * * *

"(d) No annuity shall be paid with respect to any month in which an individual in receipt of an annuity hereunder shall render compensated service to an employer or to the last person by whom he was employed prior to the date on which the annuity began to accrue. Individuals receiving annuities shall report to the Board immediately all such compensated service. No annuity under paragraph 4 or 5 of subsection (a) of this section shall be paid to an individual with respect to any month in which the individual is under age sixty-five and is paid more than \$100 in earnings from employment or self-employment of any form: *Provided, That for purposes of this paragraph, if a payment in any one calendar month is for accruals in more than one calendar month, such payment shall be deemed to have been paid in each of the months in which accrued to the extent accrued in such month. Any such individual under the age of sixty-five shall report to the Board any such payment of earnings for such employment or self-employment before receipt and acceptance of an annuity for the second month following the month of such payment. A deduction shall be imposed, with respect to any such individual who fails to make such report, in the annuity or annuities otherwise due the individual, in an amount equal to the amount of the annuity for each month in which he is paid such earnings in such employment or self-employment, except that the first deduction imposed pursuant to this sentence shall in no case exceed an amount equal to the amount of the annuity otherwise due for the first month with respect to which the deduction is imposed. If pursuant to the third sentence of this subsection an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in the first sentence of this subsection) did not exceed \$1,200, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or*

months under the fifth sentence of this subsection, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in the first sentence of this subsection) is in excess of \$1,200, the number of months in such year with respect to which an annuity is not payable by reason of such third and fifth sentences shall not exceed one month for each \$100 of such excess, treating the last \$50 or more of such excess as \$100; and if the amount of the annuity has changed during such year, any payments of annuity which became payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.

“(e) SPOUSE'S ANNUITY.—The spouse of an individual, if—

“(i) * * *

“(ii) such spouse has attained the age of 65 or in the case of a wife, has in her care (individually or jointly with her husband) a child who, if her husband were then to die, would be entitled to a child's annuity under subsection (c) of section 5 of this Act, shall be entitled to a spouse's annuity equal to one-half of such individual's annuity or pension, but not more, with respect to any month, [than an amount] than 110 per centum of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time: *Provided, however,* That if the annuity of the individual is awarded under paragraph 3 of subsection (a), the spouse's annuity shall be computed or recomputed as though such individual had been awarded the annuity to which he would have been entitled under paragraph 1 of said subsection: *Provided further,* That, if the annuity of the individual is awarded pursuant to a joint and survivor election, the spouse's annuity shall be computed or recomputed as though such individual had not made a joint and survivor election: *And provided further,* That any spouse's annuity shall be reduced by the amount of any annuity and the amount of any monthly insurance benefit, other than a wife's or husband's insurance benefit, to which such spouse is entitled, or on proper application would be entitled, under subsection (a) of this section or subsection (d) of section 5 of this Act or section 202 of the Social Security Act; except that if such spouse is disentitled to a wife's or husband's insurance benefit, or has had such benefit reduced, by reason of subsection (k) of section 202 of the Social Security Act, the reduction pursuant to this third proviso shall be only in the amount by which such spouse's monthly insurance benefit under said Act exceeds the wife's or husband's insurance benefit to which such spouse would have been entitled under that Act but for said subsection (k).

“(f) * * *

“(g) The spouse's annuity provided in subsection (e) shall, with respect to any month, be subject to the same provisions of subsection (d) as the individual's annuity, and, in addition, the spouse's annuity shall not be payable for any month if the individual's annuity is not payable for such month (or, in the case of a pensioner, would not be payable if the pension were an annuity) by reason of the provisions of said subsection (d). Such spouse's annuity shall cease at the end of the month preceding the month in which (i) the spouse or the individual dies, (ii) the spouse and the individual are absolutely divorced, or (iii), in the case of a wife under age 65 (*other than a wife*

who is receiving such annuity by reason of an election under subsection (h)), she no longer has in her care a child who, if her husband were then to die, would be entitled to an annuity under subsection (c) of section 5 of this Act.

“(h) A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue.

“COMPUTATION OF ANNUITIES

“SEC. 3. (a) The annuity shall be computed by multiplying an individual's ‘years of service’ by the following percentages of his ‘monthly compensation’: **[3.04]** 3.35 per centum of the first \$50; **[2.28]** 2.51 per centum of the next \$100; and **[1.52]** 1.67 per centum of the next **[\$200]** \$250.

“(b) * * *

“(c) The ‘monthly compensation’ shall be the average compensation paid to an employee with respect to calendar months included in his ‘years of service’, except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation paid to an employee with respect to calendar months included in his years of service in the years 1924–1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers’ hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the forms of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940–August 1941: *Provided, however,* That where service in the period 1924–1931 in the one case, or in the period September 1940–August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month’s compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. If the ‘monthly compensation’ computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

“(d) * * *

“(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, before any reduction pursuant to section 2(a)3, be whichever of the following is the least: (1) ~~[\$4.55]~~ \$5.00 multiplied by the number of his years of service; or (2) ~~[\$75.90]~~ \$83.50; or (3) ~~[his monthly compensation]~~ 110 per centum of his monthly compensation: *Provided, however,* That if for any entire month in which an annuity accrues and is payable under this Act the annuity to which an employee is entitled under this Act (or would have been entitled except for a reduction pursuant to section 2(a)3 or a joint and survivor election), together with his or her spouse’s annuity, if any, or the total of survivor annuities under this Act deriving from the same employee, ~~[is less than the amount, or the additional amount]~~ is less than 110 per centum of the amount, or 110 per centum of the additional amount, which would have been payable to all persons for such month under the Social Security Act (deeming completely and partially insured individuals to be fully and currently insured, respectively, individuals entitled to insurance annuities under subsections (a) and (d) of section 5 to have attained age sixty-five, *women entitled to spouse’s annuities pursuant to elections made under subsection (h) of section 2 to be entitled to wife’s insurance benefits determined under section 202(q) of the Social Security Act,* and individuals entitled to insurance annuities under subsection (c) of section 5 on the basis of disability to be less than eighteen years of age, and disregarding any possible deductions under subsections (f) and (g) (2) of section 203 of the Social Security Act) if such employee’s service as an employee after December 31, 1936, were included in the term ‘employment’ as defined in that Act and quarters of coverage were determined in accordance with section 5(1)(4) of this Act, such annuity or annuities, shall be increased proportionately to a total of ~~[such amount or such additional amount]~~ 110 per centum of such amount or 110 per centum of such additional amount.

* * * * *

“ANNUITIES AND LUMP SUMS FOR SURVIVORS

“SEC. 5. (a) * * *

“(f) LUMP-SUM PAYMENT.—(1) * * *

“(2) Whenever it shall appear, with respect to the death of an employee on or after January 1, 1947, that no benefits, or no further benefits, other than benefits payable to a widow, widower, or parent upon attaining age sixty at a future date, will be payable under this section or, pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216(a) of the Social Security Act) at a future date, will be payable under title II of the Social Security Act, as amended, there shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

“(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee’s death; or

“(ii) if there be no such widow or widower, to any child or children of such employee; or

“(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

“(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

“(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

“(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee,

a lump sum in an amount equal to the sum of 4 per centum of his or her compensation paid after December 31, 1936, and prior to January 1, 1947, [and 7 per centum of his or her compensation after December 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month before July 1, 1954, and in the latter case in excess of \$350 for any month after June 30, 1954),] plus 7 per centum of his or her compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of his or her compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and in excess of \$400 for any month after the month in which this Act was so amended), minus the sum of all benefits paid to him or her, and to others deriving from him or her, during his or her life, or to others by reason of his or her death, under this Act, and pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended: *Provided, however,* That if the employee is survived by a widow, widower, or parent who may upon attaining age sixty be entitled to further benefits under this section, or pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216(a) of the Social Security Act) be entitled to further benefits under title II of the Social Security Act, as amended, such lump sum shall not be paid unless such widow, widower, or parent makes and files with the Board an irrevocable election, in such form as the Board may prescribe, to have such lump sum paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this section or, pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended. Such election shall be legally effective according to its terms. Nothing in this section shall operate to deprive a widow, widower, or parent making such election of any insurance benefits under title II of the Social Security Act, as amended, to which such widow, widower, or parent would have been entitled had this section not been enacted. The term ‘benefits’ as used in this paragraph includes all annuities payable under this Act, lump sums payable under paragraph (1) of this subsection, and insurance benefits and lump-sum payments under title II of the Social Security Act, as amended, pursuant to subsection (k) of this section, except that the deductions of the benefits which, pursuant to subsection (k)(1) of this section, are paid under title II of the Social Security Act, during the life of the employee to him or to her and to others deriving from him or her, shall be limited to such portions of such benefits as are payable solely by reason of the in-

clusion of service as an employee in 'employment' pursuant to said subsection (k)(1).

* * * * *

"(h) MAXIMUM AND MINIMUM ANNUITY TOTALS.—Whenever according to the provisions of this section as to annuities, payable for a month with respect to the death of an employee, the total of annuities is more than **[\$33]** \$36.30 and exceeds either (a) **[\$176]** \$193.60, or (b) an amount equal to two and two-thirds times such employee's basic amount, whichever of such amounts is the lesser, such total of annuities shall, after any deductions under subsection (i), be reduced to such lesser amount or to **[\$33]** \$36.30, whichever is greater. Whenever such total of annuities is less than **[\$15.40]** \$16.95, such total shall, prior to any deductions under subsection (i), be increased to **[\$15.40]** \$16.95.

"(i) DEDUCTIONS FROM ANNUITIES.—(1) * * *

"(i) * * *

"(ii) will have been under the age of seventy-two and for which month he is charged with any earnings under section 203(e) of the Social Security Act **[or in which month he engaged on seven or more different calendar days in noncovered remunerative activity outside the United States (as defined in section 203(k) of the Social Security Act)]** or, *having engaged in any activity outside the United States, would be charged under such section 203(e) with any earnings derived from such activity if it had been an activity within the United States*; and for purposes of this subdivision the Board shall have the authority to make such determinations and such suspensions of payment of benefits in the manner and to the extent that the Secretary of Health, Education, and Welfare would be authorized to do so under section 203(g)(3) of the Social Security Act if the individuals to whom this subdivision applies were entitled to benefits under section 202 of such Act; or

"(iii) * * *

* * * * *

"(l) DEFINITIONS.—For the purposes of this section the term 'employee' includes an individual who will have been an 'employee', and—

"(l) * * *

"(9) An employee's 'average monthly remuneration' shall mean the quotient obtained by dividing (A) the sum of (i) the compensation paid to him after 1936 and before the employee's closing date, eliminating any excess over \$300 for any calendar month before July 1, 1954, **[and]** any excess over \$350 for any calendar month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and any excess over \$400 for any calendar month after the month in which this Act was so amended, and (ii) if such compensation for any calendar year before 1955 is less than \$3,600 or for any calendar year after 1954 and before 1959 is less than \$4,200, or for any calendar year after 1958 is less than \$4,800, and the average monthly remuneration computed on compensation alone is less than **[\$350]** \$400 and the employee has earned in such calendar year 'wages' as defined in paragraph (6) hereof, such wages, in an amount not to exceed the difference between the compensation for such year and \$3,600 for years before 1955 **[and \$4,200 for years after 1954, by]**,

\$4,200 for years after 1954 and before 1959, and \$4,800 for years after 1958, by (B) three times the number of quarters elapsing after 1936 and before the employee's closing date: *Provided*, That for the period prior to and including the calendar year in which he will have attained the age of twenty-two there shall be included in the divisor not more than three times the number of quarters of coverage in such period: *Provided, further*, That there shall be excluded from the divisor any calendar quarter which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him. An employee's 'closing date' shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest 'average monthly remuneration' as defined in the preceding sentence. If the amount of the 'average monthly remuneration' as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

* * * * *

"(10) The term 'basic amount' shall mean—

"(i) for an employee who will have been partially insured, or completely insured solely by virtue of paragraph (7)(i) or (7)(ii) or both: the sum of (A) ~~44~~ 49 per centum of his average monthly remuneration, up to and including \$75; plus (B) ~~11~~ 12 per centum of such average monthly remuneration exceeding \$75 and up to and including ~~350~~ \$400, plus (C) 1 per centum of the sum of (A) plus (B) multiplied by the number of years after 1936 in each of which the compensation, wages, or both, paid to him will have been equal to \$200 or more; if the basic amount, thus computed, is less than ~~15.40~~ \$16.95 it shall be increased to ~~15.40~~ \$16.95;

"(ii) for an employee who will have been completely insured solely by virtue of paragraph (7)(iii): the sum of ~~44~~ 49 per centum of his monthly compensation if an annuity will have been payable to him, or, if a pension will have been payable to him, ~~44~~ 49 per centum of the average monthly earnings on which such pension was computed, up to and including \$75, plus ~~11~~ 12 per centum of such compensation or earnings exceeding \$75 and up to and including \$300. If the average monthly earnings on which a pension payable to him was computed are not ascertainable from the records in the possession of the Board, the amount computed under this subdivision shall be ~~36.66~~ \$40.33, except that if the pension payable to him was less than ~~27.50~~ \$30.25, such amount shall be four-thirds of the amount of the pension or ~~14.66~~ \$16.13, whichever is greater. The term 'monthly compensation' shall, for the purposes of this subdivision, mean the monthly compensation used in computing the annuity;

"(iii) * * *

"Sec. 20. (a) Any person awarded an annuity or pension under this Act may decline to accept all or any part of such annuity or pension by a waiver signed and filed with the Board. Such waiver may be revoked in writing at any time, but no payment of the annuity or pension waived shall be made covering the period during

which such waiver was in effect. Such waiver shall have no effect on the amount of the spouse's annuity, or of a lump sum under section 5(f)(2), which would otherwise be due, and it shall have no effect for purposes of the last sentence of section 5(g)(1).

“(b) Pensions and annuities under this Act or the Railroad Retirement Act of 1935 shall not be considered as income for the purposes of section 522 of title 38 of the United States Code.

* * * * *

PART II

RAILROAD RETIREMENT TAX ACT

Subchapter A—Tax on Employees

Sec. 3201. Rate of tax.

Sec. 3202. Deduction of tax from compensation.

SEC. 3201. RATE OF TAX.

In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to **6** $\frac{1}{4}$ percent of so much of the compensation paid to such employee after December 31, 1954, for services rendered by him after such date—

(1) *6* $\frac{1}{4}$ percent of so much of the compensation paid to such employee for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

(2) *7* $\frac{1}{4}$ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1961,

as is not in excess of **350** \$400 for any calendar month**.** Provided, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.

SEC. 3202. DEDUCTION OF TAX FROM COMPENSATION.

(a) REQUIREMENT.—The tax imposed by section 3201 shall be collected by the employer of the taxpayer by deducting the amount of the tax from the compensation of the employee as and when paid. If an employee is paid compensation **after December 31, 1954** after the month in which this provision was amended in 1959, by more than one employer for services rendered during any calendar month **after 1954** after the month in which this provision was amended in 1959, and the aggregate of such compensation is in excess of **350** \$400, the tax to be deducted by each employer other than a subordinate unit of a national railway-labor-organization employer from the compensation paid by him to the employee with respect to such month shall be that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him **after December 31, 1954** after the month in which this provision was amended in 1959, to the employee for services rendered during such month bears to the total compensation paid by all such employers **after December 31, 1954** after the month in which this provision was

amended in 1959, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than **[\$350]** \$400, each subordinate unit of a national railway-labor-organization employer shall deduct such proportion of any additional tax as the compensation paid by such employer **[after December 31, 1954]** *after the month in which this provision was amended in 1959*, to such employee for services rendered during such month bears to the total compensation paid by all such employers **[after December 31, 1954]** *after the month in which this provision was amended in 1959*, to such employee for services rendered during such month.

(b) INDEMNIFICATION OF EMPLOYER.—Every employer required under subsection (a) to deduct the tax shall be made liable for the payment of such tax and shall not be liable to any person for the amount of any such payment.

Subchapter B—Tax on Employee Representative

Sec. 3211. Rate of tax.

Sec. 3212. Determination of compensation.

SEC. 3211. RATES OF TAX.

In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to **[12½ percent]** of so much of the compensation, paid to such employee representative after December 31, 1954, for services rendered by him after such date—

(1) *13½ percent of so much of the compensation paid to such employee representative for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and*

(2) *14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961,*

as is not in excess of **[\$350]** \$400 for any calendar month **[.]**: *Provided, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.*

* * * * *

Subchapter C—Tax on Employers

Sec. 3221. Rate of tax.

SEC. 3221. RATE OF TAX.

[In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 6¼ percent of so much of the compensation paid by such employer after December 31, 1954, for services rendered to him after December 31, 1954, as is, with respect to any employee for any calendar month, not in excess of **\$350]** (a) *In addition to other taxes,*

there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to—

(1) 6¼ percent of so much of the compensation paid by such employer for services rendered to him after the month in which this provision was amended in 1959, and before January 1, 1962, and

(2) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1961,

as is, with respect to any employee for any calendar month, not in excess of \$400; except that if an employee is paid compensation [after December 31, 1954] after the month in which this provision was amended in 1959 by more than one employer for services rendered during any calendar month [after 1954] after the month in which this provision was amended in 1959 the tax imposed by this section shall apply to not more than [\$350] \$400 of the aggregate compensation paid to such employee by all such employers [after December 31, 1954] after the month in which this provision was amended in 1959 for services rendered during such month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him [after December 31, 1954] after the month in which this provision was amended in 1959, to the employee for services rendered during such month bears to the total compensation paid by all such employers [after December 31, 1954] after the month in which this provision was amended in 1959, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than [\$350] \$400, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional tax as the compensation paid by such employer [after December 31, 1954] after the month in which this provision was amended in 1959, to such employee for services rendered during such month bears to the total compensation paid by all such employers [after December 31, 1954] after the month in which this provision was amended in 1959, to such employee for services rendered during such month.

(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3111 at such time exceeds the rate provided by paragraph (2) of such section 3111 as amended by the Social Security Amendments of 1956.

* * * * *

PART III

RAILROAD UNEMPLOYMENT INSURANCE ACT

* * * * *

DEFINITIONS

SECTION 1. For the purposes of this Act, except when used in amending the provisions of other Acts—

(a) * * *

* * * * *

(i) The term "compensation" means any form of money remuneration, including pay for time lost but excluding tips, paid for services rendered as an employee to one or more employers, or as an employee representative [*Provided, however, That in computing the compensation paid to any employee with respect to any calendar month before July 1, 1954, no part of any compensation in excess of \$300 shall be recognized, and with respect to any calendar month after June 30, 1954, no part of any compensation in excess of \$350 shall be recognized*] : *Provided, however, That in computing the compensation paid to any employee, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended, shall be recognized.* A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. * * *

(k) Subject to the provisions of section 4 of this Act, (1) a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him, and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office; and (2) a "day of sickness", with respect to any employee, means a calendar day on which because of any physical, mental, psychological, or nervous injury, illness, sickness, or disease he is not able to work or which is included in a maternity period, and with respect to which (i) no remuneration is payable or accrues to him, and (ii) in accordance with such regulations as the Board may prescribe, a statement of sickness is filed within such reasonable period, not in excess of ten days, as the Board may prescribe: *Provided, however, That "subsidiary remuneration", as hereinafter defined in this subsection, shall not be considered remuneration for the purpose of this subsection except with respect to an employee whose base-year compensation, exclusive of earnings from*

the position or occupation in which he earned such subsidiary remuneration, is less than **[\$400]** \$500:

* * * * *

BENEFITS

SEC. 2. (a) Benefits shall be payable to any qualified employee (i) **[**for each day of unemployment in excess of seven during the first registration period, within a benefit year, in which he will have had seven or more days of unemployment, and for each day of unemployment in excess of four during any subsequent registration period in the same benefit year, and**]** *for each day of unemployment in excess of four during any registration period,* and (ii) for each day of sickness (other than a day of sickness in a maternity period) in excess of seven during the first registration period, within a benefit year, in which he will have had seven or more such days of sickness, and for each such day of sickness in excess of four during any subsequent registration period in the same benefit year, and (iii) for each day of sickness in a maternity period.

The benefits payable to any such employee for each such day of unemployment or sickness shall be the amount appearing in the following table in column II on the line on which, in column I, appears the compensation range containing his total compensation with respect to employment in his base year:

[Column I Total compensation	Column II Daily benefit rate
\$400 to \$499.99-----	\$3. 50
\$500 to \$749.99-----	4. 00
\$750 to \$999.99-----	4. 50
\$1,000 to \$1,299.99-----	5. 00
\$1,300 to \$1,599.99-----	5. 50
\$1,600 to \$1,999.99-----	6. 00
\$2,000 to \$2,499.99-----	6. 50
\$2,500 to \$2,999.99-----	7. 00
\$3,000 to \$3,499.99-----	7. 50
\$3,500 to \$3,999.99-----	8. 00
\$4,000 and over-----	8. 50]

Column I Total compensation:	Column II Daily benefit rate
\$500 to \$699.99-----	\$4. 50
\$700 to \$999.99-----	5. 00
\$1,000 to \$1,299.99-----	5. 50
\$1,300 to \$1,599.99-----	6. 00
\$1,600 to \$1,899.99-----	6. 50
\$1,900 to \$2,199.99-----	7. 00
\$2,200 to \$2,499.99-----	7. 50
\$2,500 to \$2,799.99-----	8. 00
\$2,800 to \$3,099.99-----	8. 50
\$3,100 to \$3,499.99-----	9. 00
\$3,500 to \$3,999.99-----	9. 50
\$4,000 and over-----	10. 20

Provided, however, That if the daily benefit rate in column II with respect to any employee is less than an amount equal to **[50]** 60 per centum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year, such rate shall be increased to such amount but not to exceed **[\$8.50]** \$10.20. The daily rate of compensation referred to in the last sen-

tence shall be as determined by the Board on the basis of information furnished to the Board by the employee, his employer, or both.

* * * * *

(c) The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty, and the maximum number of days of sickness, other than days of sickness in a maternity period, within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty: *Provided, however,* That the total amount of benefits which may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year; the total amount of benefits which may be paid to an employee for days of sickness, other than days of sickness in a maternity period, within a benefit year shall in no case exceed the employee's compensation in the base year; and the total amount of benefits which may be paid to an employee for days of sickness in a maternity period shall in no case exceed the employee's compensation in the base year on the basis of which the employee was determined to be qualified for benefits in such maternity period. **And provided, further,** *That, with respect to an employee who has ten or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, who did not voluntarily leave work without good cause or voluntarily retire, and who had current rights to normal benefits for days of unemployment in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under the following schedule, and the maximum number of days of, and amount of payment for, unemployment within such benefit year for which benefits may be paid to the employee shall be enlarged to include all compensable days of unemployment within such extended benefit period:*

The extended benefit period shall begin on the first day of unemployment following the day on which the employee exhausted his then current rights to normal benefits for days of unemployment and shall continue for successive fourteen-day periods (each of which periods shall constitute a registration period) until the number of such fourteen-day periods totals—

<i>If the employee's "years of service" total—</i>	
<i>10 and less than 15</i>	<i>7 (but not more than 65 days)</i>
<i>15 and over</i>	<i>13</i>

but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 of this Act on the basis of compensation earned after the first of such successive fourteen-day periods has begun. For an employee who has ten or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, who has fourteen or more consecutive days of unemployment, and who is not a "qualified employee" for the general benefit year current when such unemployment commences but is or becomes a "qualified employee" for the next succeeding general benefit year, such succeeding benefit year shall, in his case, begin on the first day of the month in which such unemployment commences.

* * * * *

QUALIFYING CONDITION

SEC. 3. An employee shall be a "qualified employee" if the Board finds that his compensation will have been not less than ~~[\$400]~~ \$500 with respect to the base year.

DISQUALIFYING CONDITIONS

SEC. 4 (a-1) There shall not be considered as a day of unemployment or as a day of sickness, with respect to any employee—

* * * * *

(a-2) There shall not be considered as a day of unemployment, with respect to any employee—

(i) * * *

(ii) * * *

(iii) subject to the provisions of subsection (b) of this section, any day with respect to which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, and the Board finds that such strike was commenced in violation of the provisions of the Railway Labor Act or in violation of the established rules and practices of a bona fide labor organization of which he was a member[;].

[(iv) any day which is a Sunday or which the Board finds is generally observed as a holiday in the locality in which he registered for such day, unless such day was immediately preceded by a day of unemployment and immediately followed by a day of unemployment or was the last day in a registration period and was immediately preceded by a day of unemployment: *Provided*, That if two or more consecutive days are a Sunday and one or more holidays, then with respect to any employee such consecutive days shall not be considered as days of unemployment unless they were immediately preceded by a day of unemployment and immediately followed by a day of unemployment or the last of such days was the last day of a registration period and such days were immediately preceded by a day of unemployment.]

* * * * *

CONTRIBUTIONS

SEC. 8. (a) Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below of so much of the compensation as is not in excess of \$300 for any calendar month paid by him to any employee for services rendered to him after June 30, 1939, and before July 1, 1954, and is not in excess of \$350 for any calendar month paid by him to any employee for services rendered to him after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and is not in excess of \$400 for any calendar month paid by him to any employee for services rendered to him after the month in which this Act was so amended: *Provided, however*, That if compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall apply to not more than \$300 for any month before July 1, 1954, and to not more than \$350 for any month after June 30, 1954,

and before the calendar month next following the month in which this Act was amended in 1959, and to not more than \$400 for any month after the month in which this Act was so amended, of the aggregate compensation paid to said employee by all said employers with respect to such calendar month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him after December 31, 1946, to the employee for services during any calendar month after 1946 bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than \$300 if such month is before July 1, 1954, or less than \$350 if such month is after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or less than \$400 if such month is after the month in which this Act was so amended, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional contribution as the compensation paid by such employer after December 31, 1946, to such employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month:

1. With respect to compensation paid prior to January 1, 1948, the rate shall be 3 per centum;
2. With respect to compensation paid after [December 31, 1947] the month in which this Act was amended in 1959 the rate shall be as follows:

If the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30 of any year, as determined by the Board, is:	The rate with respect to compensation paid during the next succeeding calendar year shall be:
\$450,000,000 or more -----	1/2 percent
\$400,000,000 or more but less than \$450,000,000..	1 percent
\$350,000,000 or more but less than \$400,000,000..	1 1/2 percent
\$300,000,000 or more but less than \$350,000,000..	2 percent
\$250,000,000 or more but less than \$300,000,000..	2 1/2 percent
Less than \$250,000,000.-----	3 percent
	Percent
\$450,000,000 or more -----	1 1/2
\$400,000,000 or more but less than \$450,000,000..	2
\$350,000,000 or more but less than \$400,000,000..	2 1/2
\$300,000,000 or more but less than \$350,000,000..	3
Less than \$300,000,000.-----	4

As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30 of such year; and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account.

(b) Each employee representative shall pay, with respect to his income, a contribution equal to ~~【3 per centum】~~ *4 per centum* of so much of the compensation of such employee representative as is not in excess of \$300 for any calendar month, paid to him for services performed as an employee representative after June 30, 1939, and before July 1, 1954, and as is not in excess of \$350 paid to him for services rendered as an employee representative in any calendar month after June 30, 1954, *and before the calendar month next following the month in which this Act was amended in 1959, and as is not in excess of \$400 paid to him for services rendered as an employee representative in any calendar month after the month in which this Act was so amended.* The compensation of an employee representative and the contribution with respect thereto shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.

* * * * *

SEC. 10. (a) * * *

【(d) The Secretary of the Treasury is hereby directed to advance to the credit of the account such sums, but not more than \$25,000,000, as the Board requests for the purpose of paying benefits. Such sums shall be repaid from the account on January 1, 1941, or at such earlier time as the Board may, by agreement with the Secretary of the Treasury, determine.】

(d) Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at the rate of 3 per centum per annum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a) of this Act, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded.

* * * * *

INDIVIDUAL VIEWS OF
SENATOR EVERETT MCKINLEY DIRKSEN

I voted present when the committee voted favorably to report S. 226.

There are several provisions of S. 226, particularly those relating to unemployment insurance, to which I am opposed.

I therefore reserve the right to offer amendments to S. 226, when this bill is under active consideration by the Senate.

EVERETT MCKINLEY DIRKSEN.

S. 226

[Report No. 222]

IN THE SENATE OF THE UNITED STATES

JANUARY 12, 1959

Mr. MORSE (for himself, Mr. HILL, Mr. KENNEDY, Mr. MAGNUSON, Mr. ENGLE, Mr. YOUNG of North Dakota, Mr. COOPER, Mr. YARBOROUGH, Mr. RANDOLPH, Mr. MURRAY, Mr. McNAMARA, Mr. LANGER, Mr. BIBLE, Mr. BYRD of West Virginia, Mr. McCARTHY, Mr. KUCHEL, Mr. HUMPHREY, Mr. CLARK, Mr. GRUENING, Mr. CARROLL, Mr. MOSS, Mrs. SMITH, Mr. JAVITS, Mr. WILLIAMS of New Jersey, Mr. BEALL, Mr. SCOTT, Mr. PROXMIRE, Mr. NEUBERGER, and Mr. CANNON) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

APRIL 24, 1959

Reported by Mr. MORSE, with amendments

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

A BILL

To amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, 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 PART I—AMENDMENTS TO THE RAILROAD RETIREMENT

4 ACT OF 1937

5 Section 1. (a) Section 2 (a) 3 of the Railroad Retire-
6 ment Act of 1937 is amended to read as follows:

1 “3. Individuals who will have attained the age of sixty
2 and will have completed thirty years of service or, in the
3 case of women, who will have attained the age of sixty-two
4 and will have completed less than thirty years of service,
5 but the annuity of such individual shall be reduced by one
6 one-hundred-and-eightieth for each calendar month that he
7 or she is under age sixty-five when the annuity begins to
8 accrue.”

9 (b) Section 2 (d) of such Act is amended by adding
10 at the end thereof the following new sentence: “If pursuant
11 to the third sentence of this subsection an annuity was not
12 paid to an individual with respect to one or more months
13 in any calendar year, and it is subsequently established that
14 the total amount of such individual’s earnings during such
15 year as determined in accordance with that sentence (but
16 exclusive of earnings for services described in the first sen-
17 tence of this subsection) did not exceed \$1,200, the annuity
18 with respect to such month or months, and any deduction
19 imposed by reason of the failure to report earnings for such
20 month or months under the fifth sentence of this subsec-
21 tion, shall then be payable. If the total amount of such
22 individual’s earnings during such year (exclusive of earnings
23 for services described in the first sentence of this subsec-
24 tion) is in excess of \$1,200, the number of months in such
25 year with respect to which an annuity is not payable by

1 reason of such third and fifth sentences shall not exceed one
2 month for each \$100 of such excess, treating the last \$50
3 or more of such excess as \$100; and if the amount of the
4 annuity has changed during such year, any payments of
5 annuity which ~~became~~ *become* payable solely by reason of
6 the limitation contained in this sentence shall be made first
7 with respect to the month or months for which the annuity
8 is larger.”

9 (c) Section 2 (e) of such Act is amended by striking
10 out “than an amount” and inserting in lieu thereof “than
11 110 per centum of an amount”.

12 (d) Section 2 (g) of such Act is amended by inserting
13 after “wife under age 65” the following: “(other than a
14 wife who is receiving such annuity by reason of an election
15 under subsection (h))”.

16 (e) Section 2 of such Act is further amended by adding
17 at the end thereof the following new subsection :

18 “(h) A spouse who would be entitled to an annuity
19 under subsection (e) if she or he had attained the age of
20 65 may elect upon or after attaining the age of 62 to receive
21 such annuity, but the annuity in any such case shall be reduced
22 by one one-hundred-and-eightieth for each calendar month
23 that the spouse is under age 65 when the annuity begins to
24 accrue.”

25 SEC. 2. (a) Section 3 (a) of the Railroad Retirement

1 Act of 1937 is amended (1) by striking out "3.04", "2.28",
2 and "1.52" and inserting in lieu thereof "3.35", "2.51",
3 and "1.67", respectively; and (2) by striking out "\$200"
4 and inserting in lieu thereof "\$250".

5 (b) Section 3 (c) of such Act is amended by inserting
6 after "or in excess of \$350 for any month after June 30,
7 1954," the following: "and before ~~January 1, 1959~~ *the*
8 *calendar month next following the month in which this Act*
9 *was amended in 1959*, or in excess of \$400 for any month
10 after ~~December 31, 1958~~ *the month in which this Act was*
11 *so amended*,".

12 (c) Section 3 (e) of such Act is amended (1) by strik-
13 ing out "\$4.55", "\$75.90", and "his monthly compensation"
14 and inserting in lieu thereof "\$5.00", "\$83.50" and "110
15 per centum of his monthly compensation", respectively; (2)
16 by striking out "is less than the amount, or the additional
17 amount" and inserting in lieu thereof "is less than 110 per
18 centum of the amount, or 110 per centum of the additional
19 amount"; (3) by inserting after "age sixty-five," the follow-
20 ing: "women entitled to spouses' annuities pursuant to elec-
21 tions made under subsection (h) of section 2 to be entitled
22 to wife's insurance benefits determined under section 202 (q)
23 of the Social Security Act,"; and (4) by striking out "such
24 amount or such additional amount" and inserting in lieu
25 thereof "110 per centum of such amount or 110 per centum
26 of such additional amount".

1 SEC. 3. (a) Section 5 (f) (2) of the Railroad Retire-
2 ment Act of 1937 is amended by striking out "and 7 per
3 centum of his or her compensation after December 31,
4 1946 (exclusive in both cases of compensation in excess
5 of \$300 for any month before July 1, 1954, and in the
6 latter case in excess of \$350 for any month after June 30,
7 1954)," and by inserting in lieu thereof the following:
8 "plus 7 per centum of his or her compensation paid after
9 December 31, 1946, and before January 1, 1959, plus 7½
10 per centum of his or her compensation paid after December
11 31, 1958, and before January 1, 1962, plus 8 per centum
12 of his or her compensation paid after December 31, 1961
13 (exclusive of compensation in excess of \$300 for any month
14 before July 1, 1954, and in excess of \$350 for any month
15 after June 30, 1954, and before ~~January 1, 1959~~ *the calen-*
16 *dar month next following the month in which this Act was*
17 *amended in 1959*, and in excess of \$400 for any month after
18 ~~December 31, 1958~~ *the month in which this Act was so*
19 *amended*),".

20 (b) Section 5 (h) of such Act is amended by striking
21 out "\$33", "\$176", and "\$15.40" wherever they appear
22 and inserting in lieu thereof "\$36.30", "\$193.60", and
23 "\$16.95", respectively.

24 (c) Section 5 (i) (1) (ii) of such Act is amended by
25 striking out "or in which month he engaged on seven or
26 more different calendar days in noncovered remunerative

1 activity outside the United States (as defined in section
2 203 (k) of the Social Security Act)” and inserting in lieu
3 thereof the following: “or, having engaged in any activity
4 outside the United States, would be charged under such
5 section 203 (e) with any earnings derived from such ac-
6 tivity if it had been an activity within the United States”.

7 (d) Clause (A) (i) of section 5 (l) (9) of such Act is
8 amended by striking out the word “and” appearing after
9 “July 1, 1954,” and by inserting after “June 30, 1954,”
10 the following: “and before ~~January 1, 1959~~ *the calendar*
11 *month next following the month in which this Act was*
12 *amended in 1959*, and any excess over \$400 for any calendar
13 month after ~~December 31, 1958~~ *the month in which this Act*
14 *was so amended,”*.

15 (e) Clause (A) (ii) of section 5 (l) (9) of such Act is
16 amended (1) by inserting “and before 1959” after “1954”
17 where it first appears; (2) by inserting after “\$4,200” where
18 it first appears the following: “, or for any calendar year
19 after 1958 is less than \$4,800,”; (3) by striking out “\$350”
20 and inserting in lieu thereof “\$400”; and (4) by striking
21 out “and \$4,200 for years after 1954, by” and inserting in
22 lieu thereof the following: “, \$4,200 for years after 1954 and
23 before 1959, and \$4,800 for years after 1958, by”.

24 (f) Section 5 (l) (10) of such Act is amended by striking
25 out “44”, “11”, “\$350”, “\$15.40”, “\$36.66”, “\$27.50”,
26 and “\$14.66” wherever they appear and inserting in lieu

1 thereof "49", "12", "\$400", "\$16.95", "\$40.33", "\$30.25",
 2 and "\$16.13", respectively.

3 *SEC. 4. Section 20 of the Railroad Retirement Act of*
 4 *1937 is amended (1) by inserting "(a)" immediately after*
 5 *"SEC. 20."; and (2) by adding at the end thereof the fol-*
 6 *lowing new subsection:*

7 *"(b) Pensions and annuities under this Act or the Rail-*
 8 *road Retirement Act of 1935 shall not be considered as*
 9 *income for the purposes of section 522 of title 38 of the*
 10 *United States Code."*

11 *SEC. 4-5. All pensions under section 6 of the Railroad*
 12 *Retirement Act of 1937, all joint and survivor annuities and*
 13 *survivor annuities deriving from joint and survivor annuities*
 14 *under that Act awarded before ~~January 1, 1959~~ the month*
 15 *next following the month of enactment of this Act all widows'*
 16 *and widowers' insurance annuities which began to accrue be-*
 17 *fore ~~February 1, 1959~~ the second calendar month next follow-*
 18 *ing the month of such enactment, and which, in accordance*
 19 *with the proviso in section 5 (a) or section 5 (b) of the Rail-*
 20 *road Retirement Act of 1937, are payable in the amount of*
 21 *the spouse's annuity to which the widow or widower was en-*
 22 *titled, and all annuities under the Railroad Retirement Act*
 23 *of 1935, are increased by 10 per centum.*

24 *SEC. 5 6. (a) The amendments made by section 1 (other*
 25 *than subsection (b) thereof), by subsections (a) and (c)*
 26 *of section 2, and by ~~subsections (b) and (c)~~ subsection (b)*

1 of section 3 shall be effective only with respect to annuities
2 (not including annuities to which section ~~4~~ 5 applies) accruing
3 for months ~~after December 1958~~ *after the month of enactment*
4 *of this Act.* The amendment made by subsection (b) of
5 section 1 *and by subsection (c) of section 3* shall be effective
6 with respect to annuities accruing during the calendar year
7 1959 and subsequent calendar years. The amendment made
8 by subsection (a) of section 3 shall be effective only with
9 respect to lump-sum payments (under section 5 (f) (2) of
10 the Railroad Retirement Act of 1937) in the case of deaths
11 occurring ~~after December 1958~~ *the month of enactment of*
12 *this Act.* The amendments made by subsection (f) of sec-
13 tion 3 shall be effective only with respect to annuities ac-
14 cruing for months ~~after December 1958~~ *the month of enact-*
15 *ment of this Act* and lump-sum payments (under section
16 5 (f) (1) of the Railroad Retirement Act of 1937) in the
17 case of deaths occurring ~~after December 1958~~ *the month of*
18 *enactment of this Act.* ~~Section 4~~ *Sections 4 and 5* shall be
19 effective only with respect to pensions due in calendar months
20 ~~after January 1959~~ *the month next following the month of*
21 *enactment of this Act* and annuities accruing for months after
22 ~~December 1958~~ *the month of enactment of this Act.*

23 (b) All recertifications required by reason of the amend-
24 ments made by this part shall be made by the Railroad Re-
25 tirement Board without application therefor.

1 PART II—AMENDMENTS TO THE RAILROAD RETIREMENT
2 TAX ACT

3 SEC. 201. (a) Section 3201 of the Railroad Retirement
4 Tax Act is amended to read as follows:

5 “SEC. 3201. RATE OF TAX.

6 “In addition to other taxes, there is hereby imposed on
7 the income of every employee a tax equal to—

8 “(1) $6\frac{3}{4}$ percent of so much of the compensation
9 paid to such employee for services rendered by him after
10 ~~December 31, 1958~~ *the month in which this provision*
11 *was amended in 1959*, and before January 1, 1962, and

12 “(2) $7\frac{1}{4}$ percent of so much of the compensation
13 paid to such employee for services rendered by him after
14 December 31, 1961,

15 as is not in excess of \$400 for any calendar month: *Provided*,
16 That the rate of tax imposed by this section shall be in-
17 creased, with respect to compensation paid for services ren-
18 dered after December 31, 1964, by a number of percentage
19 points (including fractional points) equal at any given time
20 to the number of percentage points (including fractional
21 points) by which the rate of the tax imposed with respect
22 to wages by section 3101 at such time exceeds the rate pro-
23 vided by paragraph (2) of such section 3101 as amended
24 by the Social Security Amendments of 1956.”

1 (b) Section 3202 (a) of the Railroad Retirement Tax
2 Act is amended (1) by striking out "after December 31,
3 1954" wherever it appears and inserting in lieu thereof "after
4 ~~December 31, 1958~~ *the month in which this provision was*
5 *amended in 1959*"; (2) by striking out "\$350" wherever
6 it appears and inserting in lieu thereof "\$400"; (3) by
7 striking out "after 1954" and inserting in lieu thereof "after
8 ~~1958~~ *the month in which this provision was amended in*
9 *1959*".

10 (c) Section 3211 of the Railroad Retirement Tax Act
11 is amended to read as follows:

12 **"SEC. 3211. RATE OF TAX.**

13 "In addition to other taxes, there is hereby imposed on
14 the income of each employee representative a tax equal to—

15 " (1) $13\frac{1}{2}$ percent of so much of the compensation
16 paid to such employee representative for services ren-
17 dered by him after ~~December 31, 1958~~ *the month in*
18 *which this provision was amended in 1959*, and before
19 January 1, 1962, and

20 " (2) $14\frac{1}{2}$ percent of so much of the compensation
21 paid to such employee representative for services ren-
22 dered by him after December 31, 1961,

23 as is not in excess of \$400 for any calendar month: *Pro-*
24 *vided*, That the rate of tax imposed by this section shall be
25 increased, with respect to compensation paid for services

1 rendered after December 31, 1964, by a number of per-
2 centage points (including fractional points) equal at any
3 given time to twice the number of percentage points (includ-
4 ing fractional points) by which the rate of the tax imposed
5 with respect to wages by section 3101 at such time exceeds
6 the rate provided by paragraph (2) of such section 3101
7 as amended by the Social Security Amendments of 1956.”

8 (d) (1) Section 3221 of the Railroad Retirement Tax
9 Act is amended by striking out “In addition to” and all that
10 follows down through “\$350” the first time it appears, and
11 inserting in lieu thereof the following:

12 “(a) In addition to other taxes, there is hereby imposed
13 on every employer an excise tax, with respect to having
14 individuals in his employ, equal to—

15 “(1) $6\frac{3}{4}$ percent of so much of the compensation
16 paid by such employer for services rendered to him after
17 ~~December 31, 1958~~ *the month in which this provision*
18 *was amended in 1959*, and before January 1, 1962, and

19 “(2) $7\frac{1}{4}$ percent of so much of the compensation
20 paid by such employer for services rendered to him after
21 December 31, 1961,

22 as is, with respect to any employee for any calendar month,
23 not in excess of \$400”.

24 (2) Such section 3221 is further amended (A) by
25 striking out “1954” “after December 31, 1954” and “after

1 1954" wherever else it appears they appear in that section
2 and inserting in lieu thereof "~~1958~~" "*after the month in*
3 *which this provision was amended in 1959*"; (B) by striking
4 out "\$350" wherever else it appears in that section and
5 inserting in lieu thereof "\$400"; and (C) by adding at the
6 end thereof the following new subsection:

7 " (b) The rate of tax imposed by subsection (a) shall
8 be increased, with respect to compensation paid for serv-
9 ices rendered after December 31, 1964, by a number of per-
10 centage points (including fractional points) equal at any
11 given time to the number of percentage points (including
12 fractional points) by which the rate of the tax imposed with
13 respect to wages by section 3111 at such time exceeds the
14 rate provided by paragraph (2) of such section 3111 as
15 amended by the Social Security Amendments of 1956."

16 SEC. 202. The amendments made by section 201 shall,
17 except as otherwise provided in such amendments, be effec-
18 tive as of ~~January 1, 1959~~ *the first day of the calendar month*
19 *next following the month in which this Act was enacted*, and
20 shall apply only with respect to compensation paid after
21 ~~December 31, 1958~~ *the month of such enactment*, for services
22 rendered after such ~~date~~ *month of enactment*.

1 PART III—AMENDMENTS TO THE RAILROAD UNEMPLOY-
2 MENT INSURANCE ACT

3 SEC. 301. (a) Section 1 (i) of the Railroad Unemploy-
4 ment Insurance Act is amended by striking out the proviso in
5 the first sentence and inserting in lieu thereof “: *Provided,*
6 *however,* That in computing the compensation paid to any
7 employee, no part of any month’s compensation in excess
8 of \$300 for any month before July 1, 1954, or in excess
9 of \$350 for any month after June 30, 1954, and before
10 ~~January 1, 1959~~ *the calendar month next following the month*
11 *in which this Act was amended in 1959, or in excess of \$400*
12 *for any month after ~~December 31, 1958~~ the month in which*
13 *this Act was so amended, shall be recognized”.*

14 “(b) *The first proviso of section 1(k) of the Railroad*
15 *Unemployment Insurance Act is amended by striking out*
16 *‘\$400’ and inserting in lieu thereof ‘\$500’.*”

17 SEC. 302. (a) Section 2 (a) of the Railroad Unem-
18 ployment Insurance Act is amended by striking out the
19 language between “(i)” and “(ii)” and inserting in lieu
20 thereof the following: “for each day of unemployment in
21 excess of four during any registration period, and”.

22 (b) Section 2 (a) of such Act is further amended by

1 striking out columns I and II and inserting in lieu thereof
 2 the following:

"Column I Total Compensation	Column II Daily Benefit Rate
\$500 to \$699.99-----	\$4.50
700 to 999.99-----	5.00
1,000 to 1,299.99-----	5.50
1,300 to 1,599.99-----	6.00
1,600 to 1,899.99-----	6.50
1,900 to 2,199.99-----	7.00
2,200 to 2,499.99-----	7.50
2,500 to 2,799.99-----	8.00
2,800 to 3,099.99-----	8.50
3,100 to 3,499.99-----	9.00
3,500 to 3,999.99-----	9.50
4,000 and over-----	10.20".

3 (c) The proviso in such section 2 (a) is amended by
 4 striking out "50" and "\$8.50" and inserting in lieu thereof
 5 "60" and "\$10.20", respectively.

6 SEC. 303. (a) Section 2 (c) of the Railroad Unem-
 7 ployment Insurance Act is amended by striking out the
 8 period at the end thereof and inserting in lieu of such period
 9 a colon and the following: "*And provided further, That,*
 10 with respect to an employee who has ten or more years of
 11 service as defined in section 1 (f) of the Railroad Retirement
 12 Act of 1937, who did not voluntarily leave work without
 13 good cause or voluntarily retire, and who had current rights
 14 to normal benefits for days of unemployment in a benefit year
 15 but has exhausted such rights, the benefit year in which such
 16 rights are exhausted shall be deemed not to be ended until
 17 the last day of the extended benefit period determined under

1 the following schedule, and the maximum number of days
 2 of, and amount of payment for, unemployment within such
 3 benefit year for which benefits may be paid to the employee
 4 shall be enlarged to include all compensable days of unem-
 5 ployment within such extended benefit period:

The extended benefit period shall begin on the first day of unemployment following the day on which the employee exhausted his then current rights to normal benefits for days of unemployment and shall continue for successive fourteen-day periods (each of which periods shall constitute a registration period) until the number of such fourteen-day periods totals—
 7 (but not more than 65 days)

“If the employee’s ‘years of service’ total—
 10 and less than 15----- 7
 15 and over----- 13

6 but no such extended benefit period shall extend beyond the
 7 beginning of the first registration period in a benefit year
 8 in which the employee is again qualified for benefits in ac-
 9 cordance with section 3 of this Act on the basis of compen-
 10 sation earned after the first of such successive fourteen-day
 11 periods has begun. For an employee who has ten or more
 12 years of service, who did not voluntarily leave work without
 13 good cause or voluntarily retire, who has fourteen or more
 14 consecutive days of unemployment, and who is not a ‘quali-
 15 fied employee’ for the general benefit year current when such
 16 unemployment commences but is or becomes a ‘qualified em-
 17 ployee’ for the next succeeding general benefit year, such
 18 succeeding benefit year shall, in his case, begin on the first
 19 day of the month in which such unemployment commences.”

1 (b) An employee who has less than ten years of service
2 as defined in section 1 (f) of the Railroad Retirement Act
3 of 1937, and who has after June 30, 1957, *and before*
4 *April 1, 1959*, exhausted (within the meaning prescribed
5 by the Railroad Retirement Board by regulation) his rights
6 to unemployment benefits, shall be paid unemployment
7 benefits for days of unemployment, not exceeding sixty-five,
8 which occur in registration periods beginning on or after
9 June 19, 1958, and before ~~April~~ *July 1, 1959*, and which
10 would not be days with respect to which he would be held
11 entitled otherwise to receive unemployment benefits under
12 the Railroad Unemployment Insurance Act, except that an
13 employee who has filed, and established, a first claim for
14 benefits under the Temporary Unemployment Compensation
15 Act of 1958 may not thereafter establish a claim under this
16 subsection, and an employee who has registered for, and
17 established a claim for benefits under this subsection may not
18 thereafter establish a claim under the Temporary Unem-
19 ployment Compensation Act of 1958. Except to the extent
20 inconsistent with this subsection, the provisions of the Rail-
21 road Unemployment Insurance Act shall be applicable in the
22 administration of this subsection.

23 (c) The Secretary of Labor, upon request, shall furnish
24 the Board information deemed necessary by the Board for
25 the administration of the provisions of subsection (b) hereof,

1 and the Board, upon request, shall furnish the Secretary
2 of Labor information deemed necessary by the Secretary for
3 the administration of the Temporary Unemployment Com-
4 pensation Act of 1958.

5 SEC. 304. Section 3 of the Railroad Unemployment In-
6 surance Act is amended by striking out "\$400" and inserting
7 in lieu thereof "\$500".

8 SEC. 305. Section 4 (a-2) of the Railroad Unemploy-
9 ment Insurance Act is amended by striking out subdivision
10 (iv), and by striking out the semicolon at the end of sub-
11 division (iii) and inserting in lieu thereof a period.

12 SEC. 306. Section 8 (a) of the Railroad Unemployment
13 Insurance Act is amended (1) by inserting after "June 30,
14 1954" where it first appears the following: ", and before
15 ~~January 1, 1959~~ *the calendar month next following the month*
16 *in which this Act was amended in 1959*, and is not in excess
17 of \$400 for any calendar month paid by him to any employee
18 for services rendered to him after ~~December 31, 1958~~ *the*
19 *month in which this Act was so amended*"; (2) by inserting
20 after "June 30, 1954" where it appears for the second time
21 the following: ", and before ~~January 1, 1959~~ *the calendar*
22 *month next following the month in which this Act was amended*
23 *in 1959*, and to not more than \$400 for any month after
24 ~~December 31, 1958~~ *the month in which this Act was so*
25 *amended*"; (3) by inserting after "June 30, 1954" where it

1 appears for the third time the following: “, and before
 2 ~~January 1, 1959~~ *the calendar month next following the*
 3 *month in which this Act was amended in 1959*, or less than
 4 \$400 if such month is after ~~December 31, 1958~~ *the month*
 5 *in which this Act was so amended”*; (4) by striking out
 6 ~~“1947”~~ *“December 31, 1947”* in paragraph 2 and inserting
 7 in lieu thereof ~~“1958”~~ *“the month in which this Act was*
 8 *amended in 1959”*; and (5) by striking out the table (ex-
 9 cept the column headings) in such paragraph 2 and inserting
 10 in lieu thereof the following:

	Percent
“\$450,000,000 or more.....	1½
\$400,000,000 or more but less than \$450,000,000.....	2
\$350,000,000 or more but less than \$400,000,000.....	2½
\$300,000,000 or more but less than \$350,000,000.....	3
Less than \$300,000,000.....	3½ 4”.

11 SEC. 307. Section 8 (b) of the Railroad Unemployment
 12 Insurance Act is amended (1) by striking out “3 per
 13 centum” and inserting in lieu thereof “~~3½~~ 4 per centum”;
 14 and (2) by inserting before the period at the end of the
 15 first sentence the following: “, and before ~~January 1, 1959~~
 16 *the calendar month next following the month in which this*
 17 *Act was amended in 1959*, and as is not in excess of \$400
 18 paid to him for services rendered as an employee represent-
 19 ative in any calendar month after ~~December 31, 1958~~ *the*
 20 *month in which this Act was so amended”*.

21 SEC. 308. (a) Subsection (d) of section 10 of the Rail-

1 road Unemployment Insurance Act be amended to read as
2 follows:

3 “(d) Whenever the Board finds at any time that the
4 balance in the railroad unemployment insurance account will
5 be insufficient to pay the benefits and refunds which it esti-
6 mates are due, or will become due, under this Act, it shall
7 request the Secretary of the Treasury to transfer from the
8 Railroad Retirement Account to the credit of the railroad
9 unemployment insurance account such moneys as the Board
10 estimates would be necessary for the payment of such benefits
11 and refunds, and the Secretary shall make such transfer.
12 Whenever the Board finds that the balance in the railroad
13 unemployment insurance account, without regard to the
14 amounts transferred pursuant to the next preceding sentence,
15 is sufficient to pay such benefits and refunds, it shall request the
16 Secretary of the Treasury to retransfer from the railroad
17 unemployment insurance account to the credit of the Railroad
18 Retirement Account such moneys as in its judgment are not
19 needed for the payment of such benefits and refunds, plus
20 interest at the rate of 3 per centum per annum, and the Secre-
21 tary shall make such retransfer. In determining the balance
22 in the railroad unemployment insurance account as of Sep-
23 tember 30 of any year pursuant to section 8(a) of this
24 Act, any moneys transferred from the Railroad Retirement
25 Account to the credit of the railroad unemployment insurance

1 *account which have not been retransferred as of such date*
2 *from the latter account to the credit of the former, plus the*
3 *interest accrued thereon to that date, shall be disregarded."*

4 (b) *The amendment made by this section shall take effect*
5 *on the date of enactment of this Act.*

6 SEC. 308 309. *The amendments made by section*
7 *301(b) shall be effective with respect to days in registration*
8 *periods beginning after June 30, 1959. The amendments*
9 *made by sections 302, 303 (a), and 305 shall be effective*
10 *with respect to benefits accruing in general benefit years*
11 *which begin after the benefit year ending June 30, 1958,*
12 *and in extended benefit periods which begin after Decem-*
13 *ber 31, 1957. The amendment made by section 304 shall*
14 *be effective with respect to base years after the base year*
15 *ending December 31, 1957. The amendments made by*
16 *clauses (4) and (5) of section 306 and clause (1) of sec-*
17 *tion 307 shall be effective as of ~~January 1, 1959~~, the first*
18 *day of the calendar month next following the month in which*
19 *this Act was enacted, and shall apply only with respect to*
20 *compensation paid for services rendered in calendar months*
21 *after ~~December 31, 1958~~ the month in which this Act was*
22 *enacted.*

[Report No. 222]

A BILL

To amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

By Mr. MORSE, Mr. HILL, Mr. KENNEDY, Mr. MAGNUSON, Mr. ENGLE, Mr. YOUNG of North Dakota, Mr. COOPER, Mr. YARBOROUGH, Mr. RANDOLPH, Mr. MURRAY, Mr. MCNAMARA, Mr. LANGER, Mr. BIBLE, Mr. BYRD of West Virginia, Mr. MCCARTHY, Mr. KUCHEL, Mr. HUMPHREY, Mr. CLARK, Mr. GRUENING, Mr. CARROLL, Mr. MOSS, Mrs. SMITH, Mr. JAVITS, Mr. WILLIAMS of New Jersey, Mr. BEALL, Mr. SCOTT, Mr. PROXMIRE, Mr. NEUBERGER, and Mr. CANNON

JANUARY 12, 1959

Read twice and referred to the Committee on Labor and Public Welfare

APRIL 24, 1959

Reported with amendments

on behalf of the opponents, by the minority leader.

Mr. WILLIAMS of Delaware. Would that allow some time on all amendments and on amendments to amendments?

Mr. JOHNSON of Texas. Yes.

Mr. LANGER. Mr. President, I ask for the yeas and nays on the retirement bill.

Mr. JOHNSON of Texas. I will ask for the yeas and nays after the bill has been laid before the Senate.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Texas?

Mr. ALLOTT. Mr. President, I do not wish to get squeezed into a corner on this proposal. I wish to propound some questions. I simply wish to have some assurance that I may have 5, 7, or 10 minutes to propound the questions.

Mr. JOHNSON of Texas. The Senator will have such an opportunity.

Mr. ALLOTT. I do not object.

Mr. WILLIAMS of Delaware. Mr. President, if I correctly understand the proposed unanimous-consent agreement, it provides for 20 minutes on each amendment.

Mr. JOHNSON of Texas. No; a total of 20 minutes on each side.

Mr. WILLIAMS of Delaware. On all amendments?

Mr. JOHNSON of Texas. I understand there is no amendment to be offered, except one which is acceptable to the Republicans, and the committee has agreed on it. The minority, I have been informed, desire to have no discussion on the amendment.

Mr. WILLIAMS of Delaware. That may well be true. I have no amendment to offer, but I would not want to agree to a limitation of time of only 20 minutes to a side regardless of the number of amendments which might be offered.

Mr. JOHNSON of Texas. I will be glad to agree to a proposal which will allow 5 minutes on each side on any amendment.

Mr. WILLIAMS of Delaware. I think it should be 20 minutes to a side.

Mr. JOHNSON of Texas. All right; 20 minutes to a side on each amendment which is offered. I am informed, however, that there are no amendments to be offered.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Texas?

Mr. CASE of South Dakota. Mr. President, can the distinguished majority leader tell the Senate what the amendment is to which he says there is no objection?

Mr. JOHNSON of Texas. The distinguished minority leader can give the Senator that information.

Mr. DIRKSEN. It is an amendment to reduce the tax on carriers from 4 percent to 3¾ percent. I was advised yesterday that that is agreeable, and that the Senator from Oregon is willing to accept the amendment and take it to conference.

The House is likely to pass, not an identical bill, but a similar bill, today. Whatever differences there may be can be adjusted in conference.

Mr. CASE of South Dakota. I had heard rumors that some other amendments might be offered. If the proposed

unanimous-consent agreement will allow 20 minutes to a side on each amendment, as well, I will not object.

Mr. JOHNSON of Texas. The proposed agreement so provides.

The PRESIDING OFFICER. Is there objection to the proposed unanimous-consent agreement? The Chair hears none, and the agreement is entered.

The Senate thereupon proceeded to consider the bill (S. 226) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, which had been reported from the Committee on Labor and Public Welfare, with amendments on page 3, line 5, after the word "which", to strike out "became" and insert "become"; on page 4, line 7, after the word "before", to strike out "January 1, 1959" and insert "the calendar month next following the month in which this Act was amended in 1959"; in line 10, after the word "after", to strike out "December 31, 1958" and insert "the month in which this Act was so amended,"; on page 5, line 15, after the word "before", to strike out "January 1, 1959" and insert "the calendar month next following the month in which this Act was amended in 1959"; at the beginning of line 18, to strike out "December 31, 1958" and insert "the month in which this Act was so amended,"; on page 6, line 10, after the word "before", to strike out "January 1, 1959" and insert "the calendar month next following the month in which this Act was amended in 1959"; in line 13, after the word "after", to strike out "December 31, 1958" and insert "the month in which this Act was so amended,"; on page 7, after line 2, to insert a new section, as follows:

SEC. 4. Section 20 of the Railroad Retirement Act of 1937 is amended (1) by inserting "(a)" immediately after "Sec. 20."; and (2) by adding at the end thereof the following new subsection:

"(b) Pensions and annuities under this Act or the Railroad Retirement Act of 1935 shall not be considered as income for the purposes of section 522 of title 38 of the United States Code."

At the beginning of line 11, to change the section number from "4" to "5"; in line 14, after the word "before", to strike out "January 1, 1959" and insert "the month next following the month of enactment of this Act"; in line 17, after the word "before", to strike out "February 1, 1959" and insert "the second calendar month next following the month of such enactment"; at the beginning of line 24, to change the section number from "5" to "6"; in line 26, after the word "by", to strike out "subsections (b) and (c)" and insert "subsection (b)"; on page 8, line 2, after the word "section", to strike out "4" and insert "5"; in line 3, after the word "months", to strike out "after December 1958" and insert "after the month of enactment of this Act"; in line 5, after "section 1", to insert "and by subsection (c) of section 3"; in line 11, after the word "after", to strike out "December 1958" and insert "the month of enactment of this Act"; in line 14, after the word "after", to strike out "December 1958" and insert "the month

AMENDMENT OF RAILROAD RETIREMENT ACT OF 1937, RAILROAD RETIREMENT TAX ACT, AND RAILROAD UNEMPLOYMENT INSURANCE ACT

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the unfinished business, H.R. 5916, the supplemental appropriation bill, be temporarily laid aside, and that the Senate proceed to the consideration of Calendar No. 211, Senate bill 226; and that the time on the bill and on all amendments be limited to not to exceed 20 minutes on each side, the time to be controlled by the Senator from Oregon [Mr. MORSE] and the minority leader.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 226) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Texas?

Mr. WILLIAMS of Delaware. Mr. President, I did not hear the proposed unanimous-consent agreement.

Mr. JOHNSON of Texas. The proposed unanimous-consent agreement is that the Senate proceed to the consideration of the railroad retirement bill, Calendar 211, Senate bill 226, and that debate be limited to 20 minutes on each side, the time to be controlled, on behalf of the proponents of the bill, by the Senator from Oregon [Mr. MORSE], and

of enactment of this Act"; in line 17, after the word "after", to strike out "December 1958" and insert "the month of enactment of this Act"; in line 18, after the amendment just above stated, to strike out "Section 4" and insert "Sections 4 and 5"; in line 20, after the word "after", to strike out "January 1959" and insert "the month next following the month of enactment of this Act"; at the beginning of line 22, to strike out "December 1958" and insert "the month of enactment of this Act"; on page 9, at the beginning of line 10, to strike out "December 31, 1958" and insert "the month in which this provision was amended in 1959"; on page 10, at the beginning of line 4, to strike out "December 31, 1958" and insert "the month in which this provision was amended in 1959"; at the beginning of line 8, to strike out "1958" and insert "the month in which this provision was amended in 1959"; in line 17, after the word "after", to strike out "December 31, 1958" and insert "the month in which this provision was amended in 1959"; on page 11, at the beginning of line 17, to strike out "December 31, 1958" and insert "the month in which this provision was amended in 1959"; in line 25, after the word "out"; to strike out "1954" and insert "after December 31, 1954" and "after 1954"; on page 12, line 1, after the word "wherever", to strike out "else it appears" and insert "they appear"; in line 2, after the word "thereof", to strike out "1958" and insert "after the month in which this provision was amended in 1959"; in line 18, after the word "of", to strike out "January 1, 1959" and insert "the first day of the calendar month next following the month in which this Act was enacted"; at the beginning of line 21, to strike out "December 31, 1958" and insert "the month of such enactment"; in line 22, after the word "such", to strike out "date" and insert "month of enactment"; on page 13, line 3, after "Sec. 301.", to insert "(a)"; at the beginning of line 10, to strike out "January 1, 1959" and insert "the calendar month next following the month in which this Act was amended in 1959"; in line 12, after the word "after", to strike out "December 31, 1958" and insert "the month in which this Act was so amended"; after line 13, to insert:

"(b) The first proviso of section 1(k) of the Railroad Unemployment Insurance Act is amended by striking out '\$400' and inserting in lieu thereof '\$500'."

On page 16, line 3, after "1957", to insert "and before April 1, 1959"; in line 9, after the word "before", to strike out "April" and insert "July"; on page 17, at the beginning of line 15, to strike out out "January 1, 1959" and insert "the calendar month next following the month in which this Act was amended in 1959"; in line 18, after the word "after", to strike out "December 31, 1958" and insert "the month in which this Act was so amended"; in line 21, after the word "before", to strike out "January 1, 1959" and insert "the calendar month next following the month in which this Act was amended in 1959"; at the beginning of line 24, to strike out "December 31, 1958" and insert "the month in

which this Act was so amended"; on page 18, at the beginning of line 2, to strike out "January 1, 1959" and insert "the calendar month next following the month in which this Act was amended in 1959"; in line 4, after the word "after", to strike out "December 31, 1958" and insert "the month in which this Act was so amended"; at the beginning of line 6, to strike out "1947" and insert "December 31, 1947"; in line 7, after the word "thereof", to strike out "1958" and insert "the month in which this Act was amended in 1959"; in line 13, after the word "thereof", to strike out "3½" and insert "4"; in line 15, after the word "before", to strike out "January 1, 1959" and insert "the calendar month next following the month in which this Act was amended in 1959"; in line 19, after the word "after", to strike out "December 31, 1958" and insert "the month in which this Act was so amended"; after line 20, to insert a new section, as follows:

SEC. 308. (a) Subsection (d) of section 10 of the Railroad Unemployment Insurance Act be amended to read as follows:

"(d) Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at the rate of 3 per centum per annum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a) of this Act, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded."

(b) The amendment made by this section shall take effect on the date of enactment of this Act.

On page 20, at the beginning of line 6, to change the section number from "308" to "309"; in the same line, after the word "by", to insert "Section 301(b) shall be effective with respect to days in registration periods beginning after June 30, 1959"; in line 17, after the word "of", to strike out "January 1, 1959" and insert "the first day of the calendar month next following the month in which this Act was enacted"; and, in line 21, after the word "after", to strike out "December 31, 1958" and insert "the month in which this Act was enacted"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

SECTION 1. (a) Section 2(a)(3) of the Railroad Retirement Act of 1937 is amended to read as follows:

"3. Individuals who will have attained the age of sixty and will have completed thirty years of service or, in the case of women, who will have attained the age of sixty-two and will have completed less than thirty years of service, but the annuity of such individual shall be reduced by one one-hundred-and-eightieth for each calendar month that he or she is under age sixty-five when the annuity begins to accrue."

(b) Section 2(d) of such Act is amended by adding at the end thereof the following new sentence: "If pursuant to the third sentence of this subsection an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in the first sentence of this subsection) did not exceed \$1,200, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the fifth sentence of this subsection, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in the first sentence of this subsection) is in excess of \$1,200, the number of months in such year with respect to which an annuity is not payable by reason of such third and fifth sentences shall not exceed one month for each \$100 of such excess, treating the last \$50 or more of such excess as \$100; and if the amount of the annuity has changed during such year, any payments of annuity which become payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger."

(c) Section 2(e) of such Act is amended by striking out "than an amount" and inserting in lieu thereof "than 110 per centum of an amount".

(d) Section 2(g) of such Act is amended by inserting after "wife under age 65" the following: "(other than a wife who is receiving such annuity by reason of an election under subsection (h))".

(e) Section 2 of such Act is further amended by adding at the end thereof the following new subsection:

"(h) A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue."

SEC. 2. (a) Section 3(a) of the Railroad Retirement Act of 1937 is amended (1) by striking out "3.04", "2.28", and "1.52" and inserting in lieu thereof "3.35", "2.51", and "1.67", respectively; and (2) by striking out "\$200" and inserting in lieu thereof "\$250".

(b) Section 3(c) of such Act is amended by inserting after "or in excess of \$350 for any month after June 30, 1954," the following: "and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended."

(c) Section 3(e) of such Act is amended (1) by striking out "\$4.55", "\$75.90", and "his monthly compensation" and inserting in lieu thereof "\$5.00", "\$83.50" and "110 per centum of his monthly compensation", respectively; (2) by striking out "is less than the amount, or the additional amount" and inserting in lieu thereof "is less than 110 per centum of

the amount, or 110 per centum of the additional amount"; (3) by inserting after "age sixty-five," the following: "women entitled to spouses' annuities pursuant to elections made under subsection (h) of section 2 to be entitled to wife's insurance benefits determined under section 202 (q) of the Social Security Act."; and (4) by striking out "such amount or such additional amount" and inserting in lieu thereof "110 per centum of such amount or 110 per centum of such additional amount".

Sec. 3. (a) Section 5(f)(2) of the Railroad Retirement Act of 1937 is amended by striking out "and 7 per centum of his or her compensation after December 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month before July 1, 1954, and in the latter case in excess of \$350 for any month after June 30, 1954)," and by inserting in lieu thereof the following: "Plus 7 per centum of his or her compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of his or her compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and in excess of \$400 for any month after the month in which this Act was so amended)."

(b) Section 5(h) of such Act is amended by striking out "\$33", "\$176", and "\$15.40" wherever they appear and inserting in lieu thereof "\$36.30", "\$193.60", and "\$16.95", respectively.

(c) Section 5(l)(1)(ii) of such Act is amended by striking out "(i) or in which month he engaged on seven or more different calendar days in noncovered remunerative activity outside the United States (as defined in section 203(k) of the Social Security Act)" and inserting in lieu thereof the following: "or, having engaged in any activity outside the United States, would be charged under such section 203(e) with any earnings derived from such activity if it had been an activity within the United States".

(d) Clause (A)(1) of section 5(l)(9) of such Act is amended by striking out the word "and" appearing after "July 1, 1954," and by inserting after "June 30, 1954," the following: "and before the calendar month next following the month in which this Act was amended in 1959, and any excess over \$400 for any calendar month after the month in which this Act was so amended,".

(e) Clause (A)(ii) of section 5(l)(9) of such Act is amended (1) by inserting "and before 1959" after "1954" where it first appears; (2) by inserting after "\$4,200" where it first appears the following: ", or for any calendar year after 1958 is less than \$4,800."; (3) by striking out "\$350" and inserting in lieu thereof "\$400"; and (4) by striking out "and \$4,200 for years after 1954, by" and inserting in lieu thereof the following: ", \$4,200 for years after 1954 and before 1959, and \$4,800 for years after 1958, by".

(f) Section 5(l)(10) of such Act is amended by striking out "44", "11", "\$350", "\$15.40", "\$36.66", "\$27.50", and "\$14.66" wherever they appear and inserting in lieu thereof "49", "12", "\$400", "\$16.95", "\$40.33", "\$30.25", and "\$16.13", respectively.

Sec. 4. Section 20 of the Railroad Retirement Act of 1937 is amended (1) by inserting "(a)" immediately after "Sec. 20."; and (2) by adding at the end thereof the following new subsection:

"(b) Pensions and annuities under this Act or the Railroad Retirement Act of 1935 shall not be considered as income for the purposes of section 522 of title 38 of the United States Code."

Sec. 5. All pensions under section 6 of the Railroad Retirement Act of 1937, all joint

and survivor annuities and survivor annuities deriving from joint and survivor annuities under that Act awarded before the month next following the month of enactment of this Act all widows' and widowers' insurance annuities which began to accrue before the second calendar month next following the month of such enactment, and which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937, are payable in the amount of the spouse's annuity to which the widow or widower was entitled, and all annuities under the Railroad Retirement Act of 1935, are increased by 10 per centum.

Sec. 6. (a) The amendments made by section 1 (other than subsection (b) thereof), by subsections (a) and (c) of section 2, and by subsection (b) of section 3 shall be effective only with respect to annuities (not including annuities to which section 5 applies) accruing for months after the month of enactment of this Act. The amendment made by subsection (b) of section 1 and by subsection (c) of section 3 shall be effective with respect to annuities accruing during the calendar year 1959 and subsequent calendar years. The amendment made by subsection (a) of section 3 shall be effective only with respect to lump-sum payments (under section 5(f)(2) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. The amendments made by subsection (f) of section 3 shall be effective only with respect to annuities accruing for months after the month of enactment of this Act and lump-sum payments (under section 5(f)(1) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. Sections 4 and 5 shall be effective only with respect to pensions due in calendar months after the month next following the month of enactment of this Act and annuities accruing for months after the month of enactment of this Act.

(b) All recertifications required by reason of the amendments made by this part shall be made by the Railroad Retirement Board without application therefor.

PART II—AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

Sec. 201. (a) Section 3201 of the Railroad Retirement Tax Act is amended to read as follows:

"Sec. 3201. Rate of tax.

"In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to—

"(1) 6¼ per centum of so much of the compensation paid to such employee for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ per centum of so much of the compensation paid to such employee for services rendered by him after December 31, 1961, as is not in excess of \$400 for any calendar month: *Provided*, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956."

(b) Section 3202(a) of the Railroad Retirement Tax Act is amended (1) by striking out "after December 31, 1954" wherever it appears and inserting in lieu thereof "after the month in which this provision was amended in 1959"; (2) by striking out "\$350" wherever it appears and inserting in lieu thereof "\$400"; (3) by striking out

"after 1954" and inserting in lieu thereof "after the month in which this provision was amended in 1959".

(c) Section 3211 of the Railroad Retirement Tax Act is amended to read as follows: "Sec. 3211. Rate of tax.

"In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to—

"(1) 13½ per centum of so much of the compensation paid to such employee representative for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 14½ per centum of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961, as is not in excess of \$400 for any calendar month: *Provided*, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956."

(d) (1) Section 3221 of the Railroad Retirement Tax Act is amended by striking out "In addition to" and all that follows down through "\$350" the first time it appears, and inserting in lieu thereof the following:

"(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to—

"(1) 6¼ per centum of so much of the compensation paid by such employer for services rendered to him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ per centum of so much of the compensation paid by such employer for services rendered to him after December 31, 1961, as is, with respect to any employee for any calendar month, not in excess of \$400".

(2) Such section 3221 is further amended (A) by striking out "after December 31, 1954" and "after 1954" wherever they appear in that section and inserting in lieu thereof "after the month in which this provision was amended in 1959"; (B) by striking out "\$350" wherever else it appears in that section and inserting in lieu thereof "\$400"; and (C) by adding at the end thereof the following new subsection:

"(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3111 at such time exceeds the rate provided by paragraph (2) of such section 3111 as amended by the Social Security Amendments of 1956."

Sec. 202. The amendments made by section 201 shall, except as otherwise provided in such amendments, be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid after the month of such enactment, for services rendered after such month of enactment.

PART III—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Sec. 301. (a) Section 1(i) of the Railroad Unemployment Insurance Act is amended by striking out the proviso in the first sentence and inserting in lieu thereof: "*Provided, however*, That in computing the compensation paid to any employee, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess

of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended, shall be recognized".

"(b) The first proviso of section 1(k) of the Railroad Unemployment Insurance Act is amended by striking out '\$400' and inserting in lieu thereof '\$500'."

Sec. 302. (a) Section 2(a) of the Railroad Unemployment Insurance Act is amended by striking out the language between "(i)" and "(ii)" and inserting in lieu thereof the following: "for each day of unemployment in excess of four during any registration period, and".

(b) Section 2(a) of such Act is further amended by striking out columns I and II and inserting in lieu thereof the following:

Column I Total Compensation	Column II Daily Benefit Rate
\$500 to \$699.99-----	\$4.50
700 to 999.99-----	5.00
1,000 to 1,299.99-----	5.50
1,300 to 1,599.99-----	6.00
1,600 to 1,899.99-----	6.50
1,900 to 2,199.99-----	7.00
2,200 to 2,499.99-----	7.50
2,500 to 2,799.99-----	8.00
2,800 to 3,099.99-----	8.50
3,100 to 3,499.99-----	9.00
3,500 to 3,999.99-----	9.50
4,000 and over-----	10.20"

(c) The proviso in such section 2(a) is amended by striking out "50" and "\$8.50" and inserting in lieu thereof "60" and "\$10.20", respectively.

Sec. 303. (a) Section 2(c) of the Railroad Unemployment Insurance Act is amended by striking out the period at the end thereof and inserting in lieu of such period a colon and the following: "And provided further, That, with respect to an employee who has ten or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, who did not voluntarily leave work without good cause or voluntarily retire, and who had current rights to normal benefits for days of unemployment in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under the following schedule, and the maximum number of days of, and amount of payment for, unemployment within such benefit year for which benefits may be paid to the employee shall be enlarged to include all compensable days of unemployment within such extended benefit period:

The extended benefit period shall begin on the first day of unemployment following the day on which the employee exhausted his then current rights to normal benefits for days of unemployment and shall continue for successive fourteen-day periods (each of which periods shall constitute a registration period) until the number of such fourteen-day periods totals—	14 (but not more than 65 days)
"If the employee's years of service total—	
10 and less than 15--	7 (but not more than 65 days)
15 and over-----	13

but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits

in accordance with section 3 of this Act on the basis of compensation earned after the first of such successive fourteen-day periods has begun. For an employee who has ten or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, who has fourteen or more consecutive days of unemployment, and who is not a 'qualified employee' for the general benefit year current when such unemployment commences but is or becomes a 'qualified employee' for the next succeeding general benefit year, such succeeding benefit year shall, in his case, begin on the first day of the month in which such unemployment commences."

(b) An employee who has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, and who has after June 30, 1957, and before April 1, 1959, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his rights to unemployment benefits, shall be paid unemployment benefits for days of unemployment, not exceeding sixty-five, which occur in registration periods beginning on or after June 19, 1958, and before July 1, 1959, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act, except that an employee who has filed, and established, a first claim for benefits under the Temporary Unemployment Compensation Act of 1958 may not thereafter establish a claim under this subsection, and an employee who has registered for, and established a claim for benefits under this subsection may not thereafter establish a claim under the Temporary Unemployment Compensation Act of 1958. Except to the extent inconsistent with this subsection, the provisions of the Railroad Unemployment Insurance Act shall be applicable in the administration of this subsection.

(c) The Secretary of Labor, upon request, shall furnish the Board information deemed necessary by the Board for the administration of the provisions of subsection (b) hereof, and the Board, upon request, shall furnish the Secretary of Labor information deemed necessary by the Secretary for the administration of the Temporary Unemployment Compensation Act of 1958.

Sec. 304. Section 3 of the Railroad Unemployment Insurance Act is amended by striking out "\$400" and inserting in lieu thereof "\$500".

Sec. 305. Section 4 (a-2) of the Railroad Unemployment Insurance Act is amended by striking out subdivision (iv), and by striking out the semicolon at the end of subdivision (iii) and inserting in lieu thereof a period.

Sec. 306. Section 8(a) of the Railroad Unemployment Insurance Act is amended (1) by inserting after "June 30, 1954" where it first appears the following: ", and before the calendar month next following the month in which this Act was amended in 1959, and is not in excess of \$400 for any calendar month paid by him to any employee for services rendered to him after the month in which this Act was so amended"; (2) by inserting after "June 30, 1954" where it appears for the second time the following: ", and before the calendar month next following the month in which this Act was amended in 1959, and to not more than \$400 for any month after the month in which this Act was so amended"; (3) by inserting after "June 30, 1954" where it appears for the third time the following: ", and before the calendar month next following the month in which this Act was amended in 1959, or less than \$400 if such month is after the month in which this Act was so amended"; (4) by striking out "December 31, 1947" in paragraph 2 and inserting in lieu thereof "the month in which this Act

was amended in 1959"; and (5) by striking out the table (except the column headings) in such paragraph 2 and inserting in lieu thereof the following:

	Percent
"\$450,000,000 or more-----	1½
\$400,000,000 or more but less than \$450,000,000-----	2
\$350,000,000 or more but less than \$400,000,000-----	2½
\$300,000,000 or more but less than \$350,000,000-----	3
Less than \$300,000,000-----	4"

Sec. 307. Section 8(b) of the Railroad Unemployment Insurance Act is amended (1) by striking out "3 per centum" and inserting in lieu thereof "4 per centum"; and (2) by inserting before the period at the end of the first sentence the following: ", and before the calendar month next following the month in which this Act was amended in 1959, and as is not in excess of \$400 paid to him for services rendered as an employee representative in any calendar month after the month in which this Act was so amended."

Sec. 308. (a) Subsection (d) of section 10 of the Railroad Unemployment Insurance Act be amended to read as follows:

"(d) Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at the rate of 3 per centum per annum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a) of this Act, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded."

(b) The amendment made by this section shall take effect on the date of enactment of this Act.

Sec. 309. The amendments made by section 301(b) shall be effective with respect to days in registration periods beginning after June 30, 1959. The amendments made by sections 302, 303(a), and 305 shall be effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, and in extended benefit periods which begin after December 31, 1957. The amendment made by section 304 shall be effective with respect to base years after the base year ending December 31, 1957. The amendments made by clauses (4) and (5) of section 306 and clause (1) of section 307 shall be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid for services rendered in calendar months after the month in which this Act was enacted.

Mr. MORSE. Mr. President, I yield myself 20 minutes or so much thereof as I may need.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 20 minutes.

Mr. MORSE. Mr. President, the bill now before us is Senate bill 226.

Senate bill 226, as originally introduced by me, is in most respects the same as Senate bill 1313 which was passed by the Senate on August 22, 1958. However, the committee has made the following six changes in that bill:

1. CHANGES IN EFFECTIVE DATES

(A) The 10-percent increase in retirement and survivor annuities is made effective prospectively, that is, with respect to annuities accruing for months after the month of enactment of this act. The effective date for the 10-percent increase in pensions is changed accordingly.

Mr. President, that was done upon my recommendation—in fact, upon my insistence. I do not like the idea of retroactivity when we are imposing a financial burden upon a party to what, in this instance, might be termed a controversy, without that party's having knowledge that, for some reason, it can expect to be bound by such retroactivity; and I think it most unfair to the carriers to include in the bill, in connection with this matter, a retroactive clause. So my amendment for prospectivity was adopted by the committee.

(B) The increase in tax rates for Retirement Act purposes, as well as the increase in the taxable and creditable monthly compensation base, is also made effective prospectively, that is, with respect to compensation paid in months after the month of enactment of this act for services rendered after such month.

(C) The increase in lump-sum payments is also made effective prospectively, that is, with respect to deaths occurring after the month of enactment of this act.

The effective date with regard to the work restrictions on disability annuitants, and survivor beneficiaries working outside the United States, and the inclusion of social security wages for the purpose of computing survivor benefits, are not changed, effective for calendar years beginning with the calendar year 1959, because they all require computation on an annual basis.

2. CHANGES IN THE MAXIMUM CONTRIBUTION RATE FOR UNEMPLOYMENT INSURANCE

In view of the testimony in the record of the hearings that the maximum contribution rate of 3½ percent provided in the original bill would be inadequate to retain the railroad unemployment insurance account on a sound financial basis, the maximum contribution rate in the newly proposed table for unemployment insurance contributions is changed from 3½ to 4 percent; but this table, as well as the increase in the monthly taxable base from \$350 to \$400 a month, is made effective with respect to compensation paid in months after the month of enactment of this act for services rendered after such month.

I wish to discuss briefly the contribution rate, and I wish to stress two things which were pointed out during our hearings. First, in recent years the railroads have, in effect, saved approximately \$1,100 million as a result of the experience rating provision the Senate adopted some years ago, comparable to the experience rating which exists in many State laws in connection with the matter of determining unemployment compensation. The percentage is flexible: If employment is high, the rate can go down one-half of 1 percent; and when unemployment is high, the percentage rate goes up.

The Railroad Retirement Board suggested that 4 percent should be agreed upon as the figure; but the Board's own statistics, as we see by examining page 24 of our report, show that with the proposed changes, a tax of 3.75—or 3¾—percent would be fiscally sound for this fund; and I understand that when I conclude, and when the Senator from Illinois [Mr. DIRKSEN] takes the floor, in view of the table which appears on page 24 and in view of the testimony from the Railroad Retirement Board, the Senator from Illinois will propose an amendment to reduce the tax from 4 percent to 3¾ percent.

I wish to say that when the Senator from Illinois does that, I will accept the amendment, in behalf of the committee. So I think the amendment for a tax of 3¾ percent should be accepted by the Senate.

The provisions for increasing and extending the benefits under the Unemployment Insurance Act and the effective dates of such increases and extensions are not changed.

3. CONFERRING AUTHORITY UPON THE BOARD TO BORROW MONEY FROM THE RAILROAD RETIREMENT ACCOUNT

In view of the low balance in the railroad unemployment insurance account, as shown in the record of the hearings, a new amendment is added to the Railroad Unemployment Insurance Act; and the amendment confers upon the Railroad Retirement Board the authority to borrow from the railroad retirement account, for the payment of benefits and refunds under the Railroad Unemployment Insurance Act, on a reimbursable and 3-percent interest basis.

Let me say that all parties agree—the carriers the brotherhoods, and the Railroad Retirement Board itself; and in the committee we are unanimous—on this point, namely, that this borrowing power should be granted as recommended by all the parties—the carriers, the brotherhoods, and the Board.

4. EXTENDING TO JULY 1, 1959, THE PERIOD FOR THE PAYMENT OF TEMPORARY UNEMPLOYMENT INSURANCE BENEFITS

The provision in the bill for the payment of temporary unemployment compensation to employees with less than 10 years of service, up to a maximum of 65 days, but not later than April 1, 1959, is extended to July 1, 1959, in order to conform, as nearly as possible, to the provisions in Public Law 86-7, which was approved March 31, 1959, extending the Temporary Unemployment Compensation Act of 1958 to July 1, 1959.

5. A TECHNICAL AMENDMENT WITH REGARD TO SUBSIDIARY REMUNERATION

The committee amendments include also a technical amendment to section 1(k) of the Railroad Unemployment Insurance Act, with regard to subsidiary remuneration. Under present law, if an individual's base year's earnings are insufficient to make him a qualified employee but for the inclusion of "subsidiary remuneration", no day on which he earns such subsidiary remuneration is a day of unemployment, although otherwise it may be. In view of the proposed increase in the qualifying earnings from \$400 to \$500 in the base year, section 1(k) of the Railroad Unemployment Insurance Act is amended by striking out "\$400" and inserting in lieu thereof "\$500."

This is a desirable amendment, and I think it is deserving of adoption. I believe it is a fair amendment; and the committee was unanimous in regard to it.

6. AN ATTEMPT TO PROTECT A SMALL GROUP OF VETERAN PENSIONERS

Section 20 of the Railroad Retirement Act is amended to provide the annuities and pensions under the Railroad Retirement Act should not be deemed income for purposes of determining veterans' income, in cases involving non-service-connected disability pensions now afforded veterans who are totally and permanently disabled.

All these six changes are shown in italics on the several pages of the committee bill now before us.

Mr. President, at this time I wish to say a word, because I know the Senator from South Carolina [Mr. JOHNSTON] is always interested in veterans' legislation. This amendment is a veterans' amendment; and it came to us also with the recommendation of the expert on veterans affairs who assists our Committee on Labor and Public Welfare, that simple justice entitles the veterans to this consideration.

As so amended, the committee bill would amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act in the following respects:

A. AMENDMENTS TO THE RAILROAD RETIREMENT ACT

First. All retirement and survivor annuities, including spouses' annuities, computed under the regular railroad retirement formulas, including the minimum formulas, would be increased by 10 percent, effective with respect to annuities accruing for months after the month of enactment of the bill.

In other words, it will be prospective.

Second. All retirement and survivor annuities, including spouses' annuities, computed under the overall social security minimum would be increased by 10 percent, effective with respect to annuities accruing for months after the month of enactment of the bill.

Third. All pensions payable under section 6 of the Railroad Retirement Act would be increased by 10 percent, effective with respect to pensions due in months after the month next following the month of enactment of this bill.

Fourth. The maximum amount of monthly compensation creditable for benefit purposes would be increased from \$350 to \$400 effective with respect to services rendered after the month of enactment of this bill.

Fifth. The formula for computing the "residual" lump sum would be amended—in conformity with amendments proposed to the Railroad Retirement Tax Act to increase the tax rate and to increase the maximum monthly tax base to \$400—by increasing the percentage factor applicable to compensation after 1958 and before 1962, to 7½ percent, and to compensation after 1961 to 8 percent, and by increasing the maximum amount of compensation to which such factors are applicable from \$350 to \$400 earned in months after the month of enactment of this bill.

Sixth. The privilege—now available to a male employee with 30 years of service—of electing to receive a reduced annuity at age 60 would be available to women employees with 10 years of service at age 62. Also, spouses of annuitants—age 65 or more—would have the right to elect to receive a reduced spouse's annuity at age 62. The reduction in each case would be by one hundred-and-eightieth for each calendar month the beneficiary is under age 65; and both provisions would be effective for annuities accruing for months after the month of enactment of the bill.

Seventh. The earnings test now applicable to disability annuitants under which such an annuitant under age 65 does not receive his annuity for any month in which he is paid more than \$100 in earnings, would be modified by a proviso to the effect that if the annuitant's total earnings in any calendar year do not exceed \$1,200, the annuity otherwise not payable because of his earnings in excess of \$100 in any month in the year would become payable. Should the annuitant's earnings exceed \$1,200 in any year, loss of annuity would not exceed 1 month's annuity for each \$100 that the annuitant earned in excess of \$1,200, treating any remainder of such excess of \$50 or more as \$100.

Earnings from employment with an "employer" as defined in the Railroad Retirement Act, and from employment with the disability annuitant's last employer before he retired—whether or not a railroad employer—will not count toward this \$1,200 maximum, since no annuities are payable in any event under section 2(d) of the act for any month in which the disability annuitant had such employment, regardless of the amount of earnings in that employment.

The earnings test now applicable to survivor annuitants working outside the United States—no more than 6 days' remunerative activity in a month—would also be changed to a yearly earnings test applicable to survivor annuitants who are U.S. workers.

These changes would be effective for calendar years beginning with the calendar year 1959, although it will not be before 1960 when the question of the yearly earnings for 1959 will have to be determined.

Eighth. The amendment to section 20 of the Railroad Retirement Act would make it unnecessary for a railroad employee to waive part of his annuity or pension in order to avoid forfeiting his non-service-connected disability pension. Under this amendment, his annuity or pension under the Railroad Retirement Act would not be considered as income for purposes of the "income limitations" prescribed by section 522 of title 38 of the United States Code, under which non-service-connected disability pensions, otherwise due, are not to be paid to "any unmarried veteran whose annual income exceeds \$1,400 or to any married veterans or any veteran with children whose annual income exceeds \$2,700." This amendment would be effective prospectively, the same as the increases in annuities and pensions mentioned previously.

B. AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

First. The bill would increase, effective with respect to compensation earned in months after the month of enactment of the bill, the tax rate on employees and employers from 6¼ percent to 6¾ percent on the employee's compensation earned up to \$400 in any month after the month of enactment of the bill and before 1962, and to 7¼ percent of the employee's compensation up to \$400 earned in any month after 1961. This tax rate would be increased, with respect to compensation paid after December 31, 1964, by the same number of percentage points—or fractions of percentage points—by which the then current social security tax rate exceeds 2¾ percent—the social security tax rate scheduled to be in effect from 1960 through 1964 under the Social Security Amendments of 1956—this increase is conditioned, of course, on the increase in social security taxes.

Second. The tax rate on employee representatives would be increased from 12½ percent to 13½ percent, with respect to compensation earned after the month of enactment of the bill up to \$400 in any month after the month of enactment of the bill and before 1962, and to 14½ percent of compensation up to \$400 earned in any month after 1961. This tax rate would also be increased with respect to compensation paid after December 31, 1964, just as in the case of the employer and employee tax rates, but this increase would be by twice the number of percentage points—or fractions of percentage points—by which the then current social security tax rate exceeds 2¾ percent. This latter increase, too, would be conditional.

Third. The withholdings required of employers of the taxes imposed on their employees would be increased in accordance with the increase in tax rate and tax base.

C. AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

First. The maximum number of days of unemployment in the first registration period in a benefit year for which benefits may be paid would be increased from 7 to 10 days, the same number as the law now provides with respect to all sub-

sequent registration periods in the benefit year. This amendment would be effective with respect to benefits payable in the current benefit year and thereafter, for normal benefits, and as early as January 1, 1958, for benefits in extended periods.

Second. A new schedule of increased daily benefit rates would apply, ranging from a minimum daily benefit rate of \$4.50 for compensation of \$500 to \$699.99 in a year to a maximum daily benefit rate of \$10.20 for compensation of \$4,000 or more in a year. The proposed daily benefit rates are from 50 cents to \$1.70 higher than present rates. The alternative minimum daily rate payable would be increased from 50 to 60 percent of the daily rate of compensation—with a maximum of \$10.20 per day—for the employee's last employment in which he was engaged for an employer during the base—calendar—year. This amendment would be effective with respect to benefits payable in the current benefit year and thereafter, for normal benefits, and as early as January 1, 1958 for benefits in extended periods.

Third. The substitution of "\$500" for "\$400" in section 1(k) of the Railroad Unemployment Insurance Act, with regard to subsidiary remuneration, and the change in the minimum earnings from \$400 to \$500 in a base—calendar—year which would qualify an employee for benefits, would be effective with respect to benefits payable in the benefit year beginning July 1, 1959.

Fourth. An employee with less than 10 years of service who has, after June 30, 1957, and before April 1, 1959, exhausted his rights to unemployment benefits under present law would receive additional unemployment benefits, payable retroactively, for days of unemployment, not exceeding 65, which occur in registration periods beginning on or after June 19, 1958, and before July 1, 1959.

Fifth. An employee who has 10 or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, who has 14 or more consecutive days of unemployment, and who is not a "qualified employee" for the general benefit year current when such unemployment commences, but is or becomes a "qualified employee" for the next succeeding general benefit year, such succeeding benefit year shall, in his case, begin on the first day of the month in which such unemployment commences and continues to such time as it otherwise would.

An employee with 10 but less than 15 years of service, who did not voluntarily leave work without good cause or voluntarily retire, upon exhaustion of his rights to normal unemployment benefits under present law in a given benefit year would have such benefit year extended by an additional 7 successive 14-day periods after such exhaustion, with a maximum of 65 days of additional benefits.

An employee with 15 or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, upon exhaustion of his rights to normal unemployment benefits under present law in a given benefit year would

have such benefit year extended by an additional 13 successive 14-day periods after such exhaustion, with a maximum of 130 days of additional benefits.

The extended benefit period in any case could begin as early as January 1, 1958.

Sixth. Sundays and holidays could be compensable days of unemployment, just as any other day, whether or not such Sundays and holidays are preceded and succeeded by a day of unemployment. This amendment would be effective with respect to benefits payable in the current benefit year and thereafter, for normal benefits, and as early as January 1, 1958, for benefits in extended periods.

Seventh. To provide funds for the additional benefits recommended, the bill would increase the monthly limit on taxable compensation for services after the month of enactment, from \$350 to \$400 a month per employee—and would increase the credit base as well—and would change the contribution or tax rate schedule so that when the balance in the railroad unemployment insurance account should fall below \$300 million by September 30 of any year—including the year 1958—the rate in the following calendar year, but not before the month next following the month of enactment of the bill, would be 4 percent—instead of the present 3 percent when the account falls below \$250 million—with step changes to provide lower rates when the balance increases, with a minimum rate of 1½ percent when the balance reaches \$450 million.

Eighth. The bill would also provide an increase in the maximum creditable and taxable base from \$350 to \$400 a month on compensation earned by employee representatives after the month of enactment; but this amendment has no practical significance—it is merely a formal amendment to conform to the pattern of the act since employee representative earnings are disregarded for unemployment and sickness insurance purposes, including contribution purposes.

Ninth. In view of the low balance in the railroad unemployment insurance account, as shown in the record of the hearings, a new amendment is added to the Railroad Unemployment Insurance Act which confers upon the Railroad Retirement Board the authority to borrow from the Railroad Retirement Account for the payment of benefits and refunds under the Railroad Unemployment Insurance Act, on a reimbursable, and 3 percent interest, basis.

In conclusion, the bill would serve the public interest by returning the railroad retirement system to an essentially sound actuarial basis and strengthening the morale of railroad workers by providing for them a better retirement and unemployment insurance system. The increase in taxes and in the compensation base to which the taxes apply would reduce the present actuarial deficit of 4.18 percent of taxable payroll, or some \$213 million a year, to an estimated .61 percent, or some \$34 million a year, in the retirement system. The change in the contribution schedule with provision

for a maximum contribution rate of 4 percent would place the unemployment insurance system, too, on a sound financial basis. The change in the retirement tax would accord with the request of the President made in 1956 when he signed the stop-gap legislation providing a moderate increase in retirement benefits.

The railroad system which is, of course, the most vital and important element in the national transportation system and which is so important to the Nation's welfare, economic strength, and defense, cannot function without a stable and experienced work force. To maintain such a work force it must compete with other industry which generally provides generous private retirement benefits supplementary to social security benefits, which benefits were, in addition, increased substantially in the very last session of Congress. The increased retirement and unemployment benefits, as well as the financial stabilization provided by this bill, would serve to better the condition of the railroad worker and greatly help the railroads to preserve their efficient labor force on which the industry and the Nation are so dependent.

The PRESIDING OFFICER. The time of the Senator from Oregon has expired.

Mr. MORSE. Mr. President, I wish to apologize to the Senator from Illinois. I thought that I could finish my statement in not more than 15 minutes and that I would have 5 minutes remaining to answer questions. If the Senator from Illinois has some time available, I ask him to yield me 5 minutes, so that I may answer any questions the Senator from Colorado has in mind.

Mr. DIRKSEN. Mr. President, I first yield 1 minute to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I am not certain there will be a yea and nay vote on the bill, so I wish to say for the record I shall vote for the bill.

Mr. MORSE. The Senator from Louisiana has been of great help.

Mr. LANGER. Mr. President, will the Senator yield?

Mr. DIRKSEN. Mr. President, I yield 1 minute to the distinguished Senator from North Dakota [Mr. LANGER].

Mr. LANGER. Can the Senator from Oregon tell me what the retirement pay would amount to for a man who is 65 years old who has been receiving \$500 a month and who becomes totally disabled?

Mr. MORSE. Retirement is on a monthly basis, as the Senator knows. The maximum would go up 10 percent over what it is now.

Mr. LANGER. Can the Senator give me a dollar figure?

Mr. MORSE. The average for all employee annuities under the bill will be approximately \$125.

Mr. LANGER. I thank my friend.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIRKSEN. Mr. President, I yield 1 minute to the Senator from New York [Mr. JAVITS].

Mr. JAVITS. Mr. President, as a member of the committee, I feel a sense of responsibility with respect to the bill. I should like to state, first, that I think the Senator from Oregon has us all in his debt for the skill and study he has given this whole problem.

I hope very much that we now have a bill in balance so much that it will pass. I asked for this time to express my sentiment for the bill, and to express my gratification that the bill came from the Committee on Labor and Public Welfare.

I also wish to urge the same thing which was urged upon us, and which prevailed with us, that all of us should stretch a point with respect to the details of the bill in order to get a bill enacted. If we do not do that, both here and in the other body, we will not have a bill at all, that having been the sad experience of last year.

I thank my colleague from Illinois for yielding to me.

Mr. DIRKSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado [Mr. ALLOTT].

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. ALLOTT. Mr. President, I should like the RECORD to show that the Senator from Oregon is present on the floor at this time, because I desire to address some questions to him at a later point in my remarks.

Perhaps a little history with regard to this matter is not out of line as a part of the record. In 1956, as a member of the Subcommittee on Railroad Retirement of the Committee on Labor and Public Welfare, the Railway Brotherhood officials came to the members of the committee late in the session to ask us to raise the retirement benefits 10 percent. At that time they agreed to come back the next year to work out a basis for financing that increase. That was done. In the President's approval of the bill that year the President said he approved the bill with the understanding that it would be financed by the Congress at the coming session of Congress.

At the next session of Congress we got a bill which also contained quite a few changes, and was more than a bill simply to finance the raises we had given in the preceding Congress. We started to work upon the bill in 1957, and we worked all through 1957 and 1958. The Senator from Oregon was the chairman of the subcommittee. I was still a member of the subcommittee at that time.

The Senator from Oregon will recall, I am sure, that although there was at one time some criticism raised with regard to me, I rose upon the floor of the Senate to defend the part I had played in trying actively to create a bill which would be brought to the Senate. I think the record should be made clear.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. MORSE. I wish to say that the Senator was of great help. I am very sorry, although I am delighted with the cooperation I receive from my present associates in the committee, that the Senator from Colorado is no longer a

member of the committee. The Senator was of great help in getting the bill through the committee in 1958.

Mr. ALLOTT. At that time, as a result of the raises we had given upon retirement, the fund went into debt over the fiscal years 1957 and 1958 a total of some \$140 million.

I should like to ask the Senator from Oregon a question. As the result of our not acting on this matter prior to this time, what will be the deficit for the 3 years as of July 1 of this year?

Mr. MORSE. The present deficit is \$213 million a year, as was brought out in the hearings. I am sorry I cannot put my finger on the evidence exactly, but I assure Senators it is in the hearings. If the bill under consideration is enacted it will reduce the deficit to about \$34 million a year.

Mr. ALLOTT. I thank the Senator for that information, because it justifies in my mind the position I took with respect to the former bills, which was that we should bring to the Senate a bill to put the fund on a sound actuarial basis.

Mr. MORSE. I wish to bring to the Senator's attention page 19 of the committee report, which shows the figure of a \$34 million deficit if the bill is adopted.

I also wish to say that the Railroad Retirement Board tells us that figure is not of sufficient significance to make the bill not actuarially sound, because there is a great fluctuation in a fund with as many millions of dollars as this fund has. If at a given time there is a \$34 million deficit, it would not make the fund actuarially unsound.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLOTT. Mr. President, I yield myself 5 more minutes.

Mr. MORSE. Mr. President, the Senator from Colorado is entitled to make a record and to be helpful with regard to the legislative history. Under these circumstances I think possibly we ought to try to obtain a few minutes of extended time for the Senator to ask questions. It may take a little time to dig the information out of the record.

Mr. ALLOTT. I believe we have adequate time, and if we need a few minutes more I will ask for unanimous consent.

The Senator from Oregon will recall that because of the situation which existed last year when the railroad retirement bill was before the Senate, he offered a bill which he had been forced to work out with Members of the House at the last minute, and there was no opportunity to examine that bill. I opposed the bill on the ground that it did not put the fund in a sound actuarial condition.

From an examination of the bill for this year, I understand the bill which is proposed will place the fund on a sound actuarial basis, including taking care of deficits which we have incurred during the last 3 years.

Mr. MORSE. I wish the record to show this very clearly. We pressed the Board at the hearings on that subject. They point out that there will be a deficit, according to present calculations,

of \$34 million; but they also point out that for all practical purposes, the bill would restore the system to a sound financial basis. When we are dealing with the sum of \$34 million, it is small in comparison with the total amount of the funds. So my answer is "Yes," if we bear in mind that the testimony is that the fund will be substantially actuarially sound.

This bill is substantially the bill which we arrived at in compromise with Representative HARRIS last year in the closing days of the session.

Mr. ALLOTT. I understand that; and I understand that the figure of deficit as it now appears is not significant with relation to the whole. With the assurance of the Senator that the bill finally arrived at is on a sound actuarial basis—and that is my understanding from my own studies—I agree that it is a good bill.

I merely wish to make it clear that when I voted against the bill last year I did so on the basis that I did not believe the members of the brotherhoods in Colorado wanted me to preside over the interment of the railroad retirement fund. I am sure the Senator from Oregon will recall my insistence that the bill have a sound actuarial basis. I have insisted that the spouse survivors be taken care of. They were not taken care of in the first bill, in 1956.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. MORSE. This bill does take care of the spouses, as the Senator from Colorado and the Senator from Oregon have always insisted.

Mr. ALLOTT. I understand that. I am very happy to see it, and also to see that the amount which a beneficiary is permitted to earn in a year has been adjusted and amended so that he can earn \$1,200 a year, rather than \$100 a month.

I have received many letters from railroad people. In fact, I sent out a questionnaire to all those who asked to hear from me. I sent a letter to the president of one railroad brotherhood, who said that I had no right to write to members of the railroad brotherhoods direct. I consider it my right. As a matter of fact, I consider it my duty.

I plan to support the bill. I do not know whether or not there will be a yeand-nay vote, but I wish the record to show how I would vote. I favor the bill primarily because, at long last, after 3 years, we are seeing the fund brought into a sound actuarial balance. So that when a railroader retires he can be sure that the necessary funds will be there to pay the benefits he has been promised.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. LAUSCHE. As I understand, the position of the Senator from Colorado last year was that if the expenditure was to be made mandatory, the Senator from Colorado felt that, concurrent with that order, provision should be made to supply the money needed to make the expenditure.

Mr. ALLOTT. Yes. If the retirement fund were to be paid out, the retirement fund should, at the same time,

be placed upon a sound actuarial basis—not on a level basis. Over a period of years, in a curve upward, it will be on a sound basis.

Mr. LAUSCHE. The Senator from Colorado took the position that it would not be good policy to grant the increase and delay the necessary change in the law to provide the money with which to finance the increase.

Mr. ALLOTT. The Senator is exactly correct.

Mr. MORSE. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

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

Mr. DIRKSEN. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Illinois will be stated.

The LEGISLATIVE CLERK. On page 18, in the tabulation following line 10, it is proposed to strike out the numeral "4" and insert in lieu thereof "3¾."

On page 18, line 13, it is proposed to strike out the numeral "4" and insert in lieu thereof "3¾."

Mr. DIRKSEN. Mr. President, I have discussed this amendment with the distinguished Senator from Oregon, and he is willing to accept it and take it to conference.

Mr. MORSE. I am willing to accept it and take it to conference.

Mr. DIRKSEN. When the Chairman of the Railroad Retirement Board appeared before the committee, his first notion was that 3½ percent would be sufficient. Then he had some doubts about it, but he was quite sure that 3¾ percent would be enough, particularly when the base is extended. This figure appears to be agreeable to all concerned, and we can take it to conference without further discussion.

Mr. MORSE. I accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois [Mr. DIRKSEN].

The amendment was agreed to.

Mr. MORSE. Mr. President, will the Senator from Illinois yield half a minute to a very able Member of our committee, the Senator from Kentucky [Mr. COOPER]?

Mr. DIRKSEN. I am glad to yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, for 2½ years I have had the honor of serving as a member of the Subcommittee on Railroad Retirement under the leadership of the distinguished senior Senator from Oregon [Mr. MORSE].

We have held many weeks of hearings on the bill. I believe we have a bill which is actuarially sound, and one which will correct many inequities in the Railroad Retirement Act.

I wish to pay tribute to the senior Senator from Oregon for his fairness, for his patience, and for his vast knowledge of the subject, which has enabled us, after almost 2½ years, to come before the Senate with a bill which I believe will be unanimously accepted.

Mr. MORSE. Mr. President, the Senator from Kentucky was chairman of the

subcommittee under a Republican Congress, and my predecessor. I could not have brought this bill to the Senate without his great knowledge and cooperation. That statement is true of every member of the subcommittee. No chairman of a subcommittee could possibly have had a subcommittee which would work more cooperatively than did this subcommittee.

Mr. JOHNSON of Texas. Mr. President, I am very happy that the bill has been brought before the Senate. I congratulate the Senator from Oregon for the fine work he has done in the subcommittee and in the full committee, as well as on the floor of the Senate, in expediting the consideration of the legislation.

I commend the Senator from Kentucky and the Senator from Illinois for the contribution they have made in this field. I believe that this legislation will benefit a number of worthy people who need the assistance, and I am delighted that we can pass the bill this afternoon without prolonged debate, and I trust without a yea-and-nay vote.

Mr. DIRKSEN. Mr. President, I yield 1 minute to the Senator from North Dakota.

Mr. LANGER. Mr. President, the people of my State have been active in connection with this bill. I wish to compliment the committee for the fine work it has done. I particularly wish to pay tribute to the Senator from Oregon [Mr. MORSE], as well as to the legislative representative of the brotherhoods, Walter Monroe, and men of that type, who have spent hours explaining the bill to us. I believe the president of one of the brotherhoods, J. Park Kennedy, traveled all over the United States speaking on this subject. He deserves a great deal of credit. The bill is a result of a fine job of cooperation.

Mr. MORSE. Mr. President, will the minority leader yield 1 minute to the junior Senator from Colorado [Mr. CARROLL]?

Mr. DIRKSEN. I gladly yield to the Senator from Colorado.

Mr. CARROLL. I congratulate the distinguished Senator from Oregon and his colleagues for their excellent work in connection with the bill. I am happy to join in sponsoring the bill to improve the railroad retirement compensation. An increase in railroad retirement benefits is long overdue, and will enable railroad workers to deal more effectively with the high cost of living and the extension of unemployment benefits gives recognition to the serious unemployment situation which exists in the railroad industry today.

Mr. JOHNSTON of South Carolina. Mr. President, will the minority leader yield briefly to me?

Mr. DIRKSEN. I yield 1 minute to the Senator from South Carolina.

Mr. JOHNSTON of South Carolina. I commend the senior Senator from Oregon for bringing the bill to the floor of the Senate. The increase provided by the bill is needed in order to keep up with the cost of living.

In the Government we have already done what is being done here today, which is no more than right and just.

We regret that we cannot do more, but we realize that in connection with retirement systems, we cannot go too far, for if we do, it results in harm in the other direction.

I am glad to join the Senator from Oregon today in doing what I consider to be nothing more than right and just.

Mr. MOSS. Mr. President, I rise in support of the bill before the Senate (S. 226), which will bring railroad retirement and unemployment insurance benefits in line with present living costs, and place both systems on a stable, self-supporting basis.

In my opinion, there should be little controversy about this bill. It corrects a number of inequities—and at no cost to the Federal Government.

Last session Congress voted retirement increases both for social security beneficiaries and retired civil service employees. The bill intended to give retired railroad workers a few more dollars to meet today's soaring living costs was passed by the Senate but died in the House. Enactment of the measure before us today by both Houses will give to those workers who have devoted their lives to the railroad industry the same consideration already given to other groups.

The improvements in the insurance system will be especially helpful in these times of high railroad unemployment. Technical changes and changes in methods of operation are displacing thou-

sands of veteran railroad workers with 10, 20, and even 30 years of service, and many of them are finding it impossible to locate work in other fields.

Since the bill calls for an increase in payroll taxes on both employers and employees, the question naturally arises as to how it would affect the financial status of the railroads. I realize that additional expense to any business requires readjustments, but there is every indication that the taxes required by this measure would not put too heavy a burden on the railroad industry. The railroads have made a strong recovery from the 1957 and 1958 recession, and their financial condition is now reported to be good.

I am naturally most concerned about the condition of western railroads, so I have studied with interest the month-by-month financial statements for three of them—Southern Pacific, Western Pacific, and Union Pacific, which show gross earnings for the years 1957 and 1958. The figures were taken from reports made by the carriers to the California Public Utilities Commission. They show railroad income at a substantial level, and rising in the last half of 1958—a rise which I am told unofficially is continuing in 1959. I ask unanimous consent to have these statements placed in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

SOUTHERN PACIFIC CO.

Month	Total gross operating revenue		Net operating earnings	
	1958	1957	1958	1957
January.....	\$40,099,870	\$41,015,820	\$6,975,711	\$6,876,424
February.....	36,654,988	39,226,109	6,039,928	7,233,552
March.....	38,717,595	42,604,871	6,553,013	8,067,162
April.....	38,961,765	42,719,728	6,081,496	7,631,962
May.....	41,796,016	45,009,137	7,699,457	7,801,745
June.....	46,040,986	45,286,289	10,860,905	7,997,212
July.....	45,854,535	47,043,673	9,385,256	8,233,739
August.....	45,063,995	46,834,475	9,253,942	8,976,452
September.....	47,168,748	44,345,394	10,754,350	8,401,061
October.....	47,785,073	46,131,902	9,856,418	10,430,041
November.....	41,186,065	41,032,644	6,592,408	6,397,686
December.....	44,016,533	42,286,506	5,079,744	6,749,762

Source: California Public Utilities Commission Reports of 1958.

UNION PACIFIC RAILROAD

January.....	\$38,066,228	\$40,900,223	\$8,897,535	\$9,378,055
February.....	35,016,144	38,694,794	8,180,699	8,269,372
March.....	38,802,708	44,350,327	10,156,066	11,652,881
April.....	37,034,782	40,852,295	7,176,723	8,530,021
May.....	39,111,274	41,362,164	7,924,521	8,120,120
June.....	38,840,903	40,738,871	8,729,056	9,756,541
July.....	43,456,044	42,545,090	10,323,847	10,826,264
August.....	48,682,690	49,777,373	15,679,664	17,629,473
September.....	47,502,936	45,087,845	14,541,081	13,993,470
October.....	49,928,346	48,272,829	16,848,881	15,865,145
November.....	44,214,205	42,280,996	13,816,202	11,956,073
December.....	(1)	42,197,295	(1)	8,727,950

WESTERN PACIFIC R.R.

January.....	\$3,969,978	\$4,200,585	\$318,224	\$437,650
February.....	3,715,332	4,020,020	341,227	510,697
March.....	4,036,417	4,471,542	452,395	551,884
April.....	3,953,046	4,701,732	336,037	724,434
May.....	4,103,254	4,855,070	369,029	729,124
June.....	4,288,001	5,026,391	729,587	869,565
July.....	4,305,604	4,630,546	618,072	565,911
August.....	4,606,610	5,238,804	1,115,448	689,574
September.....	5,101,694	4,742,448	968,334	523,860
October.....	5,104,924	4,672,777	902,974	538,321
November.....	4,420,684	4,068,483	639,220	402,473
December.....	(1)	3,904,699	(1)	578,175

¹ December report not available until annual 1958 to be rendered Mar. 15, 1959.

Source: California Public Utilities Commission Reports of 1958.

Mr. MOSS. Mr. President, the bill before us has the endorsement of the 23 standard railway labor organizations. It was reported by the full Labor and Public Welfare Committee by a vote of 14 to 1, with 1 member voting present. For several years delegates to railway labor conventions have voted overwhelmingly for the added protection this legislation would give to retired, unemployed, and ill railroad workers and their families.

The railway labor organizations of my State of Utah, and hundreds of their members, are strongly supporting it. I ask unanimous consent to place in the RECORD at this point a cross-section of the letters I have received from organizations and individuals in my State in support of this bill.

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

NATIONAL ASSOCIATION OF RETIRED
AND VETERAN RAILWAY EMPLOYEES,
UNIT No. 77,

Salt Lake City, Utah, January 20, 1959.
Senator F. E. Moss,
U.S. Senate, Washington, D.C.

DEAR SIR: Members of the National Association of Retired and Veteran Railway Employees are very proud of the progressive action you have taken in connection with bills H.R. 1012 and H.R. 1013 to improve the Railroad Retirement Act and Railroad Unemployment Insurance Act and your cosponsorship of S. 226.

The increase in retirement benefits will greatly assist retired workers and their families in meeting the high cost of living, the majority of pensioners and disability annuitants are in the low pension brackets and in need of these additional benefits. We also hope any increase will be made retroactive to January 1, 1959.

Best wishes to you for a happy and prosperous new year.

Very truly yours,

JAMES M. WELLS,
Secretary-Treasurer.

UTAH STATE LEGISLATIVE COMMITTEE,
BROTHERHOOD OF RAILWAY AND
STEAMSHIP CLERKS, FREIGHT HAND-
LERS, EXPRESS AND STATION EM-
PLOYEES,

Salt Lake City, Utah, February 12, 1959.
Hon. FRANK E. MOSS,
U.S. Senator,
Washington, D.C.

DEAR SENATOR: I am writing this short letter to thank you for the help that you are giving to pass Senate bill 226, and House bill 1012.

I am sure that you appreciate the necessity for the passage of this legislation and the beneficial results to be obtained therefrom.

Sincerely yours,

L. M. RUSK,
Chairman.

UTAH STATE LEGISLATIVE COMMITTEE,
ORDER OF RAILWAY CONDUCTORS AND
BRAKEMEN,

Salt Lake City, Utah, February 14, 1959.
Senator FRANK E. MOSS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: I have contacted a large number of our membership here in Utah, and I earnestly request your active interest to Senate bill 226.

I am sure your support of this measure will be greatly appreciated by your constituents here in Utah.

With very best personal regards.

Very truly yours,

E. J. KEMPTON,
Secretary and Treasurer.

BROTHERHOOD RAILWAY
CARMEN OF AMERICA,
MOUNT BEN LOMOND LODGE No. 548,
Ogden, Utah, February 10, 1959.

Hon. Frank E. Moss,
Senate Office Building, Washington, D.C.

DEAR SIR: Legislation sponsored by the standard railway labor organizations to improve the railroad retirement and railroad unemployment insurance benefits, has been introduced at this session of the Congress.

Of special importance is the program of extended unemployment insurance benefits, which are needed particularly at this time since unemployment in the railroad industry is the highest in many years and a substantial number of railroad workers have exhausted their unemployment insurance benefits.

At our last regular monthly meeting a motion was made and passed unanimously that we write to you asking for your favorable consideration and support to S. 226 now before the Congress.

Thanking you for your past support.

Sincerely yours,

BLAINE W. ROUNDS,
Recording Secretary.

SALT LAKE CITY, UTAH, February 14, 1959.

Senator FRANK MOSS,
U.S. Senate, Washington, D.C.

DEAR SIR: I have been instructed by Local 999 of Fireman and Oilers Union which represents some employees of the Union Pacific Railroad to write and advise you of our views on the Honorable WAYNE MORSE bill (S. 226) which is before the Senate now.

We are deeply concerned with the welfare of our members and are aware of the good this bill can do to help members who are pensioned or unemployed. We as a group feel that this bill is a great step toward a better future for the people and the railroadman.

We urge you to give careful consideration and support to this bill.

Thank you,

JAMES A. NEWBOLD,
Recording Secretary.

RAILROAD YARDMASTERS OF AMERICA,
GENERAL GRIEVANCE COMMITTEE,
UNION PACIFIC SYSTEM,
Salt Lake City, Utah, February 21, 1959.

Hon. FRANK E. MOSS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: On behalf of the employees of the Union Pacific Railroad Co., represented by this organization, we urgently request that you vote for S. 226, a bill to amend the Railroad Retirement Act, Railroad Retirement Tax Act, and Railroad Unemployment Insurance Act.

Yours truly,

W. A. SNYDER,
General Chairman.

SHEET METAL WORKERS'
INTERNATIONAL ASSOCIATION,
LOCAL UNION No. 92,
Salt Lake City, Utah, February 23, 1959.

Senator FRANK E. MOSS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: In behalf of the Sheet Metal Workers Local No. 92, we endorse Senate bill 226, to amend Railroad Retirement Act, Railroad Retirement Tax Act, and Railroad Unemployment Insurance Act.

We believe that, with so many of our railroad workers who have been working for many years, who now are being furloughed, and their age being a handicap to gain other employment, that the passage of this bill is necessary.

Hoping that you will take this into serious consideration, I remain

Very truly yours,

THOMAS H. WILLIAMS,
Recording Secretary.

BROTHERHOOD OF RAILWAY AND
STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS,
AND STATION EMPLOYEES,
GOLDEN SPIKE LODGE No. 926,
Roy, Utah, March 3, 1959.

Senator FRANK MOSS,
U.S. Senate, Washington, D.C.

DEAR SENATOR MOSS: By directive of the unanimous vote of the members present at the last regular meeting of the above lodge, your attention is called to Senate bill 226, which provides for certain amendments to the Railroad Retirement Act and the Railroad Retirement Tax Act.

We urgently request that you give this bill the benefit of your active support and favorable vote, as opportunities arise for you to do so.

Sincerely and fraternally,

UDELL F. KEARL,
Secretary-Treasurer.

BROTHERHOOD OF RAILWAY AND
STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS,
AND STATION EMPLOYEES,
SYSTEM BOARD OF ADJUSTMENT No. 83,
Ogden, Utah, March 18, 1959.

Hon. FRANK E. MOSS,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR: Before the Congress of the United States are companion bills, H.R. 1012 and S. 226, designed to amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act in such manner as to extend the benefits and provisions of this legislation to a more equitable basis with current economic conditions and, at the same time, to wipe out the deficit occurring under the present unusually heavy demands on the system.

The members of this organization (the largest of all standard railroad labor organizations), comprising a substantial block of your constituency, are the beneficiaries of these acts, and, as such, contribute to the well being of our State and our local economy.

We urge your serious consideration of this legislation and we call upon you to assist with the passage of Senate bill S. 226 in every way possible.

Your advice of the status of this legislation and your comments will be appreciated.

Yours very truly,

LLOYD C. MURDOCK,
General Chairman.

BROTHERHOOD OF RAILWAY AND
STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS
AND STATION EMPLOYEES,
RAILWAY EXPRESSMEN'S LODGE 2018,
Salt Lake City, Utah, March 23, 1959.

Senator FRANK E. MOSS,
Washington, D.C.

HONORABLE SENATOR: We understand Senate bill S. 226 will be up for consideration soon. As legislative representative of Express Lodge 2018 it is desired that you give your support to the enactment of this legislation thereby giving railroad and express workers and their families fair treatment.

We also thank you for anything you do to help pass this measure.

Very truly yours,

G. K. JENSEN,
Legislative Representative.

BOUNTIFUL, UTAH, March 24, 1959.

Hon. FRANK E. MOSS,
U.S. Senator, Washington, D.C.

DEAR SENATOR: I am writing in regard to proposed bills H.R. 1012 and S. 226 pertaining to increased benefits of the railroad retirement and unemployment insurance.

I have before me the benefits and costs of these proposed bills. I have contacted a number of my fellow workers and they are of the same opinion as myself. The increase

of 10 percent in annuities is needed very badly. The retired people are in a terrible squeeze, as you are fully aware of, in this mounting inflationary whirl. I am not speaking for myself at the present time as I am only 48 years old and all of this setup may change before I ever reach retirement age. The increase to us working in the railroad industry, so far as the additional costs are concerned, is small. I say this from the standpoint that we are all faced with the outlook of getting old and needing some sort of help.

In closing I urge you gentlemen to adopt these bills and reject the proposals of bill S. 987 as sponsored by railroad management. Those of us working can well afford the increase in costs and according to the profits of the railroads, they can afford the increase also.

Very truly yours,

GLENN E. FOX.

MORONI, UTAH, March 10, 1959.

HON. FRANK E. MOSS,
Washington, D.C.

DEAR SENATOR: I am writing to ask that you do everything possible to support Senate bill 226 and H.R. 1012 now being heard in Washington, D.C., by the Labor and Public Welfare Committee of the U.S. Senate and by the Interstate and Foreign Commerce Committee of the House of Representatives. It would require each railroad employee to pay an additional tax on \$400 rather than on the present \$350 per month of his earnings.

Although I am just a railroad employee I believe this to be a good measure because it will also allow an increase in the annuity payments when we retire. This small increase at the present time is worth it and can be met while we have the ability to earn. Thank you.

Sincerely yours,

F. A. CHRYST.

SALT LAKE CITY, UTAH, March 5, 1959.
HON. FRANK E. MOSS,
Senate Office Building,
Washington, D.C.

MY DEAR MR. MOSS: From May, 1917, to October 1949, I was an employee of the Union Pacific Railroad in its special agents' department. In October 1949, I was elected to the office of full time president of the Railway Patrolmen's International Union, AFL-CIO, which office I held till October 1956 at which time I retired, age 68. It goes without saying that both the wife and I are particularly interested in the enactment of amendments to bring equity and fair treatment to retired railroad workers, and the purpose of this letter is to remind you, though I doubt whether reminding is needed, not to overlook giving your serious consideration and your able support to the enactment of pending Senate bill 226, for which, we assure you, we shall deem ourselves deeply indebted to you.

From the time of enactment of the Railroad Retirement Act till the time of my retirement, to assist in financing this retirement program, deductions were withheld monthly from my paychecks. It should therefore be kept in mind that this program, including amendments contained in Senate bill 226, is self-financing, operating without Federal subsidy of any kind.

Again thanking you for this as well as for past considerations.

Respectfully and sincerely yours,

CULBERT BOWEN.
JEAN A. BOWEN.

MILFORD, UTAH, April 12, 1959.

HON. FRANK E. MOSS,
U.S. Senator,
Senate Office Building,
Washington, D.C.

MY DEAR MR. MOSS: I am taking this opportunity to ask your support of H.R. 1012,

which provides for increased railroad retirement benefits. As a retired railroad man I find it increasingly harder to meet my actual needs on what I get.

In these times of extremely high costs of living, people working for a living get raises in wages, many on escalator clauses of their agreements with their employers, based on the cost of living increases. Nothing has been done for us that have retired.

Hoping that you will take this request into consideration, I am

Respectfully yours,

E. G. WALKER.

Mr. MOSS. Mr. President, in conclusion, I point out that the railroad industry and its workers are essential to a healthy national economy and a strong national defense. I hope this bill to strengthen the railroad retirement and unemployment insurance system will pass without any delay.

Mr. MORSE. Mr. President, I ask unanimous consent that when the bill is passed the Secretary of the Senate may be authorized to make clerical and technical corrections in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment offered by the Senator from Illinois.

The amendment was agreed to.

Mr. DIRKSEN. Mr. President, I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. I merely wish to say that last year I was a member of the Railroad Retirement Subcommittee.

Mr. MORSE. Before the Senator says another thing I should like to say something. He was a member of the Railroad Retirement Subcommittee, and a very helpful member. Let me tell the Senate, without employing the colloquialism I was about to use, that what he kept pressing upon me as did the Senator from Colorado also, was the question, Is this bill actually sound? Do we have a sound bill? He was very helpful in getting agreement among all concerned so that we now have a bill which is actuarially sound.

Mr. THURMOND. I wish to commend the senior Senator from Oregon for his hard and intelligent work on the bill. I am pleased that it has been possible to bring out an actuarially sound bill, a bill which will be of benefit to all concerned.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MORSE. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. JOHNSON of Texas. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF
1937, THE RAILROAD RETIREMENT TAX ACT, AND THE
RAILROAD UNEMPLOYMENT INSURANCE ACT

MARCH 23, 1959.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign
Commerce, submitted the following

REPORT

[To accompany H.R. 5610]

The Committee on Interstate and Foreign Commerce, to whom
was referred the bill (H.R. 5610) to amend the Railroad Retirement
Act of 1937, the Railroad Retirement Tax Act, and the Railroad
Unemployment Insurance Act, so as to provide increases in benefits,
and for other purposes, having considered the same, report favorably
thereon without amendment and recommend that the bill do pass.

INTRODUCTION

During the closing days of the 2d session of the 84th Congress,
legislation was adopted granting generally a 10-percent increase in
railroad retirement and survivor benefits, with some exceptions (Pub-
lic Law 1013, 84th Cong.).

No provision was made for the financing of the cost of these benefits,
which amounted to \$83 million a year on a net level cost basis. There
already was an existing deficiency at that time in the railroad retire-
ment account of \$86,390,000 a year on a level cost basis. Hence,
enactment of this law increased the deficiency to \$169,390,000 a year,
or 3.2 percent of taxable payroll on a level cost basis.

The Congress was told that enactment of this legislation was an
emergency measure and was necessary to help thousands of retired
railroad employees, their wives, and the widows of such employees
to meet their day-to-day living expenses. The Congress was assured
by members of the Committee on Interstate and Foreign Commerce
and by others who were interested in this program that legislation
would be considered promptly during the 85th Congress to finance

the cost of these benefits. Representatives of railroad labor organizations gave firm assurances that they would propose, at the opening of the 85th Congress, a legislative program to assure adequate financing. The President, in a statement accompanying the signing of Public Law 1013 at that time, stated in part:

It is imperative that satisfactory legislation for this purpose—to assure adequate financing of the railroad retirement system—be proposed and enacted.

In the 85th Congress, this committee held hearings on railroad retirement legislation early in the first session. The principal interest during these hearings centered around H.R. 4353 and other identical and related bills. These bills were sponsored by all the standard railway labor organizations and were comprehensive measures designed to grant additional benefits and to eliminate the deficit in the railroad retirement account. At these hearings the railroads agreed to a tax increase to make up the cost of the increased benefits provided by Public Law 1013 in the 84th Congress.

The committee was prepared to take action on the pending bills but was requested to defer such action, pending the outcome of a separate bill (H.R. 5551, 85th Cong.), pending before the Committee on Ways and Means, which provided for the exclusion of employee retirement taxes from gross income for purposes of the employee's income tax and from withholding at the source. Therefore, no bill was reported by the committee during the 1st session of the 85th Congress.

Recognizing the condition of the railroad retirement account, and the commitments made 2 years previously, the committee reported H.R. 4353 late in the 2d session of the 85th Congress which provided for an increase in retirement and survivor benefits of generally 7 percent and an increase in taxes sufficient to pay for these increases in benefits and to eliminate the actuarial deficit. Amendments were also proposed to the Railroad Unemployment Insurance Act. A rule was not granted on this bill and so it could not be brought up for consideration in the House under the regular procedure.

The members who were here will also recall that on the last day of the 85th Congress a bill providing for amendments to the Railroad Retirement Act, Railroad Retirement Tax Act, and Railroad Unemployment Insurance Act was referred to the House by the Senate which had passed it only the previous day. These amendments were added to H.R. 12728 of the 85th Congress, a bill providing for amendments to the Longshoremen's and Harbor Workers' Compensation Act. That was a bill not within the jurisdiction of this committee, and the parliamentary procedure was rather unusual. The only way this bill could have been brought up in the House was by unanimous consent, and, as the record shows, there was objection to the unanimous-consent request. And so the legislation died with the adjournment of the 85th Congress.

On the opening day of this session, the chairman of this committee introduced H.R. 1012, a bill containing all of the features which had been contained in the Senate amendment to H.R. 12728, 85th Congress. The reported bill, H.R. 5610, is a "clean" bill introduced by the chairman of the committee by direction of the committee and reflects all modifications in H.R. 1012 approved by the committee during its executive consideration of legislation to amend the Rail-

road Retirement Act, the Retirement Tax Act, and Railroad Unemployment Insurance Act.

PURPOSE OF REPORTED BILL

The purpose of the reported bill is, generally, to strengthen and place on a sound self-supporting basis the railroad retirement system and the railroad unemployment insurance system. As to the railroad retirement system, this objective is accomplished by (1) practically eliminating the present long-range actuarial deficit in the railroad retirement account, (2) providing a much-needed 10-percent increase in retirement and survivor benefits, (3) eliminating certain inequities in the system, and (4) providing for the adequate financing of the system. As to the railroad unemployment insurance system this objective is accomplished by (1) providing for a much-needed increase in the daily benefit rate for unemployed workers, (2) providing for a temporary extension of unemployment benefits, not exceeding 65 compensable days in registration periods which began on or after June 19, 1958, and before April 1, 1959, for those workers who have exhausted after June 30, 1957, their rights to normal benefits provided under the Railroad Unemployment Insurance Act, (3) eliminating certain inequities in the system, and (4) providing for adequate financing of this system.

PRINCIPAL PROVISIONS OF THE REPORTED BILL

The reported bill would amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act in the following respects:

I. AMENDMENTS TO THE RAILROAD RETIREMENT ACT

1. *Ten percent increase in benefits*

Annuities (including spouse and survivor annuities) and pensions would be increased generally by 10 percent. The increase would be slightly more than 10 percent for most employee retirement annuities and survivor annuities which are computed under the regular railroad retirement formula owing to the rounding of the percentage factors used in the computation of such annuities.

These increases would begin to accrue on the effective date of this act which is, except as specifically provided otherwise, the first day of the first calendar month beginning more than 45 days after the date of enactment of this act.

2. *Maximum creditable compensation increased to \$400 per month*

The maximum amount of monthly compensation creditable for benefit purposes would be increased from \$350 to \$400 effective with respect to services rendered on or after the first day of the first calendar month which begins more than 45 days after the date of enactment of this act.

3. *Women employees and spouses annuities at age 62*

The privilege now available to any male employee with 30 years of service, of electing to receive a reduced annuity at age 60, would be available to a female employee with 10 years of service at age 62.

Spouses of annuitants may also elect to receive a reduced annuity at age 62. The reduction in the annuity would be by one one-hundred-and-eightieth for each calendar month the beneficiary is under age 65.

4. Earnings of disability annuitants

The earnings test now applicable to a disability annuitant provides that such annuitant, under age 65, does not receive his annuity for any month in which he is paid more than \$100 in earnings. The reported bill would modify this provision so that if the annuitant's earnings in any calendar year beginning with 1960 do not exceed \$1,200, any monthly annuity which may have been withheld because the individual earned more than \$100 in such month, would become payable. Should the annuitant's earnings exceed \$1,200 in any year, his loss of benefits would not exceed 1 month's annuity for each \$100 or less (providing it is more than \$50) that the annuitant earned in excess of \$1,200.

Earnings from employment with an "employer" as defined in the Railroad Retirement Act, and earnings from employment with the disability annuitant's last nonrailroad employer before he retired, would not count toward this \$1,200 maximum, since no annuities are payable under section 2(d) of the Railroad Retirement Act to individuals for any month in which such employment occurred.

5. Residual lump sum

The formula for computing the residual lump sum would be amended in conformity with amendments proposed to the Railroad Retirement Tax Act (increasing the tax rate to 6½ percent and later to 7½ percent and the tax base to \$400), namely, by increasing the percentage factor applicable to compensation to 7½ percent after the effective date of this act and before 1962 and to 8 percent for later compensation, and by increasing the maximum amount of compensation for any month to which such factors are applicable from \$350 to \$400 for any month after the effective date of this act.

6. Repealing work restriction on survivors working outside United States

Under present law, a deduction is made from the annuity paid to a survivor until the total deductions equal such individual's annuity if such individual worked for 7 or more days in a calendar month in noncovered remunerative activity outside the United States.

The reported bill would make the work restrictions applicable to a survivor who worked outside of the United States the same as for those individuals who work in the United States. This change would permit the survivor to earn as much as \$1,200 a year without loss of retirement benefits.

II. AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

Benefits payable under the Railroad Retirement Act are financed by a payroll tax payable by the employee and the employer, alike, collected under the Railroad Retirement Tax Act. The tax is 6½ percent of each employee's compensation up to \$350 a month. Each employee

representative pays a tax of 12½ percent on his compensation up to \$350 a month.

The reported bill would increase the tax rate on employees and employers from 6¼ percent to 6¾ percent on compensation earned on or after the effective date of this act and before 1962 and to 7¼ percent on compensation earned thereafter and make the tax applicable on the employee's compensation earned up to \$400 in any month beginning on or after the effective date of this act. This tax rate would be increased, on a contingent basis, with respect to compensation paid after December 31, 1964, by the same number of percentage points (or fractions of percentage points) by which the then-current social security tax rate exceeds 2¾ percent.

Thus, assuming that the social security tax rate increases as scheduled under present law, the railroad retirement tax rate would increase, under the provisions of the reported bill, to 8 percent in 1965, 8½ percent in 1966-68, and 9 percent beginning with 1969 and thereafter, on employee and employer alike.

The tax rate on employee representatives would be increased from 12½ percent to 13½ percent on earnings on or after the effective date of this act and before 1962, and to 14½ percent on later earnings, and the monthly limit on taxable compensation would also be raised to \$400 on or after the effective date of this act. This tax rate would also be increased contingently with respect to compensation paid after December 31, 1964, just as in the case of the employer and employee tax rates, but this increase would be by twice the number of percentage points (or fractions of points) that the then-current social security tax rate exceeds 2¾ percent.

III. AMENDMENTS TO RAILROAD UNEMPLOYMENT INSURANCE ACT

1. Maximum creditable and taxable compensation

The maximum amount of compensation for a month, for which credit would be given and contributions required, would be increased from \$350 to \$400 a month, effective with respect to compensation paid for service rendered on or after the effective date of this act.

2. Increased daily benefit rates

A new schedule of increased daily benefit rates for both unemployment and sickness would apply, ranging from a minimum daily benefit rate of \$4.50 for annual compensation of \$500 to \$699.99 to a maximum daily benefit rate of \$10.20 for annual compensation of \$4,000 or more. The proposed daily benefit rates range up to \$1.70 higher than present scheduled rates. The minimum daily rate payable would be increased from the present 50 percent to 60 percent of the daily rate of compensation (with a maximum of \$10.20 per day) for the employee's last employment in which he was engaged for an employer during the base (calendar) year.

These provisions would become effective with respect to benefits accruing for registration periods which begin on or after the effective date of this act, namely, the first day of the first calendar month beginning more than 45 days after the date of enactment of this act.

A comparison of the daily benefit rates under present law and under the reported bill is shown in the following tabulation.

Comparison of benefit rates in schedule under Railroad Unemployment Insurance Act with proposed schedule

Range of base-year compensation	Daily benefit rate		Percent increase
	Present act	Proposed schedule	
\$400 to \$499	\$3.50		
\$500 to \$699	4.00	\$4.50	12.5
\$700 to \$749	4.00	5.00	25.0
\$750 to \$999	4.50	5.00	11.1
\$1,000 to \$1,299	5.00	5.50	10.0
\$1,300 to \$1,599	5.50	6.00	9.1
\$1,600 to \$1,899	6.00	6.50	8.3
\$1,900 to \$1,999	6.00	7.00	16.7
\$2,000 to \$2,199	6.50	7.00	7.7
\$2,200 to \$2,499	6.50	7.50	15.4
\$2,500 to \$2,799	7.00	8.00	14.3
\$2,800 to \$2,999	7.00	8.50	21.4
\$3,000 to \$3,099	7.50	8.50	13.3
\$3,100 to \$3,499	7.50	9.00	20.0
\$3,500 to \$3,999	8.00	9.50	18.8
\$4,000 and over	8.50	10.20	20.0

NOTE.—Since the compensation ranges of the 2 schedules differ, it was necessary, for this comparison, to divide some rate groups into 2 parts.

3. *Temporary extension of unemployment benefits*

Extended unemployment benefit periods beyond the 130 days of normal benefits now allowed by present law would be provided to any employee who has, after June 30, 1957, exhausted his rights to unemployment benefits under present law. Such employee would receive additional temporary unemployment benefits for days of unemployment not exceeding 65 days occurring in registration periods beginning on or after June 19, 1958, and before April 1, 1959. This provision would take effect on the date of enactment of this act.

4. *Increasing the minimum qualifying base year compensation*

The minimum earnings in a base (calendar) year which would qualify an employee for benefits in a benefit year (year beginning July 1 immediately following the base year) would be increased from \$400 to \$500.

5. *Sundays and holidays made compensable days*

Under present law, an unemployed railroad worker may not claim a Sunday or a holiday as a day of unemployment unless such day is preceded by and followed by a day of unemployment or unless the Sunday or holiday is the last day of a registration period. In the latter case it need only be preceded by a day of unemployment.

Under the reported bill, Sundays and holidays would be compensable days of unemployment, just as any other day, whether or not such Sundays and holidays are preceded and succeeded by a day of unemployment.

6. *Disqualification for unemployment benefits in case of discharge or suspension for misconduct*

Under present law an employee discharged or suspended for misconduct can claim unemployment insurance benefits on the same basis as if he were involuntarily unemployed.

Under the reported bill, an employee could not claim any days of unemployment beginning with the day with respect to which the

Railroad Retirement Board finds that he was discharged or suspended for misconduct related to his work. In the case of discharge, the disqualification would end with the 20th day thereafter with respect to each of which he shall have earned compensation in the employ of a railroad or another employer covered under the Railroad Unemployment Insurance Act. In the case of suspension the disqualification would end when the period of suspension ends.

7. Disqualification for unemployment benefits for voluntarily leaving work and for failure to accept suitable work

Under present law, an employee (1) who leaves work voluntarily without good cause, (2) who fails, without good cause, to accept suitable work offered to him, or (3) who fails to comply with instructions from the Railroad Retirement Board requiring him to apply for suitable work or to report to an employment office, is disqualified from claiming unemployment insurance benefits for a period of 30 days from the date on which the enumerated action occurred.

Under the reported bill, the employee would be disqualified for any of the days beginning with the day on which the above-mentioned enumerated action occurred and ending with the 20th day thereafter with respect to each of which the Railroad Retirement Board finds that he has earned compensation in the employ of a railroad or another employer covered under the Railroad Unemployment Insurance Act.

8. Repealing provisions with respect to maternity benefits

Under present law, maternity benefits are payable to a qualified woman employee for each day of sickness in a maternity period except that, as for unemployment and other sickness benefits, the total amount of maternity benefits cannot exceed the employee's total creditable compensation in the base year. The maternity period begins 57 days before the expected date of the birth of the child and usually extends for 116 days. Under some conditions it can last longer but in these cases no more than 116 days of the maternity period are compensable. The daily benefit rate is the same as for other benefits payable under the Railroad Unemployment Insurance Act. However, benefits are payable at the rate of 1½ times the regular daily benefit rate for the first 14 days of the maternity period and the first 14 days after the birth of the child. Thus the maximum amount of maternity benefits payable is the same as for unemployment or other sickness.

Under the reported bill the above-mentioned provisions with respect to maternity benefits would be repealed. The effect would be that female employees would not be eligible for benefits by reason of maternity, as such, but they could, although pregnant or having given birth to a child, receive sickness benefits to the extent they meet the conditions specified in the Railroad Unemployment Insurance Act.

9. Disqualification for sickness benefits for voluntarily leaving work, for failure to accept suitable work, etc.

Under present law an employee who is sick can, nevertheless, claim sickness benefits even though (1) he may have quit his job voluntarily without good cause or (2) he may have failed, without good cause, to accept suitable work offered to him or (3) he may have failed to comply with instructions from the Railroad Retirement Board requiring him to apply for suitable work or to report to an employment office.

Under the reported bill an employee cannot claim sickness benefits for any of the days beginning with the day on which the above-enumerated action occurred and ending with the 20th day thereafter with respect to which the Railroad Retirement Board finds that he has earned compensation in the employ of a railroad or another employer covered by the Railroad Unemployment Insurance Act.

Under present law, a sick employee may claim sickness benefits even though he is unemployed because of an "illegal" strike, that is, a strike commenced in violation of the Railway Labor Act or in violation of the established rules and practices of a bona fide labor organization of which he was a member. The reported bill provides that even though the employee is sick, such day shall not be considered as a day of sickness if, except for the sickness, he would have been unemployed due to an illegal strike. This disqualification would not apply if an employee is not participating in, directly interested in, or helping to finance the strike, and he does not belong to a grade or class of workers of which some members are participating in, interested in, or helping to finance the strike.

Under present law an employee can claim sickness benefits even though he may have left the railroad industry and established himself in a nonrailroad job. The reported bill provides that an employee would be disqualified for sickness benefits for any day which occurred more than 90 days after the last day with respect to which he earned compensation in the railroad industry. There would be excluded from such 90 days any day in which the Railroad Retirement Board finds that the employee was unemployed due to a stoppage of work as a result of an illegal strike, and any day in such 90 days in a registration period which begins, or in a continuous series of registration periods the first day of which series begins, before the expiration of such 90 days. For this purpose, a "registration period" would be deemed to be continuous with the preceding registration period if established within 10 days after the last day of such preceding registration period.

10. Sickness benefits waiting period

Under present law, sickness benefits are payable for each day of sickness in excess of 7 during the first registration period (consisting of 14 days) within a benefit year in which an employee will have had 7 or more such days of sickness.

The reported bill would make sickness benefits payable for each day of sickness in excess of 9 days during the first registration period. It would also prevent the payment of any sickness benefits for days in a subsequent registration period (now payable after a waiting period of 4 days) by requiring that the employee should have had in that registration period, or in the next preceding 14-day period, not less than 7 days of sickness or unemployment or both. The bill also provides that a day of sickness, to be considered as such, must be a day on which the employee would have been available for work except for the fact that he was sick.

11. Increase in tax base and tax rate

Funds to support the railroad unemployment and sickness benefit programs are obtained from taxes collected by the Railroad Retirement Board from railroad employers. Employees do not contribute to these funds.

To provide funds for financing the additional benefits recommended in the reported bill, and to take care of existing needs, the bill provides for an increase in the monthly limit on taxable compensation from \$350 to \$400 a month for each employee, effective with respect to compensation paid for services rendered in calendar months which begin on or after the first day of the first calendar month which begins more than 45 days after the date of enactment of this act.

A comparison of the present tax rate schedule and the tax rate schedule proposed by the reported bill is shown below.

Schedule of present contribution rates

If the balance to the credit of the railroad unemployment insurance account as of the close of business on Sept. 30 of any year, as determined by the Board is—	The rate with respect to compensation paid during the next succeeding calendar year shall be—
\$450,000,000 or more.....	½ percent.
\$400,000,000 or more but less than \$450,000,000.....	1 percent.
\$350,000,000 or more but less than \$400,000,000.....	1½ percent.
\$300,000,000 or more but less than \$350,000,000.....	2 percent.
\$250,000,000 or more but less than \$300,000,000.....	2½ percent.
Less than \$250,000,000.....	3 percent.

Schedule of contribution rates proposed by reported bill

If the balance to the credit of the railroad unemployment insurance account as of the close of business on Sept. 30 of any year, as determined by the Board is—	The rate with respect to compensation paid during the next succeeding calendar year shall be—
\$450,000,000 or more.....	1½ percent.
\$400,000,000 or more but less than \$450,000,000.....	2 percent.
\$350,000,000 or more but less than \$400,000,000.....	2½ percent.
\$300,000,000 or more but less than \$350,000,000.....	3 percent.
Less than \$300,000,000.....	3½ percent.

The balance in the railroad unemployment insurance account as of September 30, 1958, was \$135,443,000. Therefore the current tax rate is 3 percent. Upon enactment of this legislation the tax rate would increase to 3½ percent on compensation paid for services rendered on or after the effective date of this act.

12. Borrowing authority to finance railroad unemployment and sickness insurance programs

The Railroad Retirement Board, railroad management, and railroad labor organizations are in agreement with respect to the need for authority to permit the Board to borrow money from the railroad retirement account in order to pay railroad unemployment and sickness benefits. The balance in the railroad unemployment insurance account as of February 28, 1959, was \$50 million, which is a dangerously low level, and the balance may be insufficient to pay the benefits due in the months ahead.

Accordingly, the committee has provided in section 310 of the reported bill authority for the Railroad Retirement Board, whenever it finds that the balance in the railroad unemployment insurance account will be insufficient to pay benefits due, to request the Secretary of the Treasury to transfer from the railroad retirement account to the credit of the railroad unemployment insurance account such

moneys as the Board estimates would be necessary for the payments of such benefits, and the Secretary of the Treasury is directed to make such transfer. The moneys borrowed would pay 3 percent interest.

This provision of the bill would take effect on the date of enactment of this act.

NEED FOR LEGISLATION

The need for increasing retirement and survivor benefits is obvious in the light of the fact that living costs have increased significantly since the last 10-percent increase in benefits was provided in 1956 (Public Law 1013, 84th Cong.). The 10-percent increase recommended in the bill will undoubtedly help to alleviate the hardships of annuitants and pensioners who are trying to live on a fixed income. The committee feels that the increase proposed in the bill is very modest and should be granted.

There was general agreement until recently that the railroad retirement system was virtually without peer among plans of its kind. However, with the passage of the 1950 and later amendments to the Social Security Act, including those enacted in 1958 providing for a general increase in benefits of 7 percent, and the gains made in the past several years by employees in many industries through the adoption of private supplemental pension plans, the railroad retirement system has fallen behind. Recognizing this problem, many Members of Congress have introduced bills proposing to improve the benefits under the Railroad Retirement Act, and this committee has held hearings on these bills and considered them very carefully.

In the consideration of all these bills, however, the committee has placed great emphasis on the effect of the proposed amendments on the financial soundness of the railroad retirement system. The committee is unanimously of the opinion that, regardless of the desirability of certain proposals for the liberalization of benefits under the Railroad Retirement Act, no amendments to the law should be made which would jeopardize the financial soundness of the railroad retirement system. This principle is accepted by all the standard railway labor organizations and by railroad management as well.

This committee has every desire to be helpful to retired railroad workers and their dependents. We are also mindful of our grave responsibility toward the currently active railroad workers and those who will follow and who will retire in the future. We must make certain that when they retire from the railroad industry the reserves in the railroad retirement account plus the income into the system will be adequate to pay the benefits due them.

We must also be mindful of the financial condition of the railroad industry and its ability to share the burden of the increases in taxes which the reported bill would impose upon them. However, we feel that, aside from the temporary decline in business and revenues which the industry has recently experienced but from which the railroads are now recovering, the industry is able to support the modest program proposed in the bill.

The option granted to women employees with less than 30 years of service and to spouses to retire at age 62 on a reduced annuity is similar to the provisions now contained in the Social Security Act. The granting of this option to accept reduced benefits would not add significantly to the cost of the system.

The amendment changing the earnings limitation for disability annuitants to \$1,200 a year instead of \$100 a month is designed to eliminate discrimination between a disability annuitant who may earn a little over \$100 a month in several months and, therefore lose, under present law, his annuity for all such months, and another disability annuitant who may earn the same total amount as the first annuitant but whose earnings pattern may be such that he is required to give up only 1 month's annuity.

The amendment with respect to survivors who work outside of the United States is designed to place such survivors on an equal footing with survivors working in the United States so far as the earnings limitation is concerned.

The amendments proposed to the Railroad Retirement Tax Act—namely, increasing the maximum taxable earnings base to \$400 a month, and increasing the tax rate—are necessary to pay for the retirement benefits proposed by the bill and to eliminate for all practical purposes the existing actuarial deficiency in the railroad retirement account.

The amendments proposed to the Railroad Unemployment Insurance Act are necessary to meet the increase in the cost of living, to provide for a temporary extension of unemployment benefits as in the case of industry generally, to correct certain inequities in the system, and to provide for sound financing.

The increase in daily benefit rates for unemployment and for sickness proposed by the bill ranges from 7.7 percent for the base year compensation range of \$2,000 to \$2,199 to 25 percent for the base year compensation range of \$700 to \$749. The increase is 20 percent for those who have a base year compensation of \$4,000 or more. The minimum daily benefit rate payable would be increased by 20 percent; that is, the eligible employee would be entitled to 60 percent, rather than 50 percent of his daily rate of compensation (with a maximum of \$10.20 per day) for the employee's last employment in which he was engaged for an employer during the base year.

The present schedule of daily benefit rates was enacted in 1954. In view of the rising wages and costs that have occurred during the last 5 years, these rates are inadequate today reasonably to compensate unemployed railroad workers for the loss in wages which result from their unemployment. The committee believes that the schedule of daily benefit rates proposed in the bill is justified and should be enacted.

The temporary extension of unemployment benefits provided in the bill would extend to unemployed railroad workers protection similar to that accorded to unemployed workers outside of the railroad industry pursuant to the Temporary Unemployment Compensation Act of 1958 (Public Law 85-441). Unemployed railroad workers who have exhausted after June 30, 1957, their benefit rights under existing law would be entitled to a temporary extension of their unemployment benefits for unemployment in the general period included in the legislation for other industry, namely, unemployment occurring in registration periods beginning on or after June 19, 1958, and before April 1, 1959. The maximum number of days for which extended benefits would be paid is 65 days and the daily benefit rates to be paid would be those in effect before the effective date of this act.

Employment in the railroad industry has declined very drastically in recent years, and it has now reached about the lowest level ever recorded. Six years ago there were over 1,200,000 employees working for class I railroads. This number dropped to 986,000 in 1957 and to 810,000 in January 1959.

Some 112,000 unemployed railroad workers received unemployment benefits as of June 30, 1958. The amount of benefits paid during this month was \$16,651,000 and the total amount paid in the first 6 months of 1958 was \$121,224,000. From January 1 through June 1958 approximately 63,000 claimants had exhausted their benefit rights under the Railroad Unemployment Insurance Act. The Railroad Retirement Board estimates that almost as many claimants will have exhausted their benefit rights in the benefit year beginning July 1, 1958, and ending June 30, 1959. The Board has estimated that the total amount which would be payable under the temporary extension of unemployment benefits would be approximately \$20 million.

The amendment providing that Sundays and holidays could be compensable days of unemployment just as any other day, whether or not such Sundays and holidays are preceded and succeeded by a day of unemployment, is necessary to rectify a condition which discriminates against certain categories of employees who, because of the manner in which their employment is scheduled, are unable to qualify for unemployment benefits.

The amendments providing for disqualifications against the payment of unemployment and sickness benefits to employees who are discharged for misconduct related to their work, who leave work voluntarily and who refuse suitable jobs, would merely reflect the principle that an employee should not be insured against wage loss resulting from his own voluntary act. These amendments would make the railroad unemployment insurance system conform to State unemployment insurance systems generally in those respects.

The present Railroad Unemployment Insurance Act does not bar the payment of unemployment benefits to persons who are discharged and may be guilty of misconduct related to their work, such as drinking on the job, pilfering, or otherwise violating rules designed to protect passengers, crew members, the general public, and railroad property and freight.

The disqualification against the payment of unemployment benefits to employees discharged for misconduct related to their work would restore a misconduct provision that was in the original Railroad Unemployment Insurance Act and which was removed by a bill enacted in 1939, at the request of both railroad management and the railway unions. The proposed amendment in the reported bill would vary from the misconduct provision of the original law only in one respect. Instead of the original 45-day period after discharge for which no benefits would have been payable, the period under the amendment provided by this bill would be extended until the discharged employee will again have had 20 days of railroad work.

The disqualification against the payment of unemployment benefits to an employee who leaves railroad work voluntarily without good cause, or fails, without good cause, to accept or to apply for suitable work, is designed to cope with the situation where many employees leave the railroad industry for one reason or another, and after a short

waiting period, become eligible to receive unemployment benefits if they are still unemployed. Many of these individuals are women who leave railroad work to keep house. Many younger employees leave to return to school. Under present law all of these ex-employees could claim unemployment benefits if they earn as little as \$400 (\$500 under the reported bill) in railroad employment in the appropriate base year. It is important for the effective functioning of the unemployment insurance system that individuals who have voluntarily left the railroad labor market for all practical purposes no longer be eligible to receive unemployment insurance benefits until they have again returned to the railroad industry.

The redefinition of sickness, which provides that a day of sickness shall include only days for which the individual can show that he would have been available for work except for his sickness, is designed to exclude persons who would not be working in the railroad industry and would suffer no loss of railroad wages because of their illness.

The disqualification against the payment of sickness benefits to an individual who has not worked in the railroad industry within the last 90 days prior to his sickness, is designed primarily to exclude an individual who became sick after he has left the railroad industry and has established himself in nonrailroad work. This amendment recognizes that individuals previously in railroad work may be out on strike or may be unemployed and registered for railroad work, and these periods are excluded in the computation of the 90 days.

The amendment providing for the discontinuance of maternity benefits would also make the railroad unemployment insurance system conform to provisions of the State unemployment systems generally. The record of our hearings indicates that only Rhode Island pays benefits in maternity periods and in this State the entire cost is paid by employees and such payments are limited to 12 weeks. California and New Jersey and New York have established sickness benefit programs but not maternity benefit programs, as such.

The Railroad Retirement Board has informed the committee that it needs authority to borrow money from the railroad unemployment insurance account to administer the provisions of the Railroad Unemployment Insurance Act. In support of this position the Board advised that by the end of February 1959 the balance in the railroad unemployment insurance account had fallen to \$50 million. The decline may not continue at such a rapid pace in the next few months because 55,000 unemployment beneficiaries and 15,600 sickness beneficiaries had exhausted benefit rights for the current fiscal year by the end of February. However, it is impossible to predict unemployment precisely and the balance in the account is at such a low point that even a minor dislocation in the railroad industry could cause enough unemployment to use up the available funds.

It is estimated that benefit payments for the current quarter will total about \$70 million. This will be the fifth consecutive quarter in which benefit payments have been substantially above \$50 million, the balance in the account at the end of February. A continuation of such a rate of expenditure would exhaust the funds available for payment of benefits within the next 6 months. Provision of borrowing authority is needed to prevent collapse of the program if this should occur.

SPONSORS OF H.R. 1012

Hearings were held in February 1959 on H.R. 1012 and all other bills pending at that time to amend the Railroad Retirement Act, Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act.

Members of the House of Representatives who introduced bills identical or similar to H.R. 1012—which was introduced by Mr. Harris, of Arkansas—are: H.R. 1013 by Mr. Bennett, of Michigan; H.R. 1370 and H.R. 1373 by Mr. Van Zandt, of Pennsylvania; H.R. 2556 by Mr. Porter, of Oregon; H.R. 2814 by Mr. Zelenko, of New York; H.R. 2916 by Mr. George P. Miller, of California; H.R. 2925 by Mr. Rhodes, of Pennsylvania; H.R. 3027 by Mr. Loser, of Tennessee; H.R. 3052 by Mr. O'Neill, of Massachusetts; H.R. 3166 by Mr. Friedel, of Maryland; H.R. 3219 by Mr. Staggers, of West Virginia; H.R. 3440 by Mr. Bailey, of West Virginia; H.R. 3469 by Mr. Foley, of Maryland; H.R. 3483 by Mr. McDowell, of Delaware; H.R. 3511 by Mr. Van Pelt, of Wisconsin; H.R. 3736 by Mr. Mack of Illinois; H.R. 3857 by Mr. Flynn, of Wisconsin; H.R. 3891 by Mr. Broyhill, of Virginia; H.R. 3928 by Mr. Tollefson, of Washington; H.R. 3972 by Mr. Johnson of California; H.R. 4004 by Mr. Blatnik, of Minnesota; H.R. 4034 by Mr. Macdonald, of Massachusetts; H.R. 4080 by Mr. Rees, of Kansas; H.R. 4162 by Mr. Clark, of Pennsylvania; H.R. 5706 by Mr. Flood, of Pennsylvania; and H.R. 5717 by Mr. Moore, of West Virginia.

H.R. 1012, as introduced, was sponsored by the Railway Labor Executives' Association, which is an organization of the chief executives of all the standard railway labor organizations, namely:

American Railway Supervisors' Association; American Train Dispatchers' Association; Brotherhood of Locomotive Engineers; Brotherhood of Locomotive Firemen & Enginemen; Brotherhood of Maintenance of Way Employees; Brotherhood of Railroad Signalmen of America; Brotherhood of Railroad Trainmen; Brotherhood of Railway Carmen of America; Brotherhood of Railway & Steamships Clerks, Freight Handlers, Express & Station Employees; Brotherhood of Sleeping Car Porters; Hotel & Restaurant Employees & Bartenders International Union; International Association of Machinists; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers; International Brotherhood of Electrical Workers; International Brotherhood of Firemen & Oilers; International Organization Masters, Mates & Pilots of America; National Marine Engineers' Beneficial Association; Order of Railway Conductors & Brakemen; Railroad Yardmasters of America; Railway Employees' Department, AFL-CIO; Sheet Metal Workers' International Association; Switchmen's Union of North America; and The Order of Railroad Telegraphers.

IMMEDIATE EFFECT OF PROPOSED AMENDMENTS IN H.R. 5610 TO THE RAILROAD RETIREMENT ACT

The bill proposes to increase retirement and survivor benefits by 10 percent effective on the first day of the calendar month which is more than 45 days after the enactment date. For the purpose of these estimates, the effective date is assumed to be July 1, 1959.

EMPLOYEE ANNUITIES

An estimated 364,000 employee annuities, averaging \$118, in course of payment on July 1, 1959, would be increased by 10 percent to an average of almost \$130.

For an employee retiring on July 1, 1959, the maximum annuity that could be paid would rise from about \$186 to \$205. Subsequently, after the new \$400 ceiling on taxable earnings goes into effect, the maximum would rise slowly up to the end of 1966. Thereafter, the maximum will rise more rapidly since more than 30 years of service will become creditable toward annuities.

An estimated 44,500 retirement annuity awards, averaging about \$140, would be made in fiscal year 1959-60. These figures include about 500 awards to women employees aged 62 to 64 who would elect to accept a reduced annuity.

SPOUSE ANNUITIES

An estimated 133,000 spouses on the rolls on July 1, 1959, would also have their annuities increased by 10 percent. The average spouse annuity in current-payment status on that date, would be increased to about \$57. The estimated 16,000 unreduced spouse annuities to be awarded in fiscal year 1959-60 would average \$58. The new maximum spouse annuity would be \$66.60 in July 1959 and \$69.90 in February 1960.

There are an estimated 36,000 spouses aged 62 to 64 who could elect to receive reduced spouse annuities. In the absence of specific experience and for the purposes of this report, it has been arbitrarily assumed that about three-fourths of them or 27,000 would choose to accept such reduced benefits. The reduced benefits would average about \$51.

PENSIONS

An estimated 1,200 pensioners on the rolls on July 1, 1959, would receive 10 percent increases, bringing their average benefit to about \$90 compared with the average of \$82 under the present law.

SURVIVOR ANNUITIES

The estimated 244,700 survivor benefits in current-payment status on July 1, 1959, would be increased at least 10 percent. The maximum basic amount possible on July 1, 1959, under the new formula would be \$80, while the maximum family benefits would be \$193.60 and \$279 under the railroad retirement and social security guarantee formulas, respectively.

An estimated 18,000 insurance lump-sum benefits would be paid in fiscal year 1959-60. The average lump sum would be \$560.

DISABILITY WORK CLAUSE

The immediate effect of the change in the disability work clause would be comparatively small. About 1,000 annuities are withheld each month under the present provision and the amount of annuities withheld in a year totals about \$1 million. The proposed change in the disability work clause is estimated to reduce the amount withheld in the first full calendar year after the effective date by about \$200,000.

TOTAL BENEFIT PAYMENTS

Total benefit payments under the provisions of the bill in fiscal year 1959-60 are estimated at about \$928 million, or \$98 million more than would be payable under the present law. Of the additional \$98 million, \$83 million is attributable to the 10-percent increase in monthly and lump-sum benefits and the remaining \$15 million to the new benefits for women employees and spouses aged 60 to 64.

TABULAR SUMMARY

The two following tables illustrate the effect of the proposed amendments. Table 1 shows the effect on benefits in course of payment on July 1, 1959, and table 2 covers benefit awards in fiscal year 1959-60.

Since the bill provides, in effect, a blanket 10-percent increase for all monthly benefits, including those calculated under social security formulas, it does not affect the distribution of monthly benefits awarded or being paid according to the formula under which they are computed.

TABLE 1.—Estimated number of monthly benefits in current-payment status on the effective date,¹ and estimated average monthly amount before and after increases under the bill, by type of benefit

Type of benefit	Benefits in current-payment status				
	Number			Average monthly amount	
	Total	Benefit computed under		Present law	Proposed bill
		Railroad formula	Social security formula ²		
Total.....	742,900	523,200	219,700	-----	-----
Retirement:					
Employee annuities.....	364,000	328,000	³ 36,000	\$117.70	\$129.50
Pensions.....	1,200	1,200	-----	81.70	89.90
Spouse annuities.....	133,000	123,000	10,000	51.60	56.80
Monthly survivor:					
Aged widows' annuities.....	187,000	66,000	121,000	57.50	63.30
Widowed mothers' annuities.....	11,300	300	11,000	76.60	84.30
Children's annuities.....	42,200	1,500	40,700	49.80	54.80
Parents' annuities.....	1,100	100	1,000	58.40	64.30
Survivor (option) annuities.....	3,100	3,100	-----	50.50	55.60

¹ Assumed to be July 1, 1959.

² Bill provides minimum benefits equal to 110 percent of the amount under social security formulas.

³ Includes 7,000 disability annuitants aged 50 to 64.

AMENDMENTS TO THE RAILROAD RETIREMENT ACT 17

TABLE 2.—Estimated number of awards in first full year,¹ and average benefit under present law and the bill, by type of benefit

Type of benefit	Awards under—			
	Present law		Proposed bill	
	Number	Average amount	Number	Average amount
Retirement:				
Employee annuities.....	43,000	\$127.20	44,000	\$140.00
Reduced age annuities to women.....			1,500	85.00
Reduced spouse annuities.....			27,000	51.00
Unreduced spouse annuities.....	22,000	52.50	16,000	57.80
Monthly survivor:				
Aged widows' annuities.....	21,000	67.10	21,000	73.90
Widowed mothers' annuities.....	2,300	85.60	2,300	94.20
Children's annuities.....	5,800	57.90	5,800	63.70
Parents' annuities.....	100	74.50	100	82.00
Survivor (option) annuities.....	50	55.00	50	60.50
Lump-sum payments:				
Insurance benefits.....	18,000	510.00	18,000	560.00
Residual payments.....	6,500	1,700.00	6,500	1,600.00

¹ Assumed to be July 1, 1959, to June 30, 1960.

² There will be an estimated 36,000 spouses of retired employees, and 1,000 women employees with less than 30 years of service, aged 62 to 64, eligible to elect reduced annuities. It is assumed that ¼ of the spouses and ½ of the women employees would make such elections.

IMMEDIATE EFFECT OF AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

The bill proposes to amend the Railroad Retirement Tax Act, effective on the first day of the calendar month which is more than 45 days after date of enactment, by raising the monthly limit on taxable earnings from \$350 to \$400, and by increasing the combined rate of tax from the present 12½ to 13½ percent from the effective date through calendar year 1961 and to 14½ percent in 1962-64. In addition, the combined rate of tax in 1965 and thereafter would be increased by the excess of future actual social security combined rates over 5½ percent.

Assuming that the railroad industry will be recovering from the low level of activity experienced during the 1957-58 economic recession with a consequent gradual increase in railroad employment, and assuming the effective date of the amendments to be July 1, 1959, the effect of the proposed legislation on railroad retirement taxes in fiscal year 1960 would be as follows:

[Millions]

Item	Present law	Proposed law
1. Taxable payroll.....	\$4,600	\$5,100
2. Taxes at 12.5 percent.....	575	638
3. Taxes at 13.5 percent.....		689
4. Total additional taxes.....		114
(a) Due solely to higher tax base.....		63
(b) Due to higher tax on old base.....		46
(c) Due to higher tax rate on addition to old base.....		5

It should be emphasized that the above figures pertain only to the first year effect of the monthly limit and tax increases. The long-range estimates are shown elsewhere in this report.

ACTUARIAL EFFECTS ON RAILROAD RETIREMENT SYSTEM OF H.R. 5610

The Chief Actuary of the Railroad Retirement Board has estimated that the proposed amendments pertaining to the retirement and survivor programs would increase the cost of benefits by about \$146 million a year on a level basis. It is further estimated that the additional immediate and deferred taxes would bring in about an extra \$57 million in 1959, an average of \$115 million in each of the years 1960 and 1961, and \$174 million a year in 1962-64. In 1969, if the contingent increase in taxes becomes effective, as scheduled after 1964, the amount would reach about \$370 million a year. A year-by-year estimate of the additional taxes on both employers and employees is shown in table 3. Of the \$114 million in additional taxes (\$57 million to be paid by the employers and an equal amount by the employees) in fiscal year 1959-60, \$63 million would be due to taxing compensation between \$350 and \$400 a month at the rate of 12½ percent; and the remaining \$51 million a year would be due to the additional 1 percentage point of tax on the total estimated taxable payroll of \$5.1 billion for the year. The rise in 1962 would result mainly from the additional percentage point in the combined tax rate with similar situations occurring in later years.

Considering both additional outgo and additional income, the estimates indicate that the added revenues would exceed the added disbursements by about \$179 million a year on a level basis, which is equivalent to 3.20 percent of a \$5.6 billion taxable payroll. Since the actuarial deficiency for the present law, calculated as of December 31, 1958, is estimated at 3.81 percent of that payroll (adjusted from 4.18 of a \$5.1 billion payroll), the enactment of the amendments would leave the railroad retirement system with an actuarial deficiency of 0.61 percent of payroll (3.81 minus 3.20) or about \$34 million a year. The derivation of the above actuarial deficiency figure is shown in table 4 together with a breakdown of the major cost figures for the proposed program by source of cost or of savings, as the case may be.

TABLE 3.—*Estimated additional tax income under the amendments to the Railroad Retirement Tax Act contained in the bill*

[Dollar amounts in millions]

Calendar year	Rate of tax (percent)		Taxable payroll for \$350 limit		Additional taxes under bill ¹	
	Employer	Employee	Level assumption	Short-range projection	Level assumption	Short-range projection
1959 ²	6¾	6¾	\$5, 100	\$4, 600	\$59	\$57
1960.....	6¾	6¾	5, 100	4, 700	118	114
1961.....	6¾	6¾	5, 100	4, 900	118	116
1962.....	7¼	7¼	5, 100	5, 100	174	174
1963.....	7¼	7¼	5, 100	5, 100	174	174
1964.....	7¼	7¼	5, 100	5, 100	174	174
1965.....	8	8	5, 100	5, 200	258	262
1966.....	8½	8½	5, 100	5, 200	314	319
1967.....	8½	8½	5, 100	5, 200	314	319
1968.....	8½	8½	5, 100	5, 200	314	319
1969 and thereafter.....	9	9	5, 100	5, 200	370	376

¹ Difference between combined employer and employee taxes at proposed rates on taxable payrolls for \$400 limit and 12½ percent of payroll with \$350 limit. The taxable payroll for the \$400 limit is estimated to be \$500,000,000 a year higher than for the \$350 limit on monthly compensation.

² Assuming effective date of July 1, 1959, so that additional taxes will be applicable to ½ of the year.

TABLE 4.—*Cost estimate for the railroad retirement program as it would be amended by the bill*

[Level cost figures are as of Dec. 31, 1958, and relate to a taxable payroll of \$5.6 billion a year; the effective date is assumed to be July 1, 1959]

Item	Percent of payroll (\$400 limit)	Amount per year (millions)
(a) Gross cost of benefits, total.....	20.89	\$1,170
Employee annuities and pensions.....	14.20 ¹	795
Spouses' annuities.....	1.40	78
Aged widows' annuities.....	3.94	221
Other survivor annuities.....	.62	35
Insurance lump sums.....	.20	11
Residual payments.....	.39	22
Administrative expenses.....	.14	8
(b) Deductions from gross costs, total.....	3.08	173
Funds on hand.....	1.96 ²	110
Gains from financial interchange.....	1.12	63
(c) Net cost (a-b).....	17.81	997
(d) Future tax income, total.....	17.20	963
Independent of OASDI rates.....	14.39	806
Additional taxes after 1964 dependent upon OASDI rates.....	2.81	157
(e) Actuarial deficiency (excess of net costs over total future tax income).....	.61	34

¹ Includes 0.08 percent of payroll for benefits payable with respect to dependents of disability annuitants under the social security minimum provision.

² Excludes an estimated \$325 million accrued under the financial interchange for the period July 1957 to December 1958 but not yet received. Had this amount been included, the 1.96 would have been increased to 2.13 and the next figure of 1.12 would have been correspondingly reduced to 0.95.

An analysis of the cost effects of the proposed amendments considered by themselves is presented in table 5. As previously indicated, the total level additional disbursements are estimated at \$146 million a year, or 2.63 percent of payroll.

TABLE 5.—*Changes in actuarial deficiency due to the bill*

[Taxable payroll of \$5.6 billion a year for \$400 limit on monthly compensation; the effective date is assumed to be July 1, 1959]

Item	Percent of payroll (\$400 limit)	Amount per year (millions)
Actuarial deficiency under law before amendments (as of Dec. 31, 1958).....	3.81 ¹	\$213
Benefits at present rates due to higher compensation base.....	+.71	40
Increase in benefits by 10 percent.....	+1.82	102
Elective reduced benefits to spouses and women employees at age 62.....	+.03	3
Increase in residual benefit.....	+.03	
Liberalization of work clause for disability annuitants.....	+.02	1
Taxes at rate of 12½ percent on additional taxable compensation.....	-1.10	-62
Increase in schedule of taxes independent of OASDI rates.....	-1.90	-106
Additional taxes after 1964 dependent upon OASDI rates.....	-2.81	-157
Actuarial deficiency under law after amendments (as of Dec. 31, 1958).....	.61	-34

¹ Equivalent to 4.18 percent of payroll with a \$350 limit on monthly compensation. In both instances, this is equivalent to \$213 million a year.

IMMEDIATE EFFECT ON BENEFICIARIES OF AMENDMENTS IN H.R. 5610 TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

The immediate effect on beneficiaries of the proposals to amend the Railroad Unemployment Insurance Act may be illustrated by reference to the effect they would have had on payments for the 1957-58 benefit year. Each of the proposals is discussed in turn.

Except for a few thousand beneficiaries with earnings under \$500 who would no longer be qualified, for a larger number who would have been disqualified or failed to meet new eligibility requirements, and for the maternity beneficiaries, the benefits of all beneficiaries would have been increased substantially.

INCREASE IN QUALIFYING EARNINGS REQUIREMENT

In 1957-58, 4,300 (1.4 percent) of the unemployment beneficiaries and 600 (0.4 percent) of the sickness beneficiaries had base-year earnings under \$500 and so would not have been qualified. However, no employee currently on the benefit rolls would be denied benefits in this benefit year by the proposed change; it would be effective with earnings for the 1958 base year, and so would not affect benefit payments until July 1959 or later, depending on the date of enactment of the bill.

BENEFIT RATES

The 1957-58 beneficiaries with base-year earnings of \$500 or more would, it is estimated, have been paid at an average daily benefit rate of \$9.40 for unemployment and \$9.74 for sickness (prior to adjustment for receipt of other social insurance benefits). For each type of benefit the average benefit rate would be about one-fifth larger than under the present law. The increase in benefit rates for those with rates determined under the proviso with respect to the daily rate of pay would obviously be this much generally, since 60 percent is one-fifth larger than 50 percent. The new schedule in the bill, as shown in the table below, would cause an increase of from 8 to 25 percent, depending on the compensation range. However, increasing the limit on creditable earnings would add to this by shifting many beneficiaries to a higher compensation group, with a consequent higher benefit rate. Thus, for some beneficiaries, particularly in the higher compensation brackets, the total increase would be substantially more than 20 percent, and the average increase for those paid schedule rates would be about one-fifth also.

It is possible under the present law for a beneficiary who was fully employed in the base year to qualify for a benefit rate approaching 60 percent of his rate of pay. Similarly, under the bill it would be possible for some beneficiaries to be paid at benefit rates near 70 percent of the daily rate of pay. For example, an employee paid at a rate of \$14 a day, if employed 5 days a week without overtime for 50 weeks, would earn \$3,500. This would qualify him for a benefit rate of \$9.50 under the schedule in the bill, or 68 percent of his daily rate of pay.

Comparison of benefit rates in schedule under RUIA with proposed schedule

Range of base-year compensation	Daily benefit rate		Percent increase
	Present RUIA	Proposed schedule	
\$400 to \$499	\$3.50		
\$500 to \$699	4.00	\$4.50	12.5
\$700 to \$749	4.00	5.00	25.0
\$750 to \$999	4.50	5.00	11.1
\$1,000 to \$1,299	5.00	5.50	10.0
\$1,300 to \$1,599	5.50	6.00	9.1
\$1,600 to \$1,899	6.00	6.50	8.3
\$1,900 to \$1,999	6.00	7.00	16.7
\$2,000 to \$2,199	6.50	7.00	7.7
\$2,200 to \$2,499	6.50	7.50	15.4
\$2,500 to \$2,799	7.00	8.00	14.3
\$2,800 to \$2,999	7.00	8.50	21.4
\$3,000 to \$3,099	7.50	8.50	13.3
\$3,100 to \$3,499	7.50	9.00	20.0
\$3,500 to \$3,999	8.00	9.50	18.8
\$4,000 and over	8.50	10.20	20.0

NOTE.—Since the compensation ranges of the 2 schedules differ, it was necessary, for this comparison, to divide some rate groups into 2 parts.

ELIMINATING OF THE SUNDAY AND HOLIDAY DISQUALIFICATIONS

The removal of the Sunday and holiday disqualification provision in the law would increase the number of compensable claims because, for a man normally working a 5-day week, after benefits have been paid for an initial registration period, any day of unemployment in a workweek could be a compensable day. Thus, in addition to increasing the number of compensable days in some claims, it would make other claims compensable for which no payment could be made under the present law. The wage contracts for nonoperating employees now provide payment for holidays. Nevertheless, in the course of a year there will be a substantial number of employees who will not get paid for one or more holidays for one reason or another. It is estimated that this change would have increased benefits for unemployment in 1957-58 by about \$3,400,000.

DISQUALIFICATIONS FROM UNEMPLOYMENT BENEFITS

The proposed modification of the disqualifications for unemployment benefits in cases of voluntary quits, and failure to accept suitable work or failure to report for work or to an employment office, would have extended the disqualification period of those who were disqualified under sections 4(a-2)(i) and 4(a-2)(ii) in 1957-58 and caused the disqualification of many other beneficiaries. The proposed section 4(a-2)(iv) disqualifying those who were discharged or suspended would have prevented payments to thousands of other beneficiaries.

Altogether it is estimated that nearly 20,000 unemployment beneficiaries would have received \$10,800,000 less in 1957-58 if these provisions had been in effect. In the majority of cases all of the payments they received would have been prevented.

TEMPORARY EXTENSION OF DURATION FOR EMPLOYEES

Additional benefits would have been paid to about 60,000 1957-58 beneficiaries who exhausted benefit rights for that year under the temporary provision extending their duration of benefits a maximum of 13 weeks, but the average amount per beneficiary would be small because if they were unemployed most of them have received benefits in the current year. Nearly as many 1958-59 beneficiaries would also receive additional payments from this change, and these would be more substantial. It is estimated that the total amount payable under the provision would be about \$20 million.

WAITING PERIOD FOR SICKNESS

The change which would pay benefits only for days of sickness over nine in the first sickness registration period instead of all days over seven would have reduced by two the number of compensable days for all beneficiaries who did not exhaust benefit rights. The other change in the sickness benefit formula, which would require that in order to pay benefits for a subsequent registration period there must be at least 7 days of sickness or unemployment in the period or in the 14 preceding days, would have had no significant effect on the benefits paid. Only a small number of claims would have been denied. The combined effect of the two changes would have reduced benefits to 125,000 beneficiaries by about \$1,800,000.

DISQUALIFICATIONS FROM SICKNESS BENEFITS

It is not possible to estimate exactly the effect of the various proposals which would change the eligibility requirements and the disqualification provisions for sickness benefits, since they cover situations with which no experience has been had, such as the requirement of being otherwise available for work in order to get sickness benefits, and the disqualification of employees who have been out of the railroad industry more than 90 days. It is estimated, however, that the combined effect of these, and the application to sickness benefits of the disqualifications that have previously affected only unemployment benefits, would have reduced payments in 1957-58 by more than \$5 million.

ELIMINATION OF MATERNITY BENEFITS

Elimination of maternity benefits would not have prevented the maternity beneficiaries from receiving regular sickness benefits while pregnant if they could have met the eligibility conditions. Thus, sickness benefits would probably have been paid to most of the 3,900 maternity beneficiaries in 1957-58 even though the \$3,707,000 paid for maternity would not have been payable.

It is not clear what effect the various restrictions on payment of sickness benefits would have had on payments to them. For the purpose of these estimates it is assumed that the sickness payments

would have been about half of the amount that was paid for maternity. This would have reduced benefits for the year by \$1,800,000.

Estimates of the effect of the different provisions of the bill are summarized in the following table:

Provision	Unemployment		Sickness (including maternity)	
	Amount	Percent	Amount	Percent
Total benefits, present law ¹	\$175,723,000	100.0	\$56,960,000	100.0
Decreases in benefits:				
1. Due to \$500 qualifying earnings.....	1,632,000	.9	191,000	.3
2. Due to changes in disqualifications and eligibility conditions.....	10,800,000	6.1	5,200,000	9.1
3. Due to change in waiting period.....			1,800,000	3.2
4. Due to elimination of maternity benefits.....			1,800,000	3.2
Increases in benefits for eligible employees:				
1. Benefit rate schedule (including effect of \$400 a month maximum creditable earnings).....	14,552,000	8.3	7,948,000	14.0
2. 60 percent benefit rate proviso.....	19,925,000	11.3	4,326,000	7.6
3. Removal of Sunday and holiday disqualifications.....	3,403,000	1.9		
4. Temporary additional duration for employees who exhausted benefit rights.....	(²)	(²)		
Net increase.....	25,448,000	14.5	3,283,000	5.8

¹ Net benefits payable for year, which differ slightly from published figures of actual amounts paid in the year.

² \$20,000,000 in 1 year only; not included in totals, because not a cost factor for later years.

EFFECT ON BALANCE IN THE ACCOUNT

Under the present law, it is expected that the balance in the railroad unemployment insurance account will be reduced to a figure between \$40 million and \$50 million by June 30, 1959. Retroactive payments for the temporary additional duration provided by the bill would reduce this by \$20 million, and if the bill should be enacted immediately, there might be some additional increase in benefits for June claims. Thus, the account would be reduced to a very low level at the end of the benefit year, with perhaps no more than \$20 million remaining.

The effective date for an increased contribution rate would coincide with the effective date for increased benefit rates, but because of the lag in collection of contributions, the higher benefits resulting from the bill would be payable for 3 to 5 months before any added revenue would be received. Moreover, the current quarter, ending March 31, 1959, will be the fifth consecutive quarter in which benefit payments under the present law have been substantially above the balance now in the account (\$50 million). A continuation of such a rate of expenditure would exhaust the funds available for benefits in a few months even without the proposed increase. Thus the borrowing authority provided in the bill is necessary to insure against a possible collapse of the program.

IMMEDIATE COST TO THE RAILROADS

The bill would provide a maximum contribution rate of 3.5 percent and maximum taxable earnings of \$400 a month, both of which would become effective 1½ to 2½ months after enactment. Under present law, which would not be changed, the effective rate for 1959 is based on the balance to the credit of the railroad unemployment insurance

account at the close of business on September 30, 1958. Because that balance has already been determined and proclaimed by the Board to be less than \$300 million, the amendment providing that the effective rate would be 3.5 percent when the balance is under \$300 million would apply on the general effective date of the bill. The rate for 1959 is 3 percent under the unamended law. Thus, the increase in rate would be only one-half of 1 percent for compensation paid in the balance of calendar year 1959, starting with the effective date. The average increase in costs accruing for the railroads for the next few years, as shown by the following table, would be over \$40 million a year.

[In millions]

Calendar year	Contributions at 3 percent for present law, total	Contributions at 3½ percent, with \$400 limit on taxable earnings	
		Total	Increase over present law
1959.....	\$138	\$158	\$20
1960.....	141	182	41
1961.....	147	189	42
1962.....	153	196	43

¹ Assuming a July 1, 1959, effective date.

NOTE.—Figures are estimates of contributions that would be payable on compensation paid in these years.

Since the estimated future cost of the program, as shown below, is substantially less than the amount that would be provided by a 3.5 percent rate, there should be some future years in which the contribution rate will be 3 percent rather than the maximum of 3.5 percent. In such years, the increase in cost, above the present law, will be limited to the amount of contributions at 3 percent on the increase in taxable payroll resulting from the \$400 limit on taxable earnings, or about \$15 million.

FUTURE COSTS

According to the latest estimates that have been made, benefits under the present provisions of the Railroad Unemployment Insurance Act will average about \$145 million over a period of years, \$94 million for unemployment and \$51 million for sickness, including maternity. The estimate of taxable payrolls is \$5.1 billion a year. Including administrative expenses, the total cost of the present program is estimated at 2.9 percent of the taxable payroll.

For the proposals contained in the bill it appears reasonable, and in accordance with a desire for sound financing, to assume for the future an increase of about one-fifth in the average amount of unemployment benefits and an increase of one-tenth in the amount of sickness benefits. This results in an average annual benefit cost for the future, if the bill should be enacted, of \$170 million, of which \$114 million would be for unemployment and \$56 million for sickness. At the same time, the \$400 limit on creditable earnings would, it is estimated, increase the taxable payroll to \$5.6 billion. Including an allowance of 0.20 percent of payroll for administration and deducting 0.10 percent for interest on the balance in the account, the total cost of the program would then be about 3.15 percent of payroll. Costs

for the present law and with the bill are summarized in the following table:

Item	Present law	With proposed changes
Average benefits, total.....	\$145,000,000	\$170,000,000
For unemployment.....	94,000,000	114,000,000
For sickness.....	51,000,000	56,000,000
Taxable payroll.....	5,100,000,000	5,600,000,000
Benefits as percent of payroll.....	2.85	3.06
Administration costs as percent of payroll.....	.15	.20
Allowance for interest on balance in account (minus).....	-.10	-.10
Net total cost as percent of payroll.....	2.90	3.16

These cost figures are, of course, only an approximation based on what appear to be reasonable interpretations of available data, and on forecasts of the future of the railroad industry. With somewhat different assumptions, which may be just as reasonable, a variation of as much as one-fourth of 1 percent of payroll in either direction might be obtained. The figures can thus be interpreted as indicating that the cost of the benefit program under the Railroad Unemployment Insurance Act, if the bill is enacted, would be somewhere between 2.9 and 3.4 percent of payroll.

FINANCING

The bill provides the following schedule of contribution rates:

If the balance on Sept. 30 in the railroad unemployment insurance account is—	The contribution rate for the next calendar year shall be—
\$450,000,000 or more.....	1½ percent.
\$400,000,000, but less than \$450,000,000.....	2 percent.
\$350,000,000, but less than \$400,000,000.....	2½ percent.
\$300,000,000, but less than \$350,000,000.....	3 percent.
Less than \$300,000,000.....	3½ percent.

The balance in the account on September 30, 1958, was \$135 million. Thus, the maximum rate of 3½ percent would become effective on the general effective date for the bill. It appears, in view of the cost estimates, that the maximum rate of 3½ percent provided by the bill would be adequate to finance the benefits.

CHANGES IN THE RAILROAD RETIREMENT ACT, RAILROAD RETIREMENT TAX ACT, AND THE RAILROAD UNEMPLOYMENT INSURANCE ACT PROPOSED BY H.R. 1012 AND H.R. 5610

The following tabular comparison shows the changes in the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act proposed by H.R. 1012 and the reported bill, H.R. 5610.

Comparison of changes in existing law proposed by H.R. 1012 and H.R. 5610

I. CHANGES IN THE RAILROAD RETIREMENT ACT

(1) PRESENT LAW	(2) H.R. 1012	(3) H.R. 5610
Effective date: (1) _____	Jan. 1, 1959.	The 1st day of the 1st calendar month which is more than 45 days after the date of enactment of H.R. 5610. This could be no less than 46 days and as much as 75 days after enactment. The exceptions to this effective date are shown in this column where applicable.
(2) For amounts of annuities and pensions, see present law.	All annuities and pensions increased by 10 percent.	Same as in col. 2.
(3) Disability retirees before age 65 lose annuities for any month in which they earn more than \$100 in employment or self-employment (in addition to work clause relating to working for employers or last person).	Disability retirees able to earn up to \$1,200 per year instead of \$100 per month in earnings from employment or self-employment.	Same as in col. 2 except that effective date begins with calendar year 1960.
(4) Women employees ineligible for annuities before age 65 unless they have 30 years of service and have attained age 60.	Women employees with less than 30 years service could retire on reduced basis at age 62, upon election.	Same as in col. 2.
(5) A spouse is ineligible for a spouse's annuity before attaining age 65.	Spouse's annuity on reduced basis at age 62, upon election.	Same as in col. 2.
(6) Maximum creditable monthly compensation is \$350.	Maximum creditable compensation up to \$400 per month.	Same as in col. 2.

(7) Residual lump sum equal to the sum of 4 percent of compensation paid after Dec. 31, 1936, and prior to Jan. 1, 1947, and 7 percent of compensation after Dec. 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month before July 1, 1954, and in the latter case in excess of \$350 for any month after June 30, 1954), minus the sum of all benefits paid.

(8) Survivor beneficiaries working outside the United States are subject to a work clause similar to that under the Social Security Act (7 days of remunerative work in month).

(9) In determining average monthly remuneration for survivor benefits under sec. 5(1)(9) social security earnings may be included up to \$4,200.

(10) Whenever the social security minimum is applicable, 100 percent of such minimum is used.

Residual lump sum equal to the sum of 4 percent of compensation paid after Dec. 31, 1936, and prior to Jan. 1, 1947, plus 7 percent of compensation paid after Dec. 31, 1946, and before Jan. 1, 1959, plus 7½ percent of compensation paid after Dec. 31, 1958, and before Jan. 1, 1962, plus 8 percent of compensation paid after Dec. 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before Jan. 1, 1959, and in excess of \$400 for any month after Dec. 31, 1958), minus the sum of all benefits paid.

Survivor beneficiaries who work outside the United States get same work limitation as those in the United States of America; lose annuity for each \$80 or less in excess of \$1,200 earnings in year.

The includible social security earnings mentioned in col. 1 would be increased to \$4,800 for years after 1958.

Whenever the social security minimum is applicable, such minimum is increased from 100 percent to 110 percent.

Residual lump sum equal to the sum of 4 percent of compensation paid after Dec. 31, 1936, and prior to Jan 1, 1947, plus 7 percent of compensation paid after Dec. 31, 1946, and before the effective date of the Railroad Employees Benefits Act of 1959, plus 7½ percent of compensation paid on or after such effective date and before Jan. 1, 1962, plus 8 percent of compensation paid after Dec. 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before such effective date, and in excess of \$400 for any month which begins on or after such effective date, minus the sum of all benefits paid.

Same as in col. 2.

The \$4,200 mentioned in col. 1 will continue through 1959 and will be changed to \$4,800 beginning with the calendar year 1960.

Same as col. 2.

Comparison of changes in existing law proposed by H.R. 1012 and H.R. 5610—Continued

II. CHANGES IN THE RAILROAD RETIREMENT TAX ACT

(1) PRESENT LAW	(2) H.R. 1012	(3) H.R. 5610
Effective date: (1) _____.	Jan. 1, 1959.	The 1st day of the 1st calendar month which is more than 45 days after the date of enactment of H.R. 5610. This could be no less than 46 days and as much as 75 days. The exceptions to this effective date are shown in this column where applicable.
(2) Maximum tax base is \$350 a month.	Tax base increased from \$350 to \$400 per month.	Same as col. 2.
(3) Present tax rate is 6¼ percent on employer and employee.	Tax rate up to 6¼ percent effective Jan. 1, 1959, and before Jan. 1, 1962. Rate up to 7¼ percent effective Jan. 1, 1962.	Tax rate up to 6¾ percent effective from the effective date as stated above through Dec. 31, 1961, and increased to 7¼ percent beginning on and after Jan. 1, 1962.
(4) Tax rate for employee representatives is 12½ percent.	Tax rates on employee representatives up to 13½ percent effective Jan. 1, 1959, and before Jan. 1, 1962, and up to 14½ percent effective Jan. 1, 1962.	Tax rate on employee representatives increased to 13½ percent from the effective date as stated above through Dec. 31, 1961, and to 14½ percent from and after Jan. 1, 1962.
(5) No provision for an additional increase in tax rates conditioned upon social security tax increases.	Standby tax increase effective Jan. 1, 1965, to the extent that social security rates exceed 5.5 percent on and after that date.	Same as col. 2.

III. CHANGES IN THE RAILROAD UNEMPLOYMENT INSURANCE ACT

(1) PRESENT LAW	(2) H.R. 1012	(3) H.R. 5610
Effective date: (1) _____.	Jan. 1, 1959.	The 1st day of the 1st calendar month which is more than 45 days after the date of enactment of H.R. 5610. This could be no less than 46 days and as much as 75 days. The exceptions to this effective date are shown in this column where applicable.
(2) Step-rate schedule with maximum of \$8.50, or alternative of daily benefit rate equal to 50 percent of the last daily rate of compensation in base year but not to exceed \$8.50.	Increase in step-rate schedule and increase in maximum to \$10.20 and in alternative of daily benefit rate equal to 60 percent of the daily rate of compensation but not to exceed \$10.20.	Same as col. 2, but applicable to registration periods beginning on and after the effective date above stated.
(3) Sundays and holidays not treated as days of enemployment unless immediately preceded and followed by a day of unemployment, etc. (See sec. 4(a-2)(iv).)	Sundays and holidays treated as days of unemployment without regard to the last clause stated in col. 1.	Same as in col. 2, except as to the effective date.
(4) Compensable days of unemployment for which benefits are payable in the first registration period are 7.	The days described in col. 1 would be increased from 7 to 10.	The days described in col. 1 would not be changed.
(5) Compensable days of sickness for which benefits are payable in the 1st registration period are 7 and such days in all subsequent periods are 10.	Same as in col. 1.	Compensable days of sickness for which benefits are payable in the 1st registration period are reduced from 7 to 5. With regard to subsequent registration periods, the number of compensable days for sickness for which benefits would be payable would also be 10 except that the payment for any day of sickness in subsequent registration periods is conditioned upon the claimant's having no less than 7 days of sickness or unemployment or both either in such subsequent registration period or in the 14 days immediately preceding such subsequent registration period.

Comparison of changes in existing law proposed by H.R. 1012 and H.R. 5610—Continued

III. CHANGES IN THE RAILROAD UNEMPLOYMENT INSURANCE ACT—Continued

(1)	(2)	(3)
PRESENT LAW	H. E. 1012	H. R. 5610
<p>(6) Compensable days in benefit year limited to 130.</p>	<p>(A) Employees with less than 10 years would have temporary additional benefits of 65 days under certain conditions in registration periods beginning on and after June 19, 1958, and before Apr. 1, 1959; (B) Those with 10 but less than 15 years would have permanent additional benefits of 13 weeks under certain conditions; (C) Those with 15 or more years would have permanent 26 weeks of additional benefits under certain conditions; (D) If unemployed employee (with 10 or more years service) is not qualified for benefits in current benefit year but would be by previous or later earnings for succeeding benefit year, the beginning of such succeeding benefit year advanced to 1st of month in which unemployment commenced.</p>	<p>The benefits in clause (A) under col. 2 would be applicable to all employees without regard to years of service. The provisions mentioned in clauses (B), (C), and (D) described in col. 2 have been eliminated.</p>
<p>(7) Minimum earnings in base year to qualify under the Unemployment Insurance Act is \$400. The maximum creditable monthly earnings is \$350.</p>	<p>Minimum earnings described in col. 1 will be increased from \$400 to \$500. The maximum creditable earnings will be increased from \$350 to \$400 a month.</p>	<p>Same as in col. 2 except as to effective date.</p>
<p>(8) Benefits payable for days during maternity periods.</p>	<p>Same as in col. 1.</p>	<p>Maternity benefits as such would no longer be payable. Sickness benefits, though related to pregnancy, would be payable if the sickness is as defined in the present law. Employee must be otherwise "available for work" to obtain sickness benefits.</p>
<p>(9) Employee need not be otherwise "available for work" to obtain sickness benefits.</p>	<p>Same as in col. 1.</p>	<p>No day, if an employee quits work voluntarily without good cause or refuses to accept suitable work, etc., is a day of unemployment.</p>
<p>(10) The 1st 30 days, if an employee leaves work voluntarily without good cause or refuses to accept suitable work, etc., are not days of unemployment.</p>	<p>Same as in col. 1.</p>	

- | | |
|---|--------------------|
| (11) The provisions next above do not apply to sickness benefits. | Same as in col. 1. |
| (12) _____. | _____. |
| (13) _____. | _____. |
| (14) _____. | _____. |
| (15) _____. | _____. |

This disqualification ends with the 20th day after he has returned to the service of an employer and earned "compensation" in each of such 20 days. Such 20 days need not be consecutive.

The disqualifications next above apply to sickness benefits the same as to unemployment benefits.

An employee discharged for misconduct related to his work is disqualified for unemployment (but not for sickness benefits) for the duration of his discharge until he is again employed by an employer for not less than 20 days in each of which he earns "compensation." These 20 days need not be consecutive.

An employee suspended for misconduct related to his work is disqualified for unemployment (but not for sickness benefits) for the duration of the suspension. The day beginning after the period of suspension, if a day of unemployment, is the 1st day with respect to which he may register for unemployment benefits, if available for work, etc.

No day is a day of sickness if, but for such sickness, the employee would be unemployed because of a wildcat strike except that this strike disqualification does not apply if an employee is not participating in, directly interested in, or helping finance strike and he does not belong to grade or class of which some members are so participating, interested in, or helping finance.

No day is a day of sickness if such day is more than 90 days after the day on which the claimant was in the service of an employer for "compensation." The 90-day period would be extended by the number of days in which the claimant was disqualified due to his participation in a wildcat strike, and by the number

Comparison of changes in existing law proposed by H.R. 1012 and H.R. 5610—Continued

III. CHANGES IN THE RAILROAD UNEMPLOYMENT INSURANCE ACT—Continued

(1)	(2)	(3)
PRESENT LAW	H. R. 1012	H. R. 5610
		of days in any registration period ployment or sickness which begins before the end of the 90-day period, or in a series of such registration periods which begins before the end of the 90-day period and which are not separated by more than 10 days.
(16) Maximum contribution base is \$350 a month.	The maximum contribution base described in col. 1 would be increased to \$400.	Same as in col. 2 except as to effective date.

Contribution rate effective beginning on Jan. 1 of any year depending upon the balance in the Railroad Unemployment Insurance Account as of Sept. 30 of the next preceding calendar year

(1)	(2)	(3)
PRESENT LAW	H. R. 1012	H. R. 5610
		Same as col. 2.
(17) \$450 million or more.....	\$450 million or more.....	
Percent $\frac{1}{2}$	Percent $1\frac{1}{2}$	
\$400 to \$450 million.....	\$400 to \$450 million.....	
1	2	
\$350 to \$400 million.....	\$350 to \$400 million.....	
$1\frac{1}{2}$	$2\frac{1}{2}$	
\$300 to \$350 million.....	\$300 to \$350 million.....	
2	3	
\$250 to \$300 million.....	Less than \$300 million.....	
$2\frac{1}{2}$	$3\frac{1}{2}$	
Less than \$250 million.....	
3		
(18) _____.	_____.	Authorizes the Railroad Retirement Board to borrow money from the railroad retirement account for the payment of benefits under the Railroad Unemployment Insurance Act, with interest at 3 percent rate.

REPORTS FROM EXECUTIVE DEPARTMENTS AND AGENCIES

The reports of the Railroad Retirement Board, the Department of Health, Education, and Welfare, the Department of Labor, and the Bureau of the Budget on H.R. 1012 are shown in the appendix to this report.

SECTION-BY-SECTION EXPLANATION OF THE COMMITTEE BILL

PART I. AMENDMENTS TO THE RAILROAD RETIREMENT ACT

Section 1. Reduced annuities for women employees at age 62, changing earnings limitation for disability annuities, and increasing the maximum amount of spouse's annuity

Subsection (a) of section 1 of the bill would amend section 2(a)3 of the Railroad Retirement Act of 1937, as amended, to provide that women employees who do not have the 30 years of railroad service required for a full annuity at age 60 may, upon election, receive a reduced annuity at age 62. The annuity would be reduced by one one-hundred-and-eightieth for each calendar month the woman is under age 65 when the annuity begins to accrue. Women engaged in covered employment under the Social Security Act may now, as a result of the 1956 amendments to that act, obtain reduced retirement benefits at age 62 under that system and the change proposed by the bill would remove the disparity between the railroad retirement system and the social security system in that respect.

Subsection (b) of section 1 of the bill would amend section 2(d) of the Railroad Retirement Act. Under the present provision of section 2(d) of the act, the annuity of an individual, under age 65, who is retired on account of disability is not paid for any month in which he earns above \$100 in any form of employment. Subsection (b) of section 1 of the bill would amend section 2(d) of the act so as to provide that any annuity which is withheld from a disability annuitant because he earned more than \$100 a month is to be restored if his earnings for the whole calendar year do not exceed \$1,200. Furthermore, if the annuitant's total earnings exceed \$1,200 in a calendar year, the number of months for which his annuity will not be paid in such year (because of earnings of over \$100 in each such month) will in no event exceed 1 month for each \$100 of earnings over \$1,200 (with the last \$50 or more of such excess being treated as \$100). Earnings for service to an "employer" under the act or to the last person by whom the employee was employed before his annuity began to accrue would be disregarded in computing the total earnings for a year, because in no event could he receive an annuity for a month in which such service was rendered. If the disability annuity is increased in any year, an annuity which becomes payable solely because of the earnings limitation provided in section 1(b) of the bill would be paid for the month for which the annuity is larger.

Subsection (c) of section 1 of the bill would amend section 2(e) of the Railroad Retirement Act. Under the present provisions of section 2(e) of the act, the maximum amount payable as a spouse's annuity is an amount equal to the maximum amount which could be paid to anyone with respect to such month as a wife's insurance benefit under the Social Security Act. Subsection (c) of section 1 of the

bill would increase the maximum amount payable as a spouse's annuity to 110 percent of the amount payable under the Social Security Act as a wife's benefit.

Subsection (d) of section 1 of the bill provides for a technical amendment to section 2(g) of the Railroad Retirement Act which is required by reason of the proposed addition of a new subsection (h) to section 2 of the act, which would provide for a spouse's annuity at age 62 on a reduced basis.

Subsection (e) of section 1 of the bill would amend section 2 of the Railroad Retirement Act by adding a new subsection (h) to provide that a spouse may, upon election, receive a spouse's annuity on a reduced basis upon attaining age 62. The reduction would be in the amount of one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue. Under the present law a spouse may not obtain a spouse's annuity prior to attaining age 65 unless, in the case of a wife, she has a child in her care who would be entitled to a child's insurance annuity upon the death of her husband. Under the proposed amendment, a spouse may receive an annuity, upon election, without having such a child in her care, but the annuity would be reduced. This amendment would make the Railroad Retirement Act conform to the Social Security Act in this respect.

Section 2. Increase in annuities

Subsection (a) of section 2 of the bill would amend section 3(a) of The Railroad Retirement Act by increasing the percentage factors to be applied to an individual's "average monthly compensation" in computing the amount of his annuity. This change would produce an increase in the annuity so computed of approximately 10 percent.

Subsection (b) of section 2 of the bill would amend section 3(c) of the act to provide that as much as \$400 of an employee's compensation for any month after the effective date of this act shall be recognized in computing the monthly compensation.

Subsection (c) of section 2 of the bill would amend section 3(e) of the act to provide for an increase of approximately 10 percent in the factors determining the regular minimum annuity for an individual who has a "current connection" with the railroad industry. The same subsection would also amend section 3(e) of the act to provide that an employee's annuity, together with his spouse's annuity, if any, or the total of survivor annuities deriving from the same employee, for a month, shall in no case be less than 110 percent of the amount or 110 percent of the additional amount which would have been payable to all such persons under the Social Security Act for such month if such individual's railroad service after December 31, 1936, were employment subject to the Social Security Act. A spouse who elected to receive a reduced spouse's annuity under the proposed new section 2(h) of the act would, for purposes of the social security minimum provision described above, be deemed to be entitled to a wife's social security insurance benefit reduced as provided in section 202(q) of the Social Security Act.

Section 3. Residual lump-sum benefit, and increase in survivor annuities

Subsection (a) of section 3 of the bill would amend section 5(f)(2) of the Railroad Retirement Act to change the formula for computing the residual lump sum in order to give recognition to the higher tax

rate and tax base on compensation paid after the effective date of this act. This is done by increasing the percentage of an employee's compensation used in computing the residual lump-sum benefit to 7½ percent of his compensation paid on or after the effective date of this act and before January 1, 1962, and to 8 percent of his compensation paid after December 31, 1961, and by increasing the amount of monthly compensation paid on or after the effective date of this act to which such percentage would apply from \$350 to \$400 a month.

Subsection (b) of section 3 of the bill would amend section 5(h) of the Railroad Retirement Act to increase the maximum and minimum of survivor annuities payable for a month with respect to an employee's death by approximately 10 percent.

Subsection (c) of section 3 of the bill would amend section 5(i)(1)(ii) of the Railroad Retirement Act so as to eliminate the restriction which prohibits the payment of a survivor annuity to a survivor for any month during which he worked for 7 or more days in employment outside the United States. Thus, the proposed amendment would make the work restrictions applicable to survivors working outside of the United States the same as for those working in the United States and would remove a discrimination against the survivors of employees of American railroads operating into Canada many of whom continue to live in Canada.

Subsection (d) of section 3 of the bill would amend clause (A)(i) of section 5(l)(9) of the Railroad Retirement Act to increase from \$350 to \$400 the maximum amount of the employee's monthly compensation which can be used for the months beginning on or after the effective date of this act in determining the "average monthly remuneration." "Average monthly remuneration" is a factor used in computing the employee's "basic amount" which, in turn, determines the amount of the survivor's annuity and the insurance lump-sum benefits.

Subsection (e) of section 3 of the bill would amend clause (A)(ii) of section 5(l)(9) of the Railroad Retirement Act to provide that if the employee's creditable railroad compensation for any calendar year beginning after the effective date of this act is less than \$4,800, and his "average monthly remuneration" computed on railroad compensation alone is less than \$400, his creditable earnings under the Social Security Act in such years of up to \$4,800 may be included with the total of his creditable railroad compensation, in computing his "average monthly remuneration." The total creditable compensation could not exceed \$4,800 for calendar years beginning after the effective date of this act. At present, with respect to years after 1954, only so much of a year's social security earnings may be taken into account as will, together with the railroad compensation paid for the year, not exceed \$4,200, and then only when the employee's "average monthly compensation" computed on compensation alone is less than \$350.

Subsection (f) of section 3 of the bill would amend section 5(l)(10) of the Railroad Retirement Act to change the formula for determining the employee's "basic amount" so as to produce a "basic amount" higher by approximately 10 percent, thereby increasing survivor annuities and benefits based on the "basic amount" by 10 percent.

Section 4. Increase in pensions, joint and survivor annuities, certain widows' and widowers' annuities and annuities under the Railroad Retirement Act of 1935

Section 4 of the bill would increase by 10 percent the amounts of (1) pensions paid under section 6 of the Railroad Retirement Act of 1937; (2) all joint and survivor annuities and survivor annuities deriving from joint and survivor annuities awarded before the "effective date" of the Railroad Employees Benefits Act of 1959; (3) all widows' and widowers' insurance annuities which began to accrue before the first day of the first calendar month which begins after the "effective date" of such act and which are payable under the provisions by which the amount of such annuities is based on the spouse's annuity to which the widow or widower was entitled; and (4) all annuities paid under the Railroad Retirement Act of 1935.

Section 5. Effective dates of amendments to the Railroad Retirement Act

Subsection (a) of section 5 of the bill contains effective date provisions of the amendments to the Railroad Retirement Act made by the bill. The provisions for increasing retirement and survivor annuities, giving spouses and women employees the right to annuities before age 65 on a reduced basis, and changing the limitation on work outside the United States by survivor beneficiaries, are to become effective with respect to annuities accruing for months which begin on or after the "effective date" (secs. 1(a), 1(c), 1(d), 1(e), 2(a), 2(c), and 3).

The increase in pensions paid under section 6 of the Railroad Retirement Act would become effective with respect to pensions due in calendar months which begin after the "effective date" (sec. 4 of the bill). The increase in joint and survivor annuities and survivor annuities deriving from joint and survivor annuities awarded before the effective date of this act, and all annuities under the Railroad Retirement Act of 1935, would become effective with respect to annuities accruing for months which begin on or after the "effective date" (sec. 4 of the bill). The amendment to section 2(d) of the act with respect to work restrictions on disability annuities would become effective with respect to annuities accruing during calendar years which begin after the "effective date." The amendments relative to the residual and insurance lump-sum benefits would become effective with respect to deaths occurring on or after the "effective date" (sec. 3(a) and 3(f) of the bill). The amendment relative to deduction from survivor annuities because of work outside the United States would become effective with respect to such annuities accruing for months which begin on or after the "effective date" (sec. 3(c) of the bill).

Subsection (b) of section 5 would provide that all recertifications required by reason of the amendments to the Railroad Retirement Act proposed by the bill would be made by the Railroad Retirement Board without application therefor.

PART II. AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

Section 201. Increasing the tax rate and the compensation base

Section 201 of the bill proposes to increase the tax rate and the compensation base to which the tax rate applies for the purpose of making additional funds available to the railroad retirement account

to cover the added costs of the benefits proposed by the bill as well as to cover the existing deficiency in the account, thereby placing the railroad retirement system in a sound financial condition.

Subsections (a), (b), (c), and (d) of section 201 of the bill would amend sections 3201, 3202(a), 3211, and 3221 of the Railroad Retirement Tax Act to provide that the rate of tax to be paid by the employee (and the tax withholding from his compensation) and by the employer on compensation paid to such employee and by an employee representative would be applicable to compensation not in excess of \$400 for any calendar month effective with respect to compensation paid for service rendered on or after the effective date of this act, which is the first day of the first calendar month which begins more than 45 days after the date of enactment. The existing tax rate for employees and for employers is $6\frac{1}{4}$ percent applicable to monthly compensation not in excess of \$350.

Subsections (a) and (d) of section 201 of the bill would amend sections 3201 and 3221 of the Railroad Retirement Tax Act by increasing the tax rate, on both employees and employers, to $6\frac{1}{4}$ percent of compensation paid for services rendered on or after the effective date and before January 1, 1962, and to $7\frac{1}{4}$ percent of compensation paid for services rendered after December 31, 1961. The rate would be increased further with respect to compensation after 1964 by a number of percentage points equal at any given time to the number of percentage points by which the rate of tax under the Federal Insurance Contributions Act (for social security purposes) at that time exceeds the 2½-percent rate provided by paragraph (2) of sections 3101 and 3111 of the Federal Insurance Contributions Act as amended by the Social Security Amendments of 1956.

The rates provided by paragraph 2 of sections 3101 and 3111 of the Federal Insurance Contributions Act, as amended in 1956, were changed in 1958 but, as indicated, the amendment of the reported bill relates to the rates under paragraph (2) of sections 3101 and 3111 of the Federal Insurance Contributions Act, as amended in 1956.

Under present law the schedule of employee and employer taxes under the Federal Insurance Contributions Act (as amended in 1958) after 1964 is $3\frac{1}{2}$ percent for the calendar year 1965, 4 percent for calendar years 1966 to 1968, inclusive, and $4\frac{1}{2}$ percent after 1968. Thus, under the amendment proposed by the reported bill, if the rate under the Federal Insurance Contributions Act is increased as scheduled, the rate under the Railroad Retirement Tax Act for both employees and employers would be increased without further legislation from $7\frac{1}{4}$ percent to 8 percent for the calendar year 1965 to $8\frac{1}{2}$ percent for the calendar years 1966-68 and to 9 percent for 1969 and thereafter. It should be observed that the rate under the Railroad Retirement Tax Act would increase only if, and to the extent that, the rate of tax under the Federal Insurance Contributions Act increases above 2½ percent as was scheduled by the Social Security Amendments of 1956.

The provisions for increasing the tax rate under the Railroad Retirement Tax Act in accordance with the schedule of tax increases provided for by the Federal Insurance Contributions Act are essential. If taxes to support the social security system are increased as scheduled the relative position of the railroad retirement system under the "financial interchange" provisions would be jeopardized unless similar increases in tax rates were made in the Railroad Retirement Tax Act. The additional revenue to be produced by the contingent

increase in the rate under the Railroad Retirement Tax Act would be needed to compensate for the increased obligation under the financial interchange provision.

Subsection (c) of section 201 of the bill would amend section 3211 of the Railroad Retirement Tax Act to provide that the tax rate payable by an employee representative on his compensation as an employee representative shall be 13½ percent of such compensation not in excess of \$400 a calendar month for services rendered on or after the effective date of this act and before January 1, 1962, and 14½ percent of his compensation for services rendered after 1961.

Under the amendment proposed by subsection (c) of section 201 of the bill the tax rate on employee representatives would further be increased by twice the amount of the increase in the tax rate under the Federal Insurance Contributions Act. The tax rate under the Railroad Retirement Tax Act would increase to 16 percent after 1964 if the employee tax rate under the Federal Insurance Contributions Act is increased beyond 2¾ percent and the tax rate for employee representatives would be further increased depending on changes in the tax for social security purposes.

Section 202 of the bill would make the amendments to the Railroad Retirement Tax Act effective, except as otherwise provided in such amendments, with respect to compensation paid for services rendered on or after the effective date of this act, which is the first day of the first calendar month which begins more than 45 days after the date of enactment of this act.

PART III. AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Section 301. Increasing the compensation base

Section 301 of the bill would amend section 1(i) of the Railroad Unemployment Insurance Act to provide that up to \$400 of compensation paid to an employee in a calendar month which begins on or after the effective date of enactment of this act, shall be recognized and thus taken into account in computing benefits under such act. The present limit on monthly compensation is \$350.

Section 302. Increasing the amount of daily benefits and the amount of compensation in the base year required to qualify for benefits

Section 302(a) of the bill would amend section 2(a) of the Railroad Unemployment Insurance Act in the following respects:

It would provide a new schedule of daily benefit rates in connection with the various ranges of compensation in the base year. Under this schedule the number of base-year earnings for which different daily benefit rates apply would be increased from 11 to 12. The new schedule of daily benefit rates would start with a minimum of \$4.50 per day for base (calendar) year earnings of \$500 to \$699.99. The maximum daily benefit rate would be \$10.20 for base (calendar) year earnings of \$4,000 or more.

Subsection (b) of section 302 of the bill would further amend section 2(a) of the act by providing that the minimum daily benefit rate payable to an employee shall not be less than an amount equal to 60 percent of his daily rate of compensation for his last employment in which he was engaged for an employer during the base (calendar) year, up to a maximum rate of \$10.20 per day.

Section 303. Temporary extension of unemployment benefits

Section 303(a) of the bill provides for a temporary extension of unemployment benefits for railroad employees who have exhausted their rights to such benefits under present law. Specifically an employee, as defined in section 1(d) of the Railroad Unemployment Insurance Act, who has, after June 30, 1957, exhausted (in accordance with the meaning of that term as prescribed by the Railroad Retirement Board by regulations) his rights to unemployment benefits under provisions of the Railroad Unemployment Insurance Act, would be paid unemployment benefits for as many as 65 additional days of unemployment, but not more, occurring in registration periods beginning on or after June 19, 1958, and before April 1, 1959. Such additional benefits would not be payable, however, for days of unemployment for which the unemployed man could receive payment otherwise under the Railroad Unemployment Insurance Act, or under any other Federal unemployment system or State system, including the Temporary Unemployment Compensation Act of 1958. The benefits would be payable at the rate otherwise payable to the employee in the benefit year in which the unemployment occurred for which the bill would provide benefits. If such unemployment occurred in a benefit year succeeding that in which the employee had exhausted his rights to normal unemployment benefits, and in that benefit year he would not otherwise be a qualified employee to receive normal benefits, the temporary benefits would be paid at the rate last payable to him. The limitation on the number of compensable days of unemployment in the benefit year, including not only the provision for a maximum of 130 days in a benefit year but the restriction on the amount of benefits in a benefit year to the employee's compensation in a base year, would not be applicable to prevent payment for as much as 65 more days of unemployment in the benefit year than otherwise might be paid. The bill would, however, bar the unemployed worker from receiving both the special temporary benefits provided by the bill and the Temporary Unemployment Compensation Act of 1958 by making the benefits not payable under the one system if the worker had registered for, and established a claim to, benefits under the other.

The last sentence of subsection (a) of section 303 of the bill would provide that, except as the provisions of this subsection would provide differently, such as for paying for 65 more days of unemployment (in registration periods beginning before April 1, 1959) than would otherwise be payable under the restrictions of section 2(c) of the Railroad Unemployment Insurance Act, the other provisions of the Railroad Unemployment Insurance Act would apply in administering the provisions of this subsection granting temporary additional unemployment benefits. Also, this sentence would confirm what is implicit in subsection (b) itself that the temporary unemployment benefits payable for days in either the benefit year beginning July 1, 1957, or that beginning July 1, 1958, would be paid at the rate applicable in the benefit year in which the unemployed man exhausted his rights and for which he was otherwise a qualified employee. For example, the man who exhausted his regular benefit rights in January 1958, would receive his unemployment benefits at the rate payable for the benefit year beginning July 1, 1957 (the year in which he exhausted his rights), but, of course, under the terms of the bill, he could be paid in that benefit year only for days in registration periods beginning on or after

June 19, 1958, and before July 1, 1958. If he was a "qualified" employee for the benefit year beginning July 1, 1958, and exhausted his rights in that benefit year, then under the provisions of this subsection his benefit rate for the temporary additional benefits would be at the regularly established rate for the current benefit year; that is, the benefit year beginning July 1, 1958. If the employee was not a "qualified" employee for the benefit year beginning July 1, 1958, the temporary unemployment benefits would be payable to him, nevertheless, but only at the rates for the preceding benefit year—that is, the benefit year beginning July 1, 1957—in which he was a "qualified" employee and had exhausted his rights.

Subsection (b) of section 303 would provide for the interchange of information between the Secretary of Labor and the Railroad Retirement Board necessary for the administration of the provisions of subsection (a) of section 303 and the Temporary Unemployment Compensation Act of 1958.

Subsection (c) of section 303 of the bill provides that this section shall take effect on the date of enactment of this act.

Section 304. Increasing the minimum compensation required in the base year to qualify for benefits

Section 304 of the bill would amend section 3 of the Railroad Unemployment Insurance Act to provide that an employee is not qualified for benefits under this law unless his compensation in the "base year" was \$500 or more.

Section 305. Eliminating the restriction on Sundays and holidays as days of unemployment, and providing disqualification for certain discharge and suspension cases and adding to disqualification periods

Subsection (a) of section 305 of the bill would amend section 4(a-2) of the Railroad Unemployment Insurance Act by striking subdivision (iv) under which Sundays and holidays, unless preceded and succeeded by a day of unemployment, are not considered as days of unemployment. As a result of this amendment, Sundays and holidays could be compensable days of unemployment just as any other day but, of course, no payment would be made for the registration period unless the employee had more than 4 days of unemployment in the period (or 7 days in a first registration period). Subsection (a) would substitute for the repealed provision (sec. 4(a-2)(iv)) a provision disqualifying an employee to receive unemployment benefits who, the Board finds, has been discharged or suspended for misconduct related to his work. In the case of discharge the disqualification would end after he has later been in covered railroad service for compensation for 20 days, and in the case of suspension the disqualification would end when the period of suspension ends.

Subsection (b) would amend subdivisions (i) and (ii) of section 4(a-2) of the Railroad Unemployment Insurance Act to change the disqualification for leaving work voluntarily without good cause and failure (without good cause) to accept suitable work available and offered to him, or to comply with instructions from the Board to apply for suitable work or to report to an employment office, from a period of 30 days to such time as the employee has later earned compensation in covered railroad work in each of 20 days.

Section 306. Eliminating all provisions for maternity benefits, as such

Section 306 of the reported bill would, by subsections (a), (b), (c), (d), (e), (f), and (g), eliminate all present provisions of the Railroad Unemployment Insurance Act for payment of benefits for maternity. The effect would be that female employees would not be eligible for benefits by reason of maternity, as such, but they could, although pregnant or having given birth to a child, receive sickness benefits to the extent they meet otherwise the conditions specified in the Railroad Unemployment Insurance Act for such benefits.

Section 307. Adding disqualifications for sickness benefits under certain conditions

Subsection (a) of section 307 of the bill would add provisions to prevent the payment of sickness benefits for any day beginning with the day that an employee left work voluntarily without good cause, and ending with the 20th later day in which the employee had performed railroad work for compensation. The subsection would add a like disqualification against sickness benefits for failing, without good cause, to accept suitable work available and offered to him, or to comply with instructions from the Railroad Retirement Board to apply for suitable work or to report to an employment office. This subsection also provides that no day is a day of sickness if, but for such sickness, the employee would be unemployed because of a wildcat, or illegal, strike, except that this strike disqualification would not apply if an employee is not participating in, directly interested in, or helping finance the strike and he does not belong to a grade or class of which some members are participating, interested in, or helping to finance the strike. A further disqualification would prevent payment of sickness benefits following 90 days after an employee last had covered railroad work, not counting in this 90-day period any day on which he was disqualified for participating in an illegal or "wildcat" strike, and any day in a registration period for unemployment or sickness beginning before such 90th day, or in a series of such periods (not separated by more than 10 days), beginning before such day.

Subsections (b), (c), and (d) of section 307 would provide for technical changes made necessary by the amendments contained in subsection (a).

Subsection (e) of section 307 would amend section 2(a) of the Railroad Unemployment Insurance Act to provide that in a first registration period in a benefit year the waiting period for sickness benefits would be extended to 9 days, which would cause the number of days of sickness in a first registration period for which benefits could be received to be reduced from 7 to 5. The subsection would further prevent payment of any sickness benefits for days in a subsequent registration period (otherwise payable after a waiting period of 4 days) by requiring that the employee have had in that registration period or in the next preceding 14 days not less than 7 days of sickness or unemployment, or both.

Subsection (f) of section 307 would amend section 1(k)(2) of the Railroad Unemployment Insurance Act to require for a day of sickness to be counted as such that the employee be available for work but for his sickness.

Section 308. Increasing the compensation base for contributions and increasing the rate of contributions

Section 308 of the bill would amend section 8(a) of the Railroad Unemployment Insurance Act by increasing to \$400 the maximum amount of an employee's compensation paid in any calendar month beginning on or after the "effective date," respecting which an employer must pay contributions.

This section would further amend section 8(a) of the Railroad Unemployment Insurance Act to increase the scheduled rates of contributions required of employers with respect to compensation paid after the "effective date." These rates vary according to the amount of the balance in the railroad unemployment insurance account as of September 30 in the preceding year. At the present time, the highest tax rate is 3 percent, which is applicable during the next succeeding calendar year when the balance in the account on September 30 of any year is less than \$250 million. This highest rate would be raised by the bill to 3½ percent, and this rate would be applicable during the next succeeding calendar year when the balance on September 30 of any year is less than \$300 million. The applicable rate would, as at present, decrease by steps of one-half of 1 percentage point as the balance in the fund increases, until the contribution rate would become 1½ percent when the balance in the account is \$450 million or more.

Since the change in the contribution scale would be effective with respect to compensation paid for months beginning on or after the "effective date," the determination by the Board as of September 30, 1958, of the amount to the credit of the railroad unemployment insurance account would affect the contribution rate to be paid by employers pursuant to the scale that the bill would establish. Accordingly and since the Board has determined that such balance was less than \$300 million, the contribution rate would, under the bill, go to 3½ percent on compensation paid after the "effective date" for services rendered after such date. For the period before the "effective date" the old scale of rates would apply; that is, the 3-percent rate.

Section 309. Increase in contribution rate of an employee representative and the compensation to which the rate applies

Section 309 of the bill would amend section 8(b) of the Railroad Unemployment Insurance Act to increase the contribution rate required of an employee representative from 3 to 3½ percent of compensation, and to increase to \$400 the maximum amount of compensation for calendar months beginning on or after the effective date to which the rate applies.

Section 310. Providing the Railroad Retirement Board authority to borrow from the railroad retirement account for purposes of the Railroad Unemployment Insurance Act

Subsection (a) of section 310 of the bill would eliminate an obsolete provision of the Railroad Unemployment Insurance Act having no effect after January 1, 1941, and include a provision that when the Railroad Retirement Board finds that the balance in the railroad

unemployment insurance account will be insufficient to pay the benefits or refunds that it estimates are due or will become due under the unemployment insurance act, it is to request the Secretary of the Treasury to transfer, and the Secretary is to transfer, such funds, as the Board finds are needed, from the railroad retirement account in the Treasury to the railroad unemployment insurance account. This transfer is to be solely on a loan or reimbursable basis with interest at the rate of 3 percent per annum and such borrowed funds are to be returned to the railroad retirement account whenever, and in such amounts, as the Railroad Retirement Board determines they are not needed for purposes of the unemployment insurance system. The bill would provide further that in determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a)(2) of the Railroad Unemployment Insurance Act, all funds borrowed from the railroad retirement account which have not been returned, plus accrued and untransferred interest, are to be disregarded.

Subsection (b) of section 310 would make the borrowing authority provision effective on enactment of the bill.

Section 311. Providing effective dates for amendments

Section 311 of the bill would make the provisions of the bill for increasing benefit rates and for adding and extending disqualifications against receipt of unemployment and sickness benefits to be effective with respect to benefits accruing for registration periods which begin after the "effective date." The section also would make the provision increasing the amount of compensation in a "base year" which "qualifies" an employee for benefits in the related "benefit year" to be effective for "base years" ending on or after December 31 of the year before the bill is enacted, but only with respect to registration periods which begin on or after the "effective date." Further, the section would make the provision eliminating maternity benefits (as such) effective as of the "effective date," except that benefits may be paid for any maternity period established before the "effective date" and extending beyond that date. In addition the section would provide for the change in the contribution schedule of rates for employers and the increase in contribution rate for employee representatives to be effective with respect to compensation earned on and after the "effective date." In view of these provisions, and the determination of the Railroad Retirement Board as of September 30, 1958, that the amount in the railroad unemployment insurance account was \$300 million the contribution rate for compensation earned before the "effective date" would be 3 percent (provided by the present scale) and for compensation earned in months beginning on or after the "effective date" would be 3½ percent.

Section 401. Effective date

Section 401 would provide that except as otherwise provided the Act shall take effect on the first day of the first calendar month which begins more than 45 days after the date of enactment of the bill.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

THE RAILROAD RETIREMENT ACT OF 1937, AS AMENDED

* * * * *

ANNUITIES

SEC. 2. (a) The following-described individuals, if they shall have been employees on or after the enactment date, and shall have completed ten years of service, shall, subject to the conditions set forth in subsections (b), (c), and (d), be eligible for annuities after they shall have ceased to render compensated service to any person, whether or not an employer as defined in section 1(a) (but with the right to engage in other employment to the extent not prohibited by subsection (d)):

1. Individuals who on or after the enactment date shall be sixty-five years of age or over.

2. Women who will have attained the age of sixty and will have completed thirty years of service.

3. **[**Individuals who will have attained the age of sixty and will have completed thirty years of service, but the annuity of such an individual shall be reduced by one one-hundred and eightieth for each calendar month that he is under age sixty-five when his annuity begins to accrue.**]** *Individuals who will have attained the age of sixty and will have completed thirty years of service or, in the case of women, who will have attained the age of sixty-two and will have completed less than thirty years of service, but the annuity of such individual shall be reduced by one one-hundred-and-eightieth for each calendar month that he or she is under age sixty-five when the annuity begins to accrue.*

4. Individuals having a current connection with the railroad industry, and whose permanent physical or mental condition is such as to be disabling for work in their regular occupation, and who (i) will have completed twenty years of service or (ii) will have attained the age of sixty. The Board, with the cooperation of employers and employees, shall secure the establishment of standards determining the physical and mental conditions which permanently disqualify employees for work in the several occupations in the railroad industry, and the Board, employers, and employees shall cooperate in the promotion of the greatest practicable degree of uniformity in the standards applied by the several employers. An individual's condition shall be deemed to be disabling for work in his regular occupation if he will have been disqualified by his employer because of disability for service in his regular occupation in accordance with the applicable standards so established; if the employee will not have been so disqualified by his employer, the Board shall determine whether his condition is disabling for work in his regular occupation in accordance with the standards generally established; and, if the employee's regular occupation is not one with respect to which standards will have been

established, the standards relating to a reasonably comparable occupation shall be used. If there is no such comparable occupation, the Board shall determine whether the employee's condition is disabling for work in his regular occupation by determining whether under the practices generally prevailing in industries in which such occupation exists such condition is a permanent disqualification for work in such occupation. For the purposes of this section, an employee's "regular occupation" shall be deemed to be the occupation in which he will have been engaged in more calendar months than the calendar months in which he will have been engaged in any other occupation during the last preceding five calendar years, whether or not consecutive, in each of which years he will have earned wages or salary, except that, if an employee establishes that during the last fifteen consecutive calendar years he will have been engaged in another occupation in one-half or more of all the months in which he will have earned wages or salary, he may claim such other occupation as his regular occupation; or

5. Individuals whose permanent physical or mental condition is such that they are unable to engage in any regular employment.

Such satisfactory proof shall be made from time to time as prescribed by the Board, of the disability provided for in paragraph 4 or 5 and of the continuance of such disability (according to the standards applied in the establishment of such disability) until the employee attains the age of sixty-five. If the individual fails to comply with the requirements prescribed by the Board as to proof of the continuance of the disability until he attains the age of sixty-five years, his right to an annuity by reason of such disability shall, except for good cause shown to the Board, cease, but without prejudice to his rights to any subsequent annuity to which he may be entitled. If before attaining the age of sixty-five an employee in receipt of an annuity under paragraphs 4 or 5 is found by the Board to be no longer disabled as provided in said paragraphs his annuity shall cease upon the last day of the month in which he ceases to be so disabled. If after cessation of his disability annuity the employee will have acquired additional years of service, such additional years of service may be credited to him with the same effect as if no annuity had previously been awarded to him.

(b) An annuity shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person by whom he was last employed; but this requirement shall not apply to the individuals mentioned in subdivision 4 and subdivision 5 of subsection (a) prior to attaining age sixty-five.

(c) An annuity shall begin to accrue as of a date to be specified in a written application (to be made in such manner and form as may be prescribed by the Board and to be signed by the individual entitled thereto), but—

(1) not before the date following the last day of compensated service of the applicant, and

(2) not more than twelve months before the filing of the application.

(d) No annuity shall be paid with respect to any month in which an individual in receipt of an annuity hereunder shall render compensated service to an employer or to the last person by whom he was employed prior to the date on which the annuity began to accrue.

Individuals receiving annuities shall report to the Board immediately all such compensated service. No annuity under paragraph 4 or 5 of subsection (a) of this section shall be paid to an individual with respect to any month in which the individual is under age sixty-five and is paid more than \$100 in earnings from employment or self-employment of any form: *Provided*, That for purposes of this paragraph, if a payment in any one calendar month is for accruals in more than one calendar month, such payment shall be deemed to have been paid in each of the months in which accrued to the extent accrued in such month. Any such individual under the age of sixty-five shall report to the Board any such payment of earnings for such employment or self-employment before receipt and acceptance of an annuity for the second month following the month of such payment. A deduction shall be imposed, with respect to any such individual who fails to make such report, in the annuity or annuities otherwise due the individual, in an amount equal to the amount of the annuity for each month in which he is paid such earnings in such employment or self-employment, except that the first deduction imposed pursuant to this sentence shall in no case exceed an amount equal to the amount of the annuity otherwise due for the first month with respect to which the deduction is imposed. *If pursuant to the third sentence of this subsection an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in the first sentence of this subsection) did not exceed \$1,200, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the fifth sentence of this subsection, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in the first sentence of this subsection) is in excess of \$1,200, the number of months in such year with respect to which an annuity is not payable by reason of such third and fifth sentences shall not exceed one month for each \$100 of such excess, treating the last \$50 or more of such excess as \$100; and if the amount of the annuity has changed during such year, any payments of annuity which become payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.*

(e) SPOUSE'S ANNUITY.—The spouse of an individual, if—

(i) such individual has been awarded an annuity under subsection (a) or a pension under section 6 and has attained the age of 65, and

(ii) such spouse has attained the age of 65 or in the case of a wife, has in her care (individually or jointly with her husband) a child who, if her husband were then to die, would be entitled to a child's annuity under subsection (c) of section 5 of this Act, shall be entitled to a spouse's annuity equal to one-half of such individual's annuity or pension, but not more, with respect to any month, [than an amount] *than 110 per centum of an amount* equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time: *Provided, however*, That if the annuity of the individual is awarded under paragraph 3

of subsection (a), the spouse's annuity shall be computed or recomputed as though such individual had been awarded the annuity to which he would have been entitled under paragraph 1 of said subsection: *Provided further*, That, if the annuity of the individual is awarded pursuant to a joint and survivor election, the spouse's annuity shall be computed or recomputed as though such individual had not made a joint and survivor election: *And provided further*, That any spouse's annuity shall be reduced by the amount of any annuity and the amount of any monthly insurance benefit, other than a wife's or husband's insurance benefit, to which such spouse is entitled, or on proper application would be entitled, under subsection (a) of this section or subsection (d) of section 5 of this Act or section 202 of the Social Security Act; except that if such spouse is disentitled to a wife's or husband's insurance benefit, or has had such benefit reduced, by reason of subsection (k) of section 202 of the Social Security Act, the reduction pursuant to this third proviso shall be only in the amount by which such spouse's monthly insurance benefit under said Act exceeds the wife's or husband's insurance benefit to which such spouse would have been entitled under that Act but for said subsection (k).

(f) For the purposes of this Act, the term "spouse" shall mean the wife or husband of a retirement annuitant or pensioner who (i) was married to such annuitant or pensioner for a period of not less than three years immediately preceding the day on which the application for a spouse's annuity is filed, or is the parent of such annuitant's or pensioner's son or daughter, if, as of the day on which the application for a spouse's annuity is filed, such wife or husband and such annuitant or pensioner were members of the same household, or such wife or husband was receiving regular contributions from such annuitant or pensioner toward her or his support, or such annuitant or pensioner has been ordered by any court to contribute to the support of such wife or husband; and (ii) in the case of a husband, was receiving at least one-half of his support from his wife at the time his wife's retirement annuity or pension began.

(g) The spouse's annuity provided in subsection (e) shall, with respect to any month, be subject to the same provisions of subsection (d) as the individual's annuity, and, in addition, the spouse's annuity shall not be payable for any month if the individual's annuity is not payable for such month (or, in the case of a pensioner, would not be payable if the pension were an annuity) by reason of the provisions of said subsection (d). Such spouse's annuity shall cease at the end of the month preceding the month in which (i) the spouse or the individual dies, (ii) the spouse and the individual are absolutely divorced, or (iii), in the case of a wife under age 65 (*other than a wife who is receiving such annuity by reason of an election under subsection (h)*), she no longer has in her care a child who, if her husband were then to die, would be entitled to an annuity under subsection (c) of section 5 of this Act.

(h) *A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue.*

COMPUTATION OF ANNUITIES

SEC. 3. (a) The annuity shall be computed by multiplying an individual's "years of service" by the following percentages of his "monthly compensation": ~~3.04~~ 3.35 per centum of the first \$50; ~~2.28~~ 2.51 per centum of the next \$100; and ~~1.52~~ 1.67 per centum of the next ~~200~~ \$250.

(b) The "years of service" of an individual shall be determined as follows:

(1) In the case of an individual who was an employee on the enactment date, the years of service shall include all his service subsequent to December 31, 1936, and if the total number of such years is less than thirty, then the years of service shall also include his service prior to January 1, 1937, but not so as to make his total years of service exceed thirty: *Provided, however,* That with respect to any such individual who rendered service to any employer after January 1, 1937, and who on the enactment date was not an employee of an employer conducting the principal part of its business in the United States no greater proportion of his service rendered prior to January 1, 1937, shall be included in his "years of service" than the proportion which his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service after January 1, 1937, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service rendered anywhere to an employer after January 1, 1937.

(2) In all other cases, the years of service shall include only the service subsequent to December 31, 1936.

(3) Where the years of service include only part of the service prior to January 1, 1937, the part included shall be taken in reverse order beginning with the last calendar month of such service.

MONTHLY COMPENSATION

(c) The "monthly compensation" shall be the average compensation paid to an employee with respect to calendar months included in his "years of service", except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation paid to an employee with respect to calendar months included in his years of service in the years 1924-1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the forms of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940-August 1941: *Provided, however,* That where service in the period 1924-1931 in the one case, or in the period September 1940-August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid

or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the effective date of the *Railroad Employees Benefits Act of 1959*, or in excess of \$400 for any month which begins on or after such effective date, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. If the "monthly compensation" computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

(d) The annuity of an individual who shall have been an employee representative shall be determined in the same manner and with the same effect as if the employee organization by which he shall have been employed were an employer.

(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, before any reduction pursuant to section 2(a)3, be whichever of the following is the least: (1) ~~[\$4.55]~~ \$5.00 multiplied by the number of his years of service; or (2) ~~[\$75.90]~~ \$83.50; or (3) ~~[his monthly compensation]~~ 110 per centum of his monthly compensation: *Provided, however,* That if for any entire month in which an annuity accrues and is payable under this Act the annuity to which an employee is entitled under this Act (or would have been entitled except for a reduction pursuant to section 2(a)3 or a joint and survivor election), together with his or her spouse's annuity, if any, or the total of survivor annuities under this Act deriving from the same employee, ~~[is less than the amount, or the additional amount]~~ is less than 110 per centum of the amount, or 110 per centum of the additional amount, which would have been payable to all persons for such month under the Social Security Act (deeming completely and partially insured individuals to be fully and currently insured; respectively, individuals entitled to insurance annuities under subsections (a) and (d) of section 5 to have attained age sixty-five, women entitled to spouse's annuities pursuant to elections made under subsection (h) of section 2 to be entitled to wife's insurance benefits determined under section 202(q) of the Social Security Act, and individuals entitled to insurance annuities under subsection (c) of section 5 on the basis of disability to be less than eighteen years of age, and disregarding any possible deductions under subsections (f) and (g)(2) of section 203 of the Social Security Act) if such employee's service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act and quarters of coverage were determined in accordance with section 5(1)(4) of this Act, such annuity or annuities, shall be increased proportionately to a total of ~~[such amount or such additional amount]~~ 110 per centum of such amount or 110 per centum of such additional amount.

For the purposes of this subsection, the Board shall have the same authority to determine a "period of disability" within the meaning of section 216(i) of the Social Security Act, with respect to any em-

ployee who will have filed application therefor and (i) have completed ten years of service or (ii) have been awarded an annuity, as the Secretary of Health, Education, and Welfare would have to determine such a period under such section 216(i) if the employee met the requirements of clauses (A) and (B) of paragraph (3) of such section, considering for purposes of such determination that all his service as an employee after 1936 constitutes "employment" within the meaning of title II of the Social Security Act and determining his quarters of coverage for such purposes by presuming his compensation in a calendar year to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year: *Provided*, That an application for an annuity filed with the Board on the basis of disability shall be deemed to be an application to determine such a period of disability, and such an application filed with the Board on or before the date of the enactment of this paragraph shall, for purposes of this subsection and section 216(i)(4) of the Social Security Act, be deemed filed after December 1954 and before July 1958: *Provided further*, That, notwithstanding any other provision of law, the Board shall have the authority to make such determination on the basis of the records in its possession or evidence otherwise obtained by it, and a determination by the Board with respect to any employee concerning such a "period of disability" shall be deemed a final decision of the Board determining the rights of persons under this Act for purposes of section 11 of this Act. An application filed with the Board pursuant to this paragraph shall be deemed filed as of the same date also with the Secretary of Health, Education, and Welfare for the purpose of determining a "period of disability" under section 216(i) of the Social Security Act.

(f)(1) Annuities under section 2(a) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under section 5(f)(1) for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 5(f)(2).

(2) Insurance annuities under section 5 which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or

brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under section 5(f)(2).

(3) Annuities under section 2(e) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such spouse's annuity derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of paragraph (1) of this subsection as if such annuities were annuities due under section 2(a) to an individual but unpaid at the time of such individual's death.

(4) Applications for accrued and unpaid annuities provided for in paragraphs (1), (2), and (3) of this subsection shall be filed prior to the expiration of two years after the death of the person to whom such annuities were originally due.

(5) For the purposes of this subsection and paragraphs (1) and (2) of section 5(f) of this Act, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216(h)(2) or (3) of the Social Security Act are fulfilled.

(6) If there is no person to whom all or any part of the annuity payments described in paragraph (1), (2), or (3) can be made, such payments or part thereof shall escheat to the credit of the Railroad Retirement Account.

(g) No annuity shall accrue with respect to the calendar month in which an annuitant dies.

(h) If an annuity is less than \$5, it may, in the discretion of the Board, be paid quarterly or in a lump sum equal to its commuted value as determined by the Board.

(i) If the amount of any annuity computed under this section, or under section 2 or section 5, is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10.

* * * * *

ANNUITIES AND LUMP SUMS FOR SURVIVORS

SEC. 5. (a) *Widow's and Widower's Insurance Annuity.*—A widow or widower of a completely insured employee, who will have attained the age of sixty, shall be entitled during the remainder of her or his life or, if she or he remarries, then until remarriage, to an annuity for each month equal to such employee's basic amount: *Provided, however,* That if in the month preceding the employee's death the spouse of such employee was entitled to a spouse's annuity under subsection (e) of section 2 in an amount greater than the widow's or widower's insurance annuity, the widow's or widower's insurance annuity shall be increased to such greater amount.

(b) *Widow's Current Insurance Annuity.*—A widow of a completely or partially insured employee, who is not entitled to an annuity under subsection (a) and who at the time of filing an application for an annuity under this subsection will have in her care a child of such employee entitled to receive an annuity under subsection (c) shall be entitled to an annuity for each month equal to the employee's basic amount. Such annuity shall cease upon her death, upon her remarriage, when she becomes entitled to an annuity under subsection (a), or when no child of the deceased employee is entitled to receive an

annuity under subsection (c), whichever occurs first: *Provided, however*, That if in the month preceding the employee's death the spouse of such employee was entitled to a spouse's annuity under subsection (e) of section 2 in an amount greater than the widow's current insurance annuity, the widow's current insurance annuity shall be increased to such greater amount.

(c) Child's Insurance Annuity.—Every child of an employee who will have died completely or partially insured shall be entitled, for so long as such child lives and meets the qualifications set forth in paragraph (1) of subsection (1), to an annuity for each month equal to two-thirds of the employee's basic amount.

(d) Parent's Insurance Annuity.—Each parent, sixty years of age or over, of a completely insured employee, who will have died leaving no widow, no widower, and no child, shall be entitled, for life, or, if such parent remarries after the employee's death, then until such remarriage, to an annuity for each month equal to two-thirds of the employee's basic amount.

(e) When there is more than one employee with respect to whose death a parent or child is entitled to an annuity for a month, such annuity shall be two-thirds of whichever employee's basic amount is greatest.

(f) Lump-sum Payment.—(1) Upon the death, after the month in which this Act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of ten times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such deceased employee. If a lump sum would be payable to a widow or widower under this paragraph except for the fact that a survivor will have been entitled to receive an annuity for the month in which the employee will have died, but within one year after the employee's death there will not have accrued to survivors of the employee, by reason of his death annuities which, after all deductions pursuant to paragraph (1) of subsection (i) will have been made, are equal to such lump sum, a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section. No payment shall be made to any person under this paragraph, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of the deceased employee, except that if the deceased employee is a person to whom section 2 of the Act of March 7, 1942 (56 Stat. 143, 144), is applicable such two years shall run from the date on which the de-

ceased employee, pursuant to said Act, is determined to be dead, and for all other purposes of this section such employee, so long as it does not appear that he is in fact alive, shall be deemed to have died on the date determined pursuant to said Act to be the date or presumptive date of death.

(2) Whenever it shall appear, with respect to the death of an employee on or after January 1, 1947, that no benefits, or no further benefits, other than benefits payable to a widow, widower, or parent upon attaining age sixty at a future date, will be payable under this section or, pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216(a) of the Social Security Act) at a future date, will be payable under title II of the Social Security Act, as amended, there shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or, if there be no designation, to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

(ii) if there be no such widow or widower, to any child or children of such employee; or

(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee,

a lump sum in an amount equal to the sum of 4 per centum of his or her compensation paid after December 31, 1936, and prior to January 1, 1947, [and 7 per centum of his or her compensation after December 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month before July 1, 1954, and in the latter case in excess of \$350 for any month after June 30, 1954),] *plus 7 per centum of his or her compensation paid after December 31, 1946, and before the effective date of the Railroad Employees Benefits Act of 1959, plus 7½ per centum of his or her compensation paid on or after such effective date and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before such effective date, and in excess of \$400 for any month which begins on or after such effective date),* minus the sum of all benefits paid to him or her, and to others deriving from him or her, during his or her life, or to others by reason of his or her death, under this Act, and pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended: *Provided, however,* That if the employee is survived by a widow, widower, or parent who may upon attaining age sixty be entitled to further benefits under this section, or pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216(a) of the Social Security Act) be entitled to further benefits under title II

of the Social Security Act, as amended, such lump sum shall not be paid unless such widow, widower, or parent makes and files with the Board an irrevocable election, in such form as the Board may prescribe, to have such lump sum paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this section or, pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended. Such election shall be legally effective according to its terms. Nothing in this section shall operate to deprive a widow, widower, or parent making such election of any insurance benefits under title II of the Social Security Act, as amended, to which such widow, widower, or parent would have been entitled had this section not been enacted. The term "benefits" as used in this paragraph includes all annuities payable under this Act, lump sums payable under paragraph (1) of this subsection, and insurance benefits and lump-sum payments under title II of the Social Security Act, as amended, pursuant to subsection (k) of this section, except that the deductions of the benefits which, pursuant to subsection (k)(1) of this section, are paid under title II of the Social Security Act, during the life of the employee to him or to her and to others deriving from him or her, shall be limited to such portions of such benefits as are payable solely by reason of the inclusion of service as an employee in "employment" pursuant to said subsection (k)(1).

(g) Correlation of Payments.—(1) An individual, entitled on applying therefor to receive for a month before January 1, 1947, an insurance benefit under the Social Security Act on the basis of an employee's wages, which benefit is greater in amount than would be an annuity for such individual under this section with respect to the death of such employee, shall not be entitled to such annuity. An individual, entitled on applying therefor to any annuity or lump sum under this section with respect to the death of an employee, shall not be entitled to a lump-sum death payment or, for a month beginning on or after January 1, 1947, to any insurance benefits under the Social Security Act on the basis of the wages of the same employee.

(2) If an individual is entitled to more than one annuity for a month under this section, such individual shall be entitled only to that one of such annuities for a month which is equal to or exceeds any other such annuity.

(3) In the case of any individual receiving or entitled to receive an annuity under this section on the day prior to the date of enactment of the provisions of this paragraph, the application of paragraph (2) of this subsection to such individual shall not operate to reduce the sum of (A) the annuity under this section of such individual, (B) the retirement annuity, if any, of such individual, and (C) the benefits under the Social Security Act which such individual receives or is entitled to receive, to an amount less than such sum was before the enactment of the provisions of this paragraph.

(h) MAXIMUM AND MINIMUM ANNUITY TOTALS.—Whenever according to the provisions of this section as to annuities, payable for a month with respect to the death of an employee, the total of annuities is more than ~~[\$33]~~ \$36.30 and exceeds either (a) ~~[\$176]~~ \$193.60, or (b) an amount equal to two and two-thirds times such employee's basic amount, whichever of such amounts is the lesser, such total of annuities shall, after any deductions under subsection (i), be reduced

to such lesser amount or to ~~[\$33]~~ \$36.30, whichever is greater. Whenever such total of annuities is less than ~~[\$15.40]~~ \$16.95, such total shall, prior to any deductions under subsection (i), be increased to ~~[\$15.40]~~ \$16.95.

(i) DEDUCTIONS FROM ANNUITIES.—(1) Deductions shall be made from any payments under this section to which an individual is entitled, until the total of such deductions equals such individual's annuity or annuities under this section for any month in which such individual—

(i) will have rendered compensated service within or without the United States to an employer;

(ii) will have been under the age of seventy-two and for which month he is charged with any earnings under section 203(e) of the Social Security Act ~~[Or in which month he engaged on seven or more different calendar days in noncovered remunerative activity outside the United States (as defined in section 203(k) of the Social Security Act)]~~ or, *having engaged in any activity outside the United States, would be charged under such section 203(e) with any earnings derived from such activity if it had been an activity within the United States*; and for purposes of this subdivision the Board shall have the authority to make such determinations and such suspensions of payment of benefits in the manner and to the extent that the Secretary of Health, Education, and Welfare would be authorized to do so under section 203(g)(3) of the Social Security Act if the individuals to whom this subdivision applies were entitled to benefits under section 202 of such Act; or

(iii) if a widow otherwise entitled to an annuity under subsection (b) will not have had in her care a child of the deceased employee entitled to receive an annuity under subsection (c);

(2) The total of deductions for all events described in paragraph (1) occurring in the same month shall be limited to the amount of such individual's annuity or annuities for that month. Such individual (or anyone in receipt of an annuity in his behalf) shall report to the Board the occurrence of any event described in paragraph (1).

(3) Deductions shall also be made from any payments under this section with respect to the death of an employee until such deductions total—

(i) any death benefit, paid with respect to the death of such employee, under sections 5 of the Retirement Acts (other than a survivor annuity pursuant to an election); and

(ii) any lump sum paid, with respect to the death of such employee, under title II of the Social Security Act.

(4) The deductions provided in this subsection shall be made in such amounts and at such time or times as the Board shall determine. Decreases or increases in the total of annuities payable for a month with respect to the death of an employee shall be equally apportioned among all annuities in such total. An annuity under this section which is not in excess of \$5 may, in the discretion of the Board, be paid in a lump sum equal to its commuted value as the Board shall determine.

(j) When Annuities Begin and End.—No individual shall be entitled to receive an annuity under this section for any month before January 1, 1947. An application for any payment under this section shall be made and filed in such manner and form as the Board pre-

scribes. An annuity under this section for an individual otherwise entitled thereto shall begin with the month in which eligibility therefor was otherwise acquired, but not earlier than the first day of the twelfth month before the month in which the application was filed. No application for an annuity under this section filed prior to three months before the first month for which the applicant becomes otherwise entitled to receive such annuity shall be accepted. No annuity shall be payable for the month in which the recipient thereof ceases to be qualified therefor.

(k) Provisions for Crediting Railroad Industry Service Under the Social Security Act in Certain Cases.—(1) For the purpose of determining (i) insurance benefits under title II of the Social Security Act to an employee who will have completed less than ten years of service and to others deriving from him or her during his or her life and with respect to his or her death, and lump-sum death payments with respect to the death of such employee, and (ii) insurance benefits with respect to the death of an employee who will have completed ten years of service which would begin to accrue on or after January 1, 1947, and with respect to lump-sum death payments under such title payable in relation to a death of such an employee occurring on or after such date, and for the purposes of sections 203 and 216(i)(3) of that Act, section 15 of the Railroad Retirement Act of 1935, section 210(a)10 of the Social Security Act, and section 17 of this Act shall not operate to exclude from “employment”, under title II of the Social Security Act, service which would otherwise be included in such “employment” but for such sections. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in services as an employee. In the application of the Social Security Act pursuant to this paragraph to service as an employee, all services as defined in section 1(c) of this Act shall be deemed to have been performed within the United States.

(2)(A) The Board and the Secretary of Health, Education, and Welfare shall determine, no later than January 1, 1954, the amount which would place the Federal Old-Age and Survivors Insurance Trust Fund in the same position in which it would have been at the close of the fiscal year ending June 30, 1952, if service as an employee after December 31, 1936, had been included in the term “employment” as defined in the Social Security Act and in the Federal Insurance Contributions Act.

(B) On January 1, 1954, for the fiscal year ending June 30, 1953, and at the close of each fiscal year beginning with the fiscal year ending June 30, 1954, the Board and the Secretary of Health, Education, and Welfare shall determine, and the Board shall certify to the Secretary of the Treasury for transfer from the Railroad Retirement Account (hereafter termed “Retirement Account”) to the Federal Old-Age and Survivors Insurance Trust Fund, interest for such fiscal year at the rate specified in subparagraph (D) on the amount determined under subparagraph (A) less the sum of all offsets made under subparagraph (C)(i).

(C)(i) At the close of the fiscal year ending June 30, 1953, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amount, if any, which if

added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund would place such Fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act. For the purposes of this subparagraph, the amount determined under subparagraph (A), less such offsets as have theretofore been made under this subdivision of this subparagraph, and the amount determined under subparagraph (B) for the fiscal year under consideration shall be deemed to be part of the Federal Old-Age and Survivors Insurance Trust Fund. Such determination shall be made no later than June 15, following the close of the fiscal year. If such amount is to be added to the Federal Old-Age and Survivors Insurance Trust Fund, the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Retirement Account to the Federal Old-Age and Survivors Insurance Trust Fund; if such amount is to be subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Old-Age and Survivors Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest (at the rate determined in subparagraph (D) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification. In the event the Secretary of Health, Education, and Welfare is required under the provisions of this subdivision of this subparagraph to certify to the Secretary of the Treasury an amount to be transferred to the Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund, the Secretary of Health, Education, and Welfare, in lieu of such certification, may offset the amount determined under the first sentence of this subdivision of this subparagraph against the amount determined under subparagraph (A) as diminished by any prior offsets and the offsets shall be made to be effective as of the first day of the fiscal year following the fiscal year under consideration.

(ii) At the close of the fiscal year ending June 30, 1958, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amount, if any, which, if added to or subtracted from the Federal Disability Insurance Trust Fund would place such Fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act. Such determination shall be made no later than June 15, following the close of the fiscal year. If such amount is to be added to the Federal Disability Insurance Trust Fund the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Retirement Account to the Federal Disability Insurance Trust Fund; if such amount is to be subtracted from the Federal Disability Insurance Trust Fund the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Disability Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest

(at the rate determined in subparagraph (D) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification.

(D) For the purposes of subparagraphs (B) and (C) for any fiscal year, the rate of interest to be used shall be equal to the average rate of interest, computed as of May 31 preceding the close of such fiscal year, borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(E) The Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund from the Retirement Account or to the Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as the case may be, such amounts as, from time to time, may be determined by the Board and the Secretary of Health, Education, and Welfare pursuant to the provisions of subparagraphs (B) and (C) of this subsection, and certified by the Board or the Secretary of Health, Education, and Welfare for transfer from the Retirement Account or from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund.

(3) The Board and the Federal Security Administrator shall, upon request, supply each other with certified reports of records of compensation or wages and periods of service, of determinations under section 3(e) of this Act, or section 216(i) of the Social Security Act, of periods of disability within the meaning of such section 216(i), and of other records in their possession or which they may secure, pertinent to the administration of this section, section 3(e) of this Act or title II of the Social Security Act as affected by paragraph (1). Such certified reports shall be conclusive in adjudication as to the matters covered therein (except in the case of a determination of disability under section 216(i) of the Social Security Act): *Provided*, That if the Board or the Federal Security Administrator receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence, such recertification of such report shall be made as, in the judgment of the Board or the Federal Security Administrator, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

(1) Definitions.—For the purposes of this section the term “employee” includes an individual who will have been an “employee”, and—

(1) The qualifications for “widow”, “widower”, “child”, and “parent” shall be except for the purposes of subsection (f) those set forth in section 216 (c), (e), and (g), and section 202(h)(3) of the Social Security Act, respectively; and in addition—

(i) a “widow” or “widower” shall have been living with the employee at the time of the employee’s death; a widower shall have received at least one-half of his support from his wife em-

ployee at the time of her death or he shall have received at least one-half of his support from his wife employee at the time her retirement annuity or pension began.

(ii) a "child" shall have been dependent upon its parent employee at the time of his death; shall not be adopted after such death by other than a stepparent, grandparent, aunt, or uncle; shall be unmarried; and shall be less than eighteen years of age, or shall have a permanent physical or mental condition which is such that he is unable to engage in any regular employment: *Provided*, That such disability began before the child attains age eighteen; and

(iii) "a parent" shall have received, at the time of the death of the employee to whom the relationship of parent is claimed, at least one-half of his support from such employee.

A "widow" or "widower" shall be deemed to have been living with the employee if the conditions set forth in section 216(h) (2) or (3), whichever is applicable, of the Social Security Act, as in effect prior to 1957, are fulfilled. A "child" shall be deemed to have been dependent upon a parent if the conditions set forth in section 202(d) (3), (4), or (5) of the Social Security Act are fulfilled (a partially insured mother being deemed currently insured). In determining for purposes of this section and subsection (f) of section 2 whether an applicant is the wife, husband, widow, widower, child, or parent of an employee as claimed, the rules set forth in section 216(h)(1) of the Social Security Act, as in effect prior to 1957, shall be applied. Such satisfactory proof shall be made from time to time, as prescribed by the Board, of the disability provided in clause (ii) of this paragraph and of the continuance, in accordance with regulations prescribed by the Board, of such disability. If the individual fails to comply with the requirements prescribed by the Board as to the proof of the continuance of the disability his right to an annuity shall, except for good cause shown to the Board, cease;

(2) The term "retirement annuity" shall mean an annuity under section 2 awarded before or after its amendment but not including an annuity to a survivor pursuant to an election of a joint and survivor annuity; and the term "pension" shall mean a pension under section 6;

(3) The term "quarter of coverage" shall mean a compensation quarter of coverage or a wage quarter of coverage, and the term "quarters of coverage" shall mean compensation quarters of coverage, or wage quarters of coverage, or both: *Provided*, That there shall be for a single employee no more than four quarters of coverage for a single calendar year;

(4) The term "compensation quarter of coverage" shall mean any quarter of coverage computed with respect to compensation paid to an employee after 1936 in accordance with the following table:

Months of service in a calendar year	Total compensation paid in the calendar year				
	Less than \$50	\$50 but less than \$100	\$100 but less than \$150	\$150 but less than \$200	\$200 or more
1-3.....	0	1	1	1	1
4-6.....	0	1	2	2	2
7-9.....	0	1	2	3	3
10-12.....	0	1	2	3	4

If upon computation of the compensation quarters of coverage in accordance with the above table an employee is found to lack a completely or partially insured status which he would have if compensation paid in a calendar year were presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee, such presumption shall be made.

(5) The term "wage quarter of coverage" shall mean any quarter of coverage determined in accordance with the provisions of title II of the Social Security Act;

(6) The term "wages" shall mean wages as defined in section 209 of the Social Security Act. In addition, the term shall include (i) "self-employment income" as defined in section 211(b) of the Social Security Act, and (ii) wages deemed to have been paid under section 217 (a) or (e) of the Social Security Act on account of military service which is not creditable under section 4 of this Act. Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act.

(7) An employee will have been "completely insured" if it appears to the satisfaction of the Board that at the time of his death, whether before or after the enactment of this section, he will have completed ten years of service and will have had the qualifications set forth in any one of the following paragraphs;

(i) a current connection with the railroad industry; and a number of quarters of coverage, not less than six, and at least equal to one-half of the number of quarters, elapsing in the period after 1936, or after the quarter in which he will have attained the age of twenty-one, whichever is later, and up to but excluding the quarter in which he will have attained the age of sixty-five years or died, whichever will first have occurred (excluding from the elapsed quarters any quarter which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him); and if the number of such elapsed quarters is an odd number such number shall be reduced by one; or

(ii) a current connection with the railroad industry; and either will have had forty or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act; or

(iii) a pension will have been payable to him; or a retirement annuity based on service of not less than ten years (as computed in awarding the annuity) will have begun to accrue to him before 1948;

(8) An employee will have been "partially insured" at the time of his death, whether before or after the enactment of this section, if it appears to the satisfaction of the Board that he will have completed ten years of service and (i) will have had a current connection with the railroad industry; and (ii) either will have had six or more quarters of coverage in the period ending with the quarter in which he will have died or in which a retirement annuity will have begun to accrue to him and beginning with the third calendar year next preceding the year in which such event occurs, or would be currently insured under title II of the Social Security Act if his service as

an employee after December 31, 1936, were included in the term "employment" as defined in that Act.

(9) An employee's "average monthly remuneration" shall mean the quotient obtained by dividing (A) the sum of (i) the compensation paid to him after 1936 and before the employee's closing date, eliminating any excess over \$300 for any calendar month before July 1, 1954, [and] any excess over \$350 for any calendar month after June 30, 1954, and before the effective date of the *Railroad Employees Benefits Act of 1959*, and any excess over \$400 for any calendar month which begins on or after such effective date, and (ii) if such compensation for any calendar year before 1955 is less than \$3,600 or for any calendar year [after 1954 is less than \$4,200,] after 1954 and before the first day of the calendar year beginning after the effective date of the *Railroad Employees Benefits Act of 1959* is less than \$4,200, or for any calendar year beginning on or after such effective date is less than \$4,800, and the average monthly remuneration computed on compensation alone is less than [\$350] \$400 and the employee has earned in such calendar year "wages" as defined in paragraph (6) hereof, such wages, in an amount not to exceed the difference between the compensation for such year and \$3,600 for years before 1955 [and \$4,200 for years after 1954, by], \$4,200 for years after 1954 and before the calendar year following the effective date of the *Railroad Employees Benefits Act of 1959*, and \$4,800 for years which begin after such effective date, by (B) three times the number of quarters elapsing after 1936 and before the employee's closing date: *Provided*, That for the period prior to and including the calendar year in which he will have attained the age of twenty-two there shall be included in the divisor not more than three times the number of quarters of coverage in such period: *Provided further*, That there shall be excluded from the divisor any calendar quarter which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him. An employee's "closing date" shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest "average monthly remuneration" as defined in the preceding sentence. If the amount of the "average monthly remuneration" as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

With respect to an employee who will have been awarded a retirement annuity, the term "compensation" shall, for the purposes of this paragraph, mean the compensation on which such annuity will have been based;

(10) The term "basic amount" shall mean—

(i) for an employee who will have been partially insured, or completely insured solely by virtue of paragraph (7) (i) or (7) (ii) or both: the sum of (A) [44] 49 per centum of his average monthly remuneration, up to and including \$75; plus (B) [11] 12 per centum of such average monthly remuneration exceeding \$75 and up to and including [\$350] \$400, plus (C) 1 per centum of the sum of (A) plus (B) multiplied by the number of years after 1936 in each of which the compensation, wages, or both, paid to him will have been equal to \$200 or more; if the basic amount, thus

computed, is less than **[\$15.40]** \$16.95 it shall be increased to **[\$15.40]** \$16.95;

(ii) for an employee who will have been completely insured solely by virtue of paragraph (7)(iii): the sum of **[44]** 49 per centum of his monthly compensation if an annuity will have been payable to him, or, if a pension will have been payable to him, **[44]** 49 per centum of the average monthly earnings on which such pension was computed, up to and including \$75, plus **[11]** 12 per centum of such compensation or earnings exceeding \$75 and up to and including \$300. If the average monthly earnings on which a pension payable to him was computed are not ascertainable from the records in the possession of the Board, the amount computed under this subdivision shall be **[\$36.66]** \$40.33, except that if the pension payable to him was less than **[\$27.50]** \$30.25, such amount shall be four-thirds of the amount of the pension or **[\$14.66]** \$16.13, whichever is greater. The term "monthly compensation" shall, for the purposes of this subdivision, mean the monthly compensation used in computing the annuity;

(iii) for an employee who will have been completely insured under paragraph (7)(iii) and either (7)(i) or (7)(ii): the higher of the two amounts computed in accordance with subdivisions (i) and (ii).

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RAILROAD RETIREMENT TAX ACT

Subchapter A—Tax on Employees

Sec. 3201. Rate of tax.

Sec. 3202. Deduction of tax from compensation.

SEC. 3201. RATE OF TAX.

In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to **[6¼]** percent of so much of the compensation paid to such employee after December 31, 1954, for services rendered by him after such date

(1) 6¼ percent of so much of the compensation paid to such employee for services rendered by him on or after the effective date of the Railroad Employees Benefits Act of 1959, and before January 1, 1962, and

(2) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1961, as is not in excess of **[\$350]** \$400 for any calendar month^[.]: *Provided, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.*

SEC. 3202. DEDUCTION OF TAX FROM COMPENSATION.

(a) **REQUIREMENT.**—The tax imposed by section 3201 shall be collected by the employer of the taxpayer by deducting the amount of the tax from the compensation of the employee as and when paid. If an employee is paid compensation [after December 31, 1954] *on or after the effective date of the Railroad Employees Benefits Act of 1959*, by more than one employer for services rendered during any calendar month [after 1954] *which begins on or after such effective date* and the aggregate of such compensation is in excess of [\$350] \$400, the tax to be deducted by each employer other than a subordinate unit of a national railway-labor-organization employer from the compensation paid by him to the employee with respect to such month shall be that proportion of the tax with respect to such compensation paid by all such employers, which the compensation paid by him [after December 31, 1954] *on or after the effective date of the Railroad Employees Benefits Act of 1959*, to the employee for services rendered during such month bears to the total compensation paid by all such employers [after December 31, 1954] *on or after the effective date of the Railroad Employees Benefits Act of 1959*, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than [\$350] \$400, each subordinate unit of a national railway-labor-organization employer shall deduct such proportion of any additional tax as the compensation paid by such employer [after December 31, 1954] *on or after the effective date of the Railroad Employees Benefits Act of 1959*, to such employee for services rendered during such month bears to the total compensation paid by all such employers [after December 31, 1954] *on or after the effective date of the Railroad Employees Benefits Act of 1959*, to such employee for services rendered during such month.

(b) **INDEMNIFICATION OF EMPLOYER.**—Every employer required under subsection (a) to deduct the tax shall be made liable for the payment of such tax and shall not be liable to any person for the amount of any such payment.

Subchapter B—Tax on Employee Representative

Sec. 3211. Rate of tax.

Sec. 3212. Determination of compensation.

SEC. 3211. RATE OF TAX.

In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to [12½ percent of so much of the compensation, paid to such employee representative after December 31, 1954 for services rendered by him after such date]

(1) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him on or after the effective date of the Railroad Employees Benefits Act of 1959, and before January 1, 1962, and

(2) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961,

as is not in excess of ~~[\$350]~~ \$400 for any calendar month~~].~~: *Provided, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.*

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Subchapter C—Tax on Employers

Sec. 3221. Rate of tax.

SEC. 3221. RATE OF TAX.

(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to ~~6~~ $\frac{3}{4}$ percent of so much of the compensation paid by such employer after December 31, 1954 for services rendered to him after December 31, 1954,]—

(1) ~~6~~ $\frac{3}{4}$ percent of so much of the compensation paid by such employer for services rendered to him on or after the effective date of the Railroad Employees Benefits Act of 1959, and before January 1, 1962, and

(2) ~~7~~ $\frac{1}{4}$ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1961,

as is, with respect to any employee for any calendar month, not in excess of ~~[\$350]~~ \$400; except that if an employee is paid compensation ~~[after December 31, 1954]~~ on or after the effective date of the Railroad Employees Benefits Act of 1959, by more than one employer for services rendered during any calendar month ~~[after 1954]~~ which begins on or after such effective date the tax imposed by this section shall apply to not more than ~~[\$350]~~ \$400 of the aggregate compensation paid to such employee by all such employers ~~[after December 31, 1954]~~ on or after the effective date of the Railroad Employees Benefits Act of 1959, for services rendered during such month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him ~~[after December 31, 1954]~~ on or after the effective date of the Railroad Employees Benefits Act of 1959, to the employee for services rendered during such month bears to the total compensation paid by all such employers ~~[after December 31, 1954]~~ on or after the effective date of the Railroad Employees Benefits Act of 1959, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than ~~[\$350]~~ \$400, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional tax as the compensation paid by such employer ~~[after December 31, 1954]~~ on or after the effective date of the Railroad Employees Benefits Act of 1959, to such employee for services rendered during such month bears to the total compensation paid by all such employers ~~[after December 31,~~

1954] on or after the effective date of the Railroad Employees Benefits Act of 1959, to such employee for services rendered during such month.

(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3111 at such time exceeds the rate provided by paragraph (2) of such section 3111 as amended by the Social Security Amendments of 1956.

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RAILROAD UNEMPLOYMENT INSURANCE ACT

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DEFINITIONS

SECTION 1. For the purposes of this Act, except when used in amending the provisions of other Acts—

(a) The term “employer” means any carrier (as defined in subsection (b) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however,* That the term “employer” shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term “employer” shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies, and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and by-laws of such organizations. The term “employer” shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond

the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

(b) The term "carrier" means an express company, sleeping car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

(c) The term "company" includes corporations, associations, and joint-stock companies.

(d) The term "employee" (except when used in phrases establishing a different meaning) means any individual who is or has been (i) in the service of one or more employers for compensation, or (ii) an employee representative. The term "employee" shall include an employee of a local lodge or division defined as an employer in section 1(a) only if he was in the service of a carrier on or after August 29, 1935. The term "employee" includes an officer of an employer.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(e) An individual is in the service of an employer whether his service is rendered within or without the United States if (i) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and (ii) he renders such service for compensation: *Provided, however,* That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if (1) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or (2) the headquarters of such local lodge or division is located in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is representing a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case the Board may prescribe such other formula as it finds to be

equitable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation: *Provided, further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside of the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof.

(f) The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term employer as defined in section 1 (a) who before or after August 29, 1935, was in the service of an employer as defined in section 1(a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(g) The term "employment" means service performed as an employee. For the purposes of determining eligibility for and the amount of benefits and the amount of contributions due pursuant to this Act, employment after June 30, 1940, in the service of a local lodge or division of a railway-labor-organization employer or as an employee representative shall be disregarded. For purposes of determining eligibility for and the amount of benefits and the amount of contributions due pursuant to this Act, employment as a delegate to a national or international convention of a railway labor organization defined as an "employer," in subsection (a) of this section, shall be disregarded if the individual having such employment has not previously rendered service, other than as such a delegate, which may be included in his "years of service" for purposes of the Railroad Retirement Act.

(h) The term "registration period" means, with respect to any employee, the period which begins with the first day for which such employee registers at an employment office in accordance with such regulations as the Board may prescribe, and ends with whichever is the earlier of (i) the thirteenth day thereafter, or (ii) the day immediately preceding the day for which he next registers at a different employment office; and thereafter each period which begins with the first day for which he next registers at an employment office after the end of his last preceding registration period which began with a day for which he registered at an employment office and ends with whichever is the earlier of (i) the thirteenth day thereafter, or (ii) the day immediately preceding the day for which he next registers at a different employment office.

The term "registration period" means also, with respect to any employee, the period which begins with the first day with respect to which a statement of sickness is filed in his behalf in accordance with such regulations as the Board may prescribe, or the first such day after the end of a registration period which will have begun with a day with respect to which a statement of sickness was filed in his behalf, and ends with the thirteenth day thereafter.

(i) The term "compensation" means any form of money remuneration, including pay for time lost but excluding tips, paid for services rendered as an employee to one or more employers, or as an employee representative: *Provided, however, That in computing the compensation paid to any employee with respect to any calendar month before July 1, 1954, no part of any compensation in excess of \$300 shall be recognized, and with respect to any calendar month after June 30, 1954, no part of any compensation in excess of \$350 shall be recognized*: *Provided, however, That in computing the compensation paid to any employee, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the effective date of the Railroad Employees Benefits Act of 1959, or in excess of \$400 for any month which begins on or after such effective date, shall be recognized.* A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost. Compensation earned in any calendar month before 1947 shall be deemed paid in such month regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year shall be deemed to be compensation paid in the calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or, if the employee establishes, subject to the provisions of section 8, the period during which such compensation will have been earned.

(j) The term "remuneration" means pay for services for hire, including pay for time lost, and tips, but pay for time lost shall be deemed earned on the day on which such time is lost. The term "remuneration" includes also earned income other than for services for hire if the accrual thereof in whole or in part is ascertainable with respect to a particular day or particular days. The term "remuneration" does not include (i) the voluntary payment by another, without deduction from the pay of an employee, of any tax or contribution now or hereafter imposed with respect to the remuneration of such employee, or (ii) any money payments received pursuant to any nongovernmental plan for unemployment insurance, maternity insurance, or sickness insurance.

(k) Subject to the provisions of section 4 of this Act, (1) a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him, and (ii) he

has, in accordance with such regulations as the Board may prescribe, registered at an employment office; and (2) a "day of sickness", with respect to any employee, means a calendar day on which because of any physical, mental, psychological, or nervous injury, illness, sickness, or disease he is not able to work *but otherwise would be available for work* [or which is included in a maternity period], and with respect to which (i) no remuneration is payable or accrues to him, and (ii) in accordance with such regulations as the Board may prescribe, a statement of sickness is filed within such reasonable period, not in excess of ten days, as the Board may prescribe: *Provided, however*, That "subsidiary remuneration", as hereinafter defined in this subsection, shall not be considered remuneration for the purpose of this subsection except with respect to an employee whose base-year compensation, exclusive of earnings from the position or occupation in which he earned such subsidiary remuneration, is less than \$400: *Provided, further*, That remuneration for a working day which includes a part of each of two consecutive calendar days shall be deemed to have been earned on the first of such two days, and any individual who takes work for such working day shall not by reason thereof be deemed not available for work on the second of such calendar days: *Provided, further*, That any calendar day on which no remuneration is payable to or accrues to an employee solely because of the application to him of mileage or work restrictions agreed upon in schedule agreements between employers and employees or solely because he is standing by for or laying over between regularly assigned trips or tours of duty shall not be considered either a day of unemployment or a day of sickness.

For the purpose of this subsection, the term "subsidiary remuneration" means, with respect to any employee, remuneration not in excess of an average of \$3 a day for the period with respect to which such remuneration is payable or accrues, if the work from which the remuneration is derived (i) requires substantially less than full time as determined by generally prevailing standards, and (ii) is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation.

(l) The term "benefits" (except in phrases clearly designating other payments) means the money payments payable to an employee as provided in this Act, with respect to his unemployment or sickness.

(l)(1) The term "statement of sickness" means a statement with respect to days of sickness of an [employee, and the term "statement of maternity sickness" means a statement with respect to a maternity period of a female employee, in each case] *employee* executed in such manner and form by an individual duly authorized pursuant to section 12(i) to execute such statements, and filed as the Board may prescribe by regulations.

[(l) (2) the term "maternity period" means the period beginning fifty-seven days prior to the date stated by the doctor of a female employee to be the expected date of the birth of the employee's child and ending with the one hundred and fifteenth day after it begins or with the thirty-first day after the day of the birth of the child, whichever is later.]

(m) The term "benefit year" means the twelve-month period beginning July 1 of any year and ending June 30 of the next year,

except that a registration period beginning in June and ending in July shall be deemed to be in the benefit year ending in such month of June.

(n) The term "base year" means the completed calendar year immediately preceding the beginning of the benefit year.

(o) The term "employment office" means a free employment office operated by the Board, or designated as such by the Board pursuant to section 12(i) of this Act.

(p) The term "account" means the railroad unemployment insurance account established pursuant to section 10 of this Act in the unemployment trust fund.

(q) The term "fund" means the railroad unemployment insurance administration fund, established pursuant to section 11 of this Act in the unemployment trust fund.

(r) The term "Board" means the Railroad Retirement Board.

(s) The term "United States", when used in a geographical sense, means the States, Alaska, Hawaii, and the District of Columbia.

(t) The term "State" means any of the States, Alaska, Hawaii, or the District of Columbia.

(u) Any reference in this Act to any other Act of Congress, including such reference in amendments to other Acts, includes a reference to such other Act as amended from time to time.

BENEFITS

SEC. 2. (a) Benefits shall be payable to any qualified employee (i) for each day of unemployment in excess of seven during the first registration period, within a benefit year, in which he will have had seven or more days of unemployment, and for each day of unemployment in excess of four during any subsequent registration period in the same benefit year, and (ii) for each day of sickness [(other than a day of sickness in a maternity period)] in excess of [seven] *nine* during the first registration period, within a benefit year, in which he will have had [seven] *nine* or more such days of sickness, and for each such day of sickness in excess of four during any subsequent registration period in the same benefit year *if in such subsequent registration period or in the fourteen days immediately prior thereto he had not less than seven days of sickness or unemployment, or both* [, and (iii) for each day of sickness in a maternity period].

The benefits payable to any such employee for each such day of unemployment or sickness shall be the amount appearing in the following table in column II on the line on which, in column I, appears the compensation range containing his total compensation with respect to employment in his base year:

[Column I	Column II
[Total compensation	Daily benefit rate
[\$400 to \$499.99	\$3. 50
\$500 to \$749.99	4. 00
\$750 to \$999.99	4. 50
\$1,000 to \$1,299.99	5. 00
\$1,300 to \$1,599.99	5. 50
\$1,600 to \$1,999.99	6. 00
\$2,000 to \$2,499.99	6. 50
\$2,500 to \$2,999.99	7. 00
\$3,000 to \$3,499.99	7. 50
\$3,500 to \$3,999.99	8. 00
\$4,000 and over	8. 50]

Column I Total compensation	Column II Daily benefit rate
\$500 to \$699.99	\$4. 50
\$700 to \$999.99	5. 00
\$1,000 to \$1,299.99	5. 50
\$1,300 to \$1,599.99	6. 00
\$1,600 to \$1,899.99	6. 50
\$1,900 to \$2,199.99	7. 00
\$2,200 to \$2,499.99	7. 50
\$2,500 to \$2,799.99	8. 00
\$2,800 to \$3,099.99	8. 50
\$3,100 to \$3,499.99	9. 00
\$3,500 to \$3,999.99	9. 50
\$4,000 and over	10. 20

Provided, however, That if the daily benefit rate in column II with respect to any employee is less than an amount equal to [50] 60 per centum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year, such rate shall be increased to such amount but not to exceed [\$8.50] \$10.20 The daily rate of compensation referred to in the last sentence shall be as determined by the Board on the basis of information furnished to the Board by the employee, his employer, or both.

[The amount of benefits payable for the first fourteen days in each maternity period, and for the first fourteen days in a maternity period after the birth of the child, shall be one and one half times the amount otherwise payable under this subsection. Benefits shall not be paid for more than eighty-four days of sickness in a maternity period prior to the birth of the child. Qualification for and rate of benefits for days of sickness in a maternity period shall not be affected by the expiration of the benefit year in which the maternity period will have begun unless in such benefit year the employee will not have been a qualified employee.]

In computing benefits to be paid, days of unemployment shall not be combined with days of sickness in the same registration period.

(b) The benefits provided for in this section shall be paid to an employee at such reasonable intervals as the Board may prescribe.

(c) The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty, and the maximum number of days of sickness [, other than days of sickness in a maternity period,] within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty: *Provided, however,* That the total amount of benefits which may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year; the total amount of benefits which may be paid to an employee for days of sickness [, other than days of sickness in a maternity period,] within a benefit year shall in no case exceed the employee's compensation in the base year [; and the total amount of benefits which may be paid to an employee for days of sickness in a maternity period shall in no case exceed the employee's compensation in the base year on the basis of which the employee was determined to be qualified for benefits in such maternity period] .

(d) If the Board finds that at any time more than the correct amount of benefits has been paid to any individual under this Act or a payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940) recovery by adjust-

ments in subsequent payments to which such individual is entitled under this Act or any other Act administered by the Board may, except as otherwise provided in this subsection, be made under regulations prescribed by the Board. If such individual dies before recovery is completed, recovery may be made by set-off or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this Act or any other Act administered by the Board to the estate, designee, next of kin, legal representative, or surviving spouse of such individual, with respect to the employment of such individual.

Adjustments under this subsection may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case recovery shall be deemed to have been completed upon such recertification.

There shall be no recovery in any case in which more than the correct amount of benefits has been paid to an individual or payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940) who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of this Act or would be against equity or good conscience.

No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under the third paragraph of this subsection or has been begun but cannot be completed under the first paragraph of this subsection.

(c) Notwithstanding any other law of the United States, or of any State, Territory, or the District of Columbia, no benefits shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated.

(f) If (i) benefits are paid to any employee with respect to unemployment or sickness in any registration period, and it is later determined that remuneration is payable to such employee with respect to any period which includes days in such registration period which had been determined to be days of unemployment or sickness, and (ii) the person or company from which such remuneration is payable has, before payment thereof, notice of the payment of benefits upon the basis of days of unemployment or sickness included in such period, the remuneration so payable shall not be reduced by reason of such benefits but the remuneration so payable, to the extent to which benefits were paid upon the basis of days which had been determined to be days of unemployment or sickness and which are included in the period for which such remuneration is payable, shall be held to be a special fund in trust for the Board. The amount of such special fund shall be paid to the Board and in the collection thereof the Board shall have the same authority, and the same penalties shall apply, as are provided in section 8 of this Act with respect to contributions. The proceeds of such special fund shall be credited to the account. Such benefits, to the extent that they are represented

in such a special fund which has been collected by the Board, shall be disregarded for the purposes of subsection (c) of this section.

(g) Benefits accrued to an individual but not yet paid at death shall, upon certification by the Board, be paid, without necessity of filing further claims therefor, to the same individual or individuals to whom any death benefit that may be payable under the provisions of section 5 of the Railroad Retirement Act of 1937 or any accrued annuities under section 3(f) of the Railroad Retirement Act of 1937 are paid; and in the event that no death benefit or accrued annuity is so paid, such benefits accrued under this Act, shall be paid as though this subsection had not been enacted.

QUALIFYING CONDITION

SEC. 3. An employee shall be a "qualified employee" if the Board finds that his compensation will have been not less than ~~[\$400]~~ \$500 with respect to the base year.

DISQUALIFYING CONDITIONS

SEC. 4 (a-1). There shall not be considered as a day of unemployment or as a day of sickness, with respect to any employee—

(i) any of the seventy-five days beginning with the first day of any registration period with respect to which the Board finds that he knowingly made or aided in making or caused to be made any false or fraudulent statement or claim for the purpose of causing benefits to be paid;

(ii) any day in any period with respect to which the Board finds that he is receiving or will have received annuity payments or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, or insurance benefits under title II of the Social Security Act, or unemployment, maternity, or sickness benefits under an unemployment, maternity, or sickness compensation law other than this Act, or any other social insurance payments under any law: *Provided*, That if an employee receives or is held entitled to receive any such payments, other than unemployment, maternity, or sickness payments, with respect to any period which includes days of unemployment or sickness in a registration period, after benefits under this Act for such registration period will have been paid, the amount by which such benefits under this Act will have been increased by including such days as days of unemployment or as days of sickness shall be recoverable by the Board: *Provided further*, That, if that part of any such payment or payments, other than unemployment, maternity, or sickness payments, which is apportionable to such days of unemployment or days of sickness is less in amount than the benefits under this Act which, but for this paragraph, would be payable and not recoverable with respect to such days of unemployment or days of sickness, the preceding provisions of this paragraph shall not apply but such benefits under this Act for such days of unemployment or days of sickness shall be diminished or recoverable in the amount of such part of such other payment or payments;

(a-2) There shall not be considered as a day of unemployment, with respect to any employee—

(i) any of the [thirty] days beginning with the day with respect to which the Board finds that he left work voluntarily without good cause *and ending with the twentieth day thereafter with respect to each of which the Board finds that he shall have earned compensation;*

(ii) any of the [thirty] days beginning with the day with respect to which the Board finds that he failed, without good cause, to accept suitable work available on such day and offered to him, or to comply with instructions from the Board requiring him to apply for suitable work or to report, in person or by mail as the Board may require, to an employment office *and ending with the twentieth day thereafter with respect to each of which the Board finds that he shall have earned compensation;*

(iii) subject to the provisions of subsection (b) of this section, any day with respect to which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, and the Board finds that such strike was commenced in violation of the provisions of the Railway Labor Act or in violation of the established rules and practices of a bona fide labor organization of which he was a member;

[(iv) any day which is a Sunday or which the Board finds is generally observed as a holiday in the locality in which he registered for such day, unless such day was immediately preceded by a day of unemployment and immediately followed by a day of unemployment or was the last day in a registration period and was immediately preceded by a day of unemployment: *Provided*, That if two or more consecutive days are a Sunday and one or more holidays, then with respect to any employee such consecutive days shall not be considered as days of unemployment unless they were immediately preceded by a day of unemployment and immediately followed by a day of unemployment or the last of such days was the last day of a registration period and such days were immediately preceded by a day of unemployment.]

(v) *any of the days beginning with the day with respect to which the Board finds that he was discharged or suspended for misconduct related to his work and ending in cases of discharge with the twentieth day thereafter with respect to each of which the Board finds that he shall have earned compensation, and ending with the last day of the period of suspension in cases of suspension.*

(a-3) There shall not be considered as a day of sickness with respect to any employee—

(i) *any of the days beginning with the day with respect to which the Board finds that he left work voluntarily without good cause and ending with the twentieth day thereafter with respect to each of which the Board finds that he shall have earned compensation;*

(ii) *any of the days beginning with the day with respect to which the Board finds that he failed, without good cause, to accept suitable work available on such day and offered to him, or to comply with instructions from the Board requiring him to apply for suitable work or to report, in person or by mail as the Board may require, to an employment office, and ending with the twentieth day thereafter*

with respect to each of which the Board finds that he shall have earned compensation;

(iii) subject to the provisions of subsection (b) of this section, any day with respect to which the Board finds that, but for sickness, he would be unemployed due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed and the Board finds that such strike was commenced in violation of the provisions of the Railway Labor Act or in violation of the established rules and practices of a bona fide labor organization of which he was a member;

(iv) any day following the expiration of the ninety-one-day period which begins on the last day with respect to which the individual will have earned compensation, excluding from such ninety-one-day period any days occurring therein with respect to which the Board finds he was unemployed due to a stoppage of work described in clause (iii) of this subsection, and excluding any days in any registration period which begins, or in any continuous series of registration periods the first day of which series begins, before the expiration of such ninety-one-day period. For the purposes of this clause, a "registration period" shall be deemed to be continuous with the preceding registration period if established within ten days after the last day of such preceding registration period.

(b) The disqualification provided in section 4 (a-2) (iii) or section 4(a-3) (iii) of this Act shall not apply if the Board finds that—

(i) the employee is not participating in or financing or directly interested in the strike which causes the stoppage of work: *Provided*, That payment of regular union dues shall not be construed to constitute financing a strike or direct interest in a strike within the meaning of this and the following paragraphs; and

(ii) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed in the establishment, premises, or enterprise at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute: *Provided*, That if separate types of work are commonly conducted in separate departments of a single enterprise, each such department shall, for the purposes of this subsection, be deemed to be a separate establishment, enterprise, or other premises.

(c) No work shall be deemed suitable for the purposes of section 4(a-2) (ii) or section 4(a-3)(ii) of this Act, and benefits shall not be denied under this Act to any otherwise qualified employee for refusing to accept work if—

(i) the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(ii) the remuneration, hours, or other conditions of work offered are substantially less favorable to the employee than those prevailing for similar work in the locality, or the rate of remuneration is less than the union wage rate, if any, for similar work in the locality;

(iii) as a condition of being employed he would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(iv) acceptance of the work would require him to engage in activities in violation of law or which, by reason of their being in

violation of reasonable requirements of the constitution, bylaws, or similar regulations of a bona fide labor organization of which he is a member, would subject him to expulsion from such labor organization; or

(v) acceptance of the work would subject him to loss of substantial seniority rights under any collective bargaining agreement between a railway labor organization, organized in accordance with the provisions of the Railway Labor Act, and any other employer.

(d) In determining, within the limitations of section 4(c) of this Act, whether or not any work is suitable for an employee for the purposes of section 4(a-2)(ii) *or section 4(a-3)(i)* of this Act, the Board shall consider, in addition to such other factors as it deems relevant, (i) the current practices recognized by management and labor with respect to such work; (ii) the degree of risk involved to such employee's health, safety, and morals; (iii) his physical fitness and prior training; (iv) his experience and prior earnings; (v) his length of unemployment and prospects for securing work in his customary occupation; and (vi) the distance of the available work from his residence and from his most recent work.

(c) For the purposes of section 4(a-2)(i) *or section 4(a-3)(i)* of this Act, no voluntary leaving of work shall be deemed to have been without good cause if the Board finds that such work would not have been suitable for the purposes of section 4(a-2)(ii) of this Act.

* * * * *

CONTRIBUTIONS

SEC. 8. (a) Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below of so much of the compensation as is not in excess of \$300 for any calendar month paid by him to any employee for services rendered to him after June 30, 1939, and before July 1, 1954, and is not in excess of \$350 for any calendar month paid by him to any employee for services rendered to him after June 30, 1954, and before the effective date of the *Railroad Employees Benefits Act of 1959*, and is not in excess of \$400 for any calendar month paid by him to any employee for services rendered to him on or after such effective date: *Provided, however,* That if compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall apply to not more than \$300 for any month before July 1, 1954, and to not more than \$350 for any month after June 30, 1954, and before the effective date of the *Railroad Employees Benefits Act of 1959*, and to not more than \$400 for any month which begins on or after such effective date, of the aggregate compensation paid to said employee by all said employers with respect to such calendar month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him after December 31, 1946, to the employee for services during any calendar month after 1946 bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month; and in the event that the com-

compensation so paid by such employers to the employee for services rendered during such month is less than \$300 if such month is before July 1, 1954, or less than \$350 if such month is after June 30, 1954, and before the effective date of the Railroad Employees Benefits Act of 1959, or less than \$400 if such month begins on or after such effective date, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional contribution as the compensation paid by such employer after December 31, 1946, to such employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month:

1. With respect to compensation paid prior to January 1, 1948, the rate shall be 3 per centum;

2. With respect to compensation paid after [December 31, 1947] the effective date of the Railroad Employees Benefits Act of 1959, the rate shall be as follows:

If the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30 of any year, as determined by the Board is:	The rate with respect to compensation paid during the next succeeding calendar year shall be:
[\$450,000,000 or more.....	½ percent
\$400,000,000 or more but less than \$450,000,000.....	1 percent
\$350,000,000 or more but less than \$400,000,000.....	1½ percent
\$300,000,000 or more but less than \$350,000,000.....	2 percent
\$250,000,000 or more but less than \$300,000,000.....	2½ percent
Less than \$250,000,000.....	3 percent]
\$450,000,000 or more.....	1½ percent
\$400,000,000 or more but less than \$450,000,000.....	2 percent
\$350,000,000 or more but less than \$400,000,000.....	2½ percent
\$300,000,000 or more but less than \$350,000,000.....	3 percent
Less than \$300,000,000.....	3½ percent

As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30 of such year; and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance to the credit of such account.

(b) Each employee representative shall pay, with respect to his income, a contribution equal to [3 per centum] 3½ per centum of so much of the compensation of such employee representative as is not in excess of \$300 for any calendar month, paid to him for services performed as an employee representative after June 30, 1939, and before July 1, 1954, and as is not in excess of \$350 paid to him for services rendered as an employee representative in any calendar month after June 30, 1954, and before the effective date of the Railroad Employees Benefits Act of 1959, and as is not in excess of \$400 paid to him for services rendered as an employee representative in any calendar month which begins on or after such effective date. The compensation of an employee representative and the contribution with respect thereto shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.

(c) In the payment of any contribution under this Act, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(d) If more or less than the correct amount of the contribution required by this section is paid with respect to any compensation, then, under regulations prescribed under this Act by the Board, proper adjustments with respect to the contribution shall be made, without interest, in connection with subsequent contribution payments made under this Act by the same employer or employee representative.

(e) If more or less than the correct amount of the contribution required by this section is paid with respect to any compensation and the overpayment or underpayment of the contribution cannot be adjusted under subsection (d) of this section, the amount of the overpayment shall be refunded from the account, or the amount of the underpayment shall be collected, in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations of the Board.

(f) The contributions required by this Act shall be collected by the Board and shall be deposited by it with the Secretary of the Treasury of the United States, such part thereof as equals 0.2 per centum of the total compensation on which such contributions are based to be deposited to the credit of the fund and the balance to be deposited to the credit of the account.

(g) The contributions required by this Act shall be collected and paid quarterly or at such other times and in such manner and under such conditions not inconsistent with this Act as may be prescribed by regulations of the Board, and shall not be deducted, in whole or in part, from the compensation of employees in the employer's employ. If a contribution required by this Act is not paid when due, there shall be added to the amount payable (except in the case of adjustments made in accordance with the provisions of this Act) interest at the rate of 1 per centum per month or fraction of a month from the date the contribution became due until paid. Any interest collected pursuant to this subsection shall be credited to the account.

(h) All provisions of law, including penalties, applicable with respect to any tax imposed by section 1800 or 2700 of the Internal Revenue Code, and the provisions of section 3661 of such code, insofar as applicable and not inconsistent with the provisions of this Act, shall be applicable with respect to the contributions required by this Act: *Provided*, That all authority and functions conferred by or pursuant to such provisions upon any officer or employee of the United States, except the authority to institute and prosecute, and the function of instituting and prosecuting, criminal proceedings, shall, with respect to such contributions, be vested in and exercised by the Board or such officers and employees of the Board as it may designate therefor.

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RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

SEC. 10. (a) The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemploy-

ment insurance account. This account shall consist of (i) such part of all contributions collected pursuant to section 8 of this Act as is in excess of 0.2 per centum of the total compensation on which such contributions are based, together with all interest collected pursuant to section 8(g) of this Act; (ii) all amounts transferred or paid into the account pursuant to section 13 or section 14 of this Act; (iii) all additional amounts appropriated to the account in accordance with any provision of this Act or with any provision of law now or hereafter adopted; (iv) a proportionate part of the earnings of the unemployment trust fund, computed in accordance with the provisions of section 904(e) of the Social Security Act; (v) all amounts realized in recoveries for overpayments or erroneous payments of benefits; (vi) all amounts transferred thereto pursuant to section 11 of this Act; (vii) all fines or penalties collected pursuant to the provisions of this Act; and (viii) all amounts credited thereto pursuant to section 2(f) or section 12(g) of this Act. Notwithstanding any other provision of law, all moneys credited to the account shall be mingled and undivided, and are hereby permanently appropriated to the Board to be continuously available to the Board without further appropriation, for the payment of benefits and refunds under this Act, and no part thereof shall lapse at any time, or be carried to the surplus fund or any other fund.

(b) All moneys in the account shall be used solely for the payment of the benefits and refunds provided for by this Act. The Board shall, from time to time, certify to the Secretary of the Treasury the name and address of each person or company entitled to receive benefits or a refund payment under this Act, the amount of such payment, and the time at which it shall be made. Prior to audit or settlement by the General Accounting Office, the Secretary of the Treasury, through the Division of Disbursements of the Treasury Department, shall make payments from the account directly to such person or company of the amount of benefits or refund so certified by the Board: *Provided, however,* That if the Board shall so request, the Secretary of the Treasury, through the Division of Disbursements of the Treasury Department, shall transmit benefits payments to the Board for distribution by it through employment offices or in such other manner as the Board deems proper.

(c) The Board shall include in its annual report to Congress a statement with respect to the status and operation of the account.

[(d) The Secretary of the Treasury is hereby directed to advance to the credit of the account such sums, but not more than \$25,000,000, as the Board requests for the purpose of paying benefits. Such sums shall be repaid from the account on January 1, 1941, or at such earlier time as the Board may, by agreement with the Secretary of the Treasury, determine.]

(d) Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this Act, it shall request the Secretary of the Treasury to transfer from the railroad retirement account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts

transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the railroad retirement account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at the rate of 3 per centum per annum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a)(2) of this Act, any moneys transferred from the railroad retirement account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded.

(e) Section 904(a) of the Social Security Act is hereby amended to read as follows: "There is hereby established in the Treasury of the United States a trust fund to be known as the 'Unemployment Trust Fund,' hereinafter in this title called the 'Fund.' The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account or the railroad unemployment insurance administration fund, or otherwise deposited in or credited to the Fund or any account therein. Such deposit may be made directly with the Secretary of the Treasury or with any Federal Reserve bank or member bank of the Federal Reserve System designated by him for such purpose."

(f) Section 904(e) of the Social Security Act is hereby amended to read as follows: "The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency, the Federal unemployment account, the railroad unemployment insurance account, and the railroad unemployment insurance administration fund, and shall credit quarterly on March 31, June 30, September 30 and December 31, of each year, to each account on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date."

(g) Section 904(f) of the Social Security Act is hereby amended by adding thereto the following sentence: "The Secretary of the Treasury is authorized and directed to make such payments out of the railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment."

* * * * *

DUTIES AND POWERS OF THE BOARD

SEC. 12. (a) For the purpose of any investigation or other proceeding relative to the determination of any right to benefits, or relative to any other matter within its jurisdiction under this Act, the Board shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, documen-

tary or otherwise, that relates to any matter under investigation or in question, before the Board or any member, employee, or representative thereof. Any member of the Board or any of its employees or representatives designated by it may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and production of evidence may be required from any place in the United States or any Territory or possession thereof at any designated place of hearing. All subpoenas may be served and returned by anyone authorized by the Board in the same manner as is now provided by law for the service and return by United States marshals of subpoenas in suits in equity. Such service may also be made by registered mail and in such case the return post-office receipt shall be proof of service. Witnesses summoned in accordance with this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(b) In case of contumacy by, or refusal to obey a subpoena lawfully issued to, any person, the Board may invoke the aid of the district court of the United States or the United States courts of any Territory or possession, where such person is found or resides or is otherwise subject to service of process; or the District Court of the United States for the District of Columbia if the investigation or proceeding is being carried on in the District of Columbia, or the District Court of the United States for the Northern District of Illinois, if the investigation or proceeding is being carried on in the Northern District of Illinois, in requiring the attendance and testimony of witnesses and the production of evidence. Any such court shall issue an order requiring such person to appear before the Board or its specified employee or representative at the place specified in the subpoena of the Board, whether within or without the judicial district of the court, there to produce evidence, if so ordered, or there to give testimony concerning the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. All orders, writs, and processes in any such proceeding may be served in the judicial district of the district court issuing such order, writ, or process, except that the orders, writs, and processes of the District Court of the United States for the District of Columbia or of the District Court of the United States for the Northern District of Illinois in such proceedings may run and be served anywhere in the United States.

(c) No person shall be excused from attending or testifying in obedience to a subpoena issued under this Act or from complying with any subpoena duces tecum issued under this Act, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, but such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(d) Information obtained by the Board in connection with the administration of this Act shall not be revealed or open to inspection

nor be published in any manner revealing an employee's identity: *Provided, however,* That (i) the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this Act; (ii) the Board may disclose such information in cases in which the Board finds that such disclosure is clearly in furtherance of the interest of the employee or his estate; and (iii) any claimant of benefits under this Act shall, upon his request, be supplied with information from the Board's records pertaining to his claim.

(e) The Board shall provide for the certification of claims for benefits and refunds and may arrange total or partial settlements at such times and in such manner as may appear to the Board to be expedient. The Board shall designate and authorize one or more of its employees to sign vouchers for the payment of benefits and refunds under this Act. Each such employee shall give bond, in form and amount fixed by the Board, conditioned upon the faithful performance of his duties. The premiums due on such bonds shall be paid from the fund and deemed to be a part of the expenses of administering this Act.

(f) The Board may cooperate with or enter into agreement with the appropriate agencies charged with the administration of State, Territorial, Federal, or foreign unemployment-compensation, sickness, or maternity laws or employment offices, with respect to investigations, the exchange of information and services, the establishment, maintenance, and use of free employment service facilities, and such other matters as the Board deems expedient in connection with the administration of this Act, and may compensate any such agency for services or facilities supplied to the Board in connection with the administration of this Act. The Board may enter also into agreements with any such agency, pursuant to which any unemployment, sickness, or maternity benefits provided for by this Act or any other unemployment-compensation, sickness, or maternity law, may be paid through a single agency to persons who have, during the period on the basis of which eligibility for and duration of benefits is determined under the law administered by such agency or under this Act, or both, performed services covered by one or more of such laws, or performed services which constitute employment as defined in this Act: *Provided* That the Board finds that any such agreement is fair and reasonable as to all affected interests.

(g) In determining whether an employee has qualified for benefits in accordance with section 3(a) of this Act, and in determining the amounts of benefits to be paid to such employee in accordance with sections 2(a) and 2(c) of this Act, the Board is authorized to consider as employment (and compensation therefor) services for hire other than employment (and remuneration therefor) if such services for hire are subject to an unemployment, sickness, or maternity compensation law of any State, provided that such State has agreed to reimburse the United States such portion of the benefits to be paid upon such basis to such employee as the Board deems equitable. Any amounts collected pursuant to this paragraph shall be credited to the account.

If a State, in determining whether an employee is eligible for unemployment, sickness, or maternity benefits under an unemployment, sickness, or maternity compensation law of such State, and in deter-

mining the amount of unemployment, sickness, or maternity benefits to be paid to such employee pursuant to such unemployment, sickness, or maternity compensation law, considers as services for hire (and remuneration therefor) included within the provisions of such unemployment, sickness, or maternity compensation law, employment (and compensation therefor), the Board is authorized to reimburse such State such portion of such unemployment, sickness, or maternity benefits as the Board deems equitable; such reimbursements shall be paid from the account, and are included within the meaning of the word "benefits" as used in this Act.

(h) The Board may enter into agreements or arrangements with employers, organizations of employers, and railway-labor organizations which are duly organized in accordance with the provisions of the Railway Labor Act, for securing the performance of services or the use of facilities in connection with the administration of this Act, and may compensate any such employer or organization therefor upon such reasonable basis as the Board shall prescribe, but not to exceed the additional expense incurred by such employer or organization by reason of the performance of such services or making available the use of such facilities pursuant to such agreements or arrangements. Such employers and organizations, and persons employed by either of them, shall not be subject to the Act of Congress approved March 3, 1917 (39 Stat. 1106, ch. 163, sec. 1).

(i) The Board may establish, maintain, and operate free employment offices, and may designate as free employment offices facilities maintained by (i) a railway labor organization which is duly authorized and designated to represent employees in accordance with the Railway Labor Act, or (ii) any other labor organization which has been or may be organized in accordance with the provisions of the Railway Labor Act, or (iii) one or more employers, or (iv) an organization of employers, or (v) a group of such employers and labor organizations, or (vi) a State, Territorial, foreign, or the Federal Government. The Board may also enter into agreements or arrangements with one or more employers or railway labor organizations organized in accordance with the provisions of the Railway Labor Act, pursuant to which notice of the availability of work and the rights of employees with respect to such work under agreements between such employers and railway labor organizations may be filed with employment offices and pursuant to which employees registered with employment offices may be referred to such work.

The Board shall prescribe a procedure for registration of unemployed employees at employment offices. Such procedure for registration shall be prescribed with a view to such registration affording substantial evidence of the days of unemployment of the employees who register. The Board may, when such registration is made personally by an employee, accept such registration as initial proof of unemployment sufficient to certify for payment a claim for benefits.

The Board shall provide a form or forms for statements of sickness and a procedure for the execution and filing thereof. Such forms and procedure shall be designed with a view to having such statements provide substantial evidence of the days of sickness of the employee [and, in case of maternity sickness, the expected date of birth and the actual date of birth of the child]. Such statements may be executed by any doctor (authorized to practice in the State or foreign jurisdic-

tion in which he practices his profession) or any officer or supervisory employee of a hospital, clinic, group health association, or other similar organization, who is qualified under such regulations as the Board may prescribe to execute such statements. The Board shall issue regulations for the qualification of such persons to execute such statements. When so executed by any such person, or in the discretion of the Board, by others designated by the Board individually or by groups, they may be accepted as initial proof of days of sickness sufficient to certify for payment a claim for benefits.

The regulations of the Board concerning registration at employment offices by unemployed persons may provide for group registration and reporting, through employers, and need not be uniform with respect to different classes of employees.

The operation of any employment facility operated by the Board shall be directed primarily toward the reemployment of employees who have theretofore been substantially employed by employers.

(j) The Board may appoint national or local advisory councils composed of equal numbers of representatives of employers, representatives of employees, and persons representing the general public, for the purpose of discussing problems in connection with the administration of this Act and aiding the Board in formulating policies. The members of such councils shall serve without remuneration, but shall be reimbursed for any necessary traveling and subsistence expenses or on a per diem basis in lieu of subsistence expenses.

(k) The Board, with the advice and aid of any advisory council appointed by it, shall take appropriate steps to reduce and prevent unemployment and loss of earnings; to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance; to promote the reemployment of unemployed employees; and to these ends to carry on and publish the results of investigations and research studies.

(l) In addition to the powers and duties expressly provided, the Board shall have and exercise all the powers and duties necessary to administer or incidental to administering this Act, and in connection therewith shall have such of the powers, duties, and remedies provided in section 10(b)(4) of the Railroad Retirement Act of 1937, with respect to the administration of said Act, as are not inconsistent with the express provisions of this Act. A person in the employ of the Board under section 205 of the Act of Congress approved June 24, 1937 (50 Stat. 307), shall acquire a competitive classified civil-service status if, after recommendation by the Board to the Civil Service Commission, he shall pass such noncompetitive tests of fitness as the Civil Service Commission may prescribe. A person in the employ of the Board on June 30, 1939, and on June 30, 1940, and who has had experience in railroad service, shall acquire a competitive classified civil-service status if, after recommendation by the Board to the Civil Service Commission, he shall pass such noncompetitive tests of fitness for the position for which the Board recommends him as the Civil Service Commission may prescribe.

The Board may employ such persons and provide for their remuneration and expenses, as may be necessary for the proper administration of this Act. Such persons shall be employed and their remuneration prescribed in accordance with the civil-service laws and the Classification Act of 1949, as amended: *Provided*, That all positions to which

such persons are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom: *Provided*, That in the employment of such persons the Board shall give preference, as between applicants attaining the same grades, to persons who have had experience in railroad service, and notwithstanding any other provisions of law, rules, or regulations, no other preferences shall be given or recognized: *And provided further*, That certification by the Civil Service Commission of persons for appointment to any positions at minimum salaries of \$4,600 per annum, or less, shall, if the Board so requests, be upon the basis of competitive examinations, written, oral or both, as the Board may request: *And provided further*, That, for the purpose of registering unemployed employees who reside in areas in which no employer facilities are located, or in which no employer will make facilities available for the registration of such employees, the Board may, without regard to civil-service laws and the Classification Act of 1923, appoint persons to accept, in such areas, registration of such employees and perform services incidental thereto and may compensate such persons on a piece-rate basis to be determined by the Board. Notwithstanding the provisions of the Act of June 22, 1906 (34 Stat. 449), or any other provision of law, the Board may detail employees from stations outside the District of Columbia to other stations outside the District of Columbia or to service in the District of Columbia, and may detail employees in the District of Columbia to service outside the District of Columbia: *Provided*, That all details hereunder shall be made by specific order and in no case for a period of time exceeding one hundred and twenty days. Details so made may, on expiration, be renewed from time to time by order of the Board, in each particular case, for periods not exceeding one hundred and twenty days.

(m) The Board is authorized to delegate to any member, officer, or employee of the Board any of the powers conferred upon the Board by this Act, excluding only the power to prescribe rules and regulations.

(n) Any employee claiming, entitled to, or receiving sickness benefits under this Act may be required to take such examination, physical, medical, mental, or otherwise, in such manner and at such times and by such qualified individuals, including medical officers or employees of the United States or a State, as the Board may prescribe. The place or places of examination shall be reasonably convenient for the employee. No sickness [or maternity] benefits shall be payable under this Act with respect to any period during which the employee unreasonably refuses to take or willfully obstructs an examination as prescribed by the Board.

Any doctor who renders any attendance, treatment, attention, or care, or performs any examination with respect to a sickness of an employee [or as to the expected date of birth of a female employee's child, or the birth of such a child], upon which a claim or right to benefits under this Act is based, shall furnish the Board, in such manner and form and at such times as the Board by regulations may prescribe, information and reports relative thereto and to the condition of the employee. An application for sickness [or maternity] benefits under this Act shall contain a waiver of any doctor-patient privilege that the employee may have with respect to any sickness [or maternity

period] upon which such application is based: *Provided*, That such information shall not be disclosed by the Board except in a court proceeding relating to any claims for benefits by the employee under this Act.

The Board may enter into agreements or arrangements with doctors, hospitals, clinics, or other persons for securing the examination, physical, medical, mental, or otherwise, of employees claiming, entitled to, or receiving sickness [or maternity] benefits under this Act and the performance of services or the use of facilities in connection with the execution of statements of sickness. The Board may compensate any such doctors, hospitals, clinics, or other persons upon such reasonable basis as the Board shall prescribe. Such doctors, hospitals, clinics, or other persons and persons employed by any of them shall not be subject to the Act of Congress approved March 3, 1917 (39 Stat. 1106, ch. 163, sec. 1). In the event that the Board pays for the physical or mental examination of an employee or for the execution of a statement of sickness and such employee's claim for benefits is based upon such examination or statement, the Board shall deduct from any sickness [or maternity] benefits payable to the employee pursuant to such claim such amount as, in the judgment of the Board, is a fair and reasonable charge for such examination or execution of such statement.

(o) Benefits payable to an employee with respect to days of sickness shall be payable regardless of the liability of any person to pay damages for such infirmity. The Board shall be entitled to reimbursement from any sum or damages paid or payable to such employee or other person through suit, compromise, settlement, judgment, or otherwise on account of any liability (other than a liability under a health, sickness, accident, or similar insurance policy) based upon such infirmity, to the extent that it will have paid or will pay benefits for days of sickness resulting from such infirmity. Upon notice to the person against whom such right or claim exists or is asserted, the Board shall have a lien upon such right or claim, any judgment obtained thereunder, and any sum or damages paid under such right or claim, to the extent of the amount to which the Board is entitled by way of reimbursement.

(p) The Board may, after hearing, disqualify any person from executing statements of sickness who the Board finds, (i) will have solicited, or will have employed another to solicit, for himself or for another the execution of any such statement, or (ii) will have made false or misleading statements to the Board, to any employer, or to any employee, in connection with the awarding of any benefit under this Act, or (iii) will have failed to submit medical reports and records required by the Board under this Act, or will have failed to submit any other reports, records, or information required by the Board in connection with the administration of this Act or any other Act heretofore or hereafter administered by the Board, or (iv) will have engaged in any malpractice or other professional misconduct. No fees or charges of any kind shall accrue to any such person from the Board after his disqualification.

(q) The Board shall engage in and conduct research projects, investigations, and studies with respect to the cause, care, and prevention of, and benefits for, accidents and disabilities and other subjects deemed by the Board to be related thereto, and shall recommend legislation deemed advisable in the light of such research projects, investigations, and studies.

APPENDIX

RAILROAD RETIREMENT BOARD,
Chicago, Ill., January 26, 1959.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. HARRIS: This is the report of the Railroad Retirement Board on the bill H.R. 1012 which was requested by your committee.

The bill would amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act in the following respects:

RAILROAD RETIREMENT ACT

1. Annuities (including spouse and survivor annuities), pensions, and lump sums (other than the "residual" lump sum) would be increased generally by 10 percent. The increase would be slightly more than that for most employee retirement annuities and survivor annuities computed under the regular railroad retirement formulas (as much as 1.4 percent more for some survivor benefits), because the increased percentages proposed by the bill in these formulas reflect "rounding out" the result, after application of an exact 10 percent increase in the computation factors.

2. The maximum amount of compensation creditable under the Railroad Retirement Act for a month would be increased from \$350 to \$400 effective with respect to service rendered after December 31, 1958.

3. The privilege now available to any employee with 30 years of service of electing to receive a reduced annuity to begin after age 60 and before age 65 would be available to women employees with 10 years of service at age 62, and, at the same age, to wives or husbands of annuitants. The reduction would be by one one-hundred-and-eightieth for each calendar month the beneficiary is under age 65.

4. The earnings test now applicable to disability annuitants, under which any disability annuitant under age 65 does not receive an annuity for any month in which he is paid more than \$100 in earnings, would be modified by the addition of a provision that if the annuitant's earnings in any calendar year do not exceed \$1,200, the annuity otherwise not payable because of his earnings in any month in that year, would become payable. Earnings from employment with an "employer" under the act or for the annuitant's "last employer" before he retired, would not count toward this \$1,200 maximum. (No annuities are payable for months of such earnings by virtue of another provision of section 2(d) of the Railroad Retirement Act.) Even if the annuitant's earnings exceed \$1,200 in any year, loss of annuity would not exceed 1 month's annuity for each \$100 or less (if more than \$50) that the annuitant earned in excess of \$1,200.

5. The formula for computing the "residual" lump sum would be amended in conformity with amendments proposed to the Railroad Retirement Tax Act (increasing as of January 1, 1959, the tax rate on employees to $6\frac{1}{4}$ percent and to $7\frac{1}{4}$ percent after December 31, 1961, and the maximum amount of compensation subject to the tax after December 31, 1958, to \$400) by increasing the percentage factor applicable to compensation after 1958 to $7\frac{1}{2}$ percent and to 8 percent after 1961, and increasing the maximum amount of compensation for any month to which such factors are applicable from \$350 to \$400 for any month after December 31, 1958.

6. The changes made by the bill would be effective with respect to all annuities payable for months after December 1958, to pensions due in calendar months after January 1959, and to lump sums payable with respect to deaths occurring after 1958.

RAILROAD RETIREMENT TAX ACT

The bill would increase the tax rate on employees and employers from $6\frac{1}{4}$ percent to $6\frac{3}{4}$ percent after December 31, 1958, and to $7\frac{1}{4}$ percent after December 31, 1961, and make the tax applicable to \$400 instead of \$350 of the employee's compensation earned in any month after December 1958. The tax rate would be increased with respect to compensation paid after 1964 by the same number of percentage points (or fractions of percentage points) by which the then current social-security-tax rate exceeds $2\frac{3}{4}$ percent.

The tax rate on employee representatives would be increased from $12\frac{1}{2}$ to $13\frac{1}{2}$ percent after December 31, 1958, and to $14\frac{1}{2}$ percent after December 31, 1961, and the tax base also raised to \$400. This tax rate would also be increased with respect to compensation paid after 1964, just as in the case of the employer and employee, but this increase would be by twice the number of percentage points (or fractions of points) that the then current social-security-tax rate exceeds $2\frac{3}{4}$ percent.

RAILROAD UNEMPLOYMENT INSURANCE ACT

1. A new schedule of daily benefit rates for both unemployment and sickness benefits ranging up to \$1.70 higher than present rates would be provided. The alternative rate, which is now 50 percent of the employee's daily rate of pay in his last employment with an employer in the "base" year, would be increased to 60 percent of such daily rate of pay. The maximum daily benefit rate would be increased from \$8.50 to \$10.20. These increases would be effective with respect to benefits payable in general benefit years after the benefit year ending on June 30, 1958, and in extended benefit periods, described below, as early as January 1, 1958.

2. The maximum amount of compensation for a month, for which credit would be given and contributions required, would be increased from \$350 to \$400, effective with respect to compensation paid for service rendered in calendar months after December 1958.

3. The minimum amount of earnings in a "base" year which would qualify an employee for benefits would be increased from \$400 to \$500, effective with respect to "base" years after 1957.

4. An employee with 10 or more years of railroad service who is out of work through no fault of his own and has exhausted current

rights to normal unemployment benefits, would receive additional benefits during an extended benefit period. The duration of such extended benefit period would be for an employee with less than 15 years of service 7 successive periods of 14 days each but would be limited to benefits for 65 days of unemployment, and for an employee with over 15 years of service 13 successive periods of 14 days each with a limitation of benefits to 130 days of unemployment.

5. For an employee with 10 or more years of service who did not voluntarily leave work without good cause or voluntarily retire and who is not a "qualified employee" for the current benefit year but would be for the next succeeding benefit year such year begins on the first day of the month in which a period of 14 or more consecutive days of unemployment begins.

6. An employee with less than 10 years of service who, after June 30, 1957, has exhausted his rights to unemployment benefits may be paid benefits for days of unemployment not exceeding 65 which occur on and after June 19, 1958, and before April 1, 1959, if for such days he would not be otherwise entitled to benefits, except that an employee who has established a first claim for benefits under the Temporary Unemployment Compensation Act of 1958 would not be entitled to benefits under this provision.

7. The maximum number of days of unemployment in the first registration period in a benefit year for which benefits may be paid would be increased from 7 to 10, the same as it is now with respect to all subsequent registration periods.

8. Sundays and other holidays would be treated the same as other days for unemployment benefit purposes.

9. To provide funds for the additional benefits that are proposed, the bill, in addition to raising the maximum taxable earnings for a month from \$350 to \$400 and increasing from \$400 to \$500 the minimum earnings in a base year which would qualify a worker for benefits in the benefit year, as stated above, would provide for a contribution or tax rate of not less than 1½ percent when the money in the railroad unemployment insurance account totals \$450 million or more, which rate would be raised, by steps, to 3½ percent when the money in the account falls below \$300 million. The provision for increase in the contribution rate would be effective as of January 1, 1959, and would apply only with respect to compensation paid for services rendered after December 31, 1958.

IMMEDIATE EFFECT OF AMENDMENTS TO THE RAILROAD RETIREMENT ACT

Employee annuities

An estimated 355,000 employee annuities, averaging \$117, in course of payment on January 1, 1959, would be increased by 10 percent to an average of almost \$129.

For an employee retiring on January 1, 1959, the maximum annuity that could be paid would rise from about \$186 to \$204. Subsequently, after the new \$400 ceiling on taxable earnings goes into effect, the maximum would rise slowly up to the end of 1966. Thereafter, the maximum will rise more rapidly since more than 30 years of service will become creditable toward annuities.

An estimated 44,500 retirement annuity awards, averaging about \$139, would be made in calendar year 1959. These figures include

about 500 awards to women employees aged 62-64 who would elect to accept a reduced annuity.

Spouse annuities

An estimated 129,000 spouses on the rolls on January 1, 1959, would also have their annuities increased by 10 percent. The average spouse annuity in current-payment status on January 1, 1959, would be increased to about \$57. The estimated 16,000 unreduced spouse annuities to be awarded in calendar year 1959 would average \$56. The new maximum spouse annuity would be \$65.50 in January 1959, and would increase to \$66.60 in February 1959, and to \$69.90 in February 1960.

There are an estimated 36,000 spouses aged 62-64 who could elect to receive reduced spouse annuities. In the absence of specific experience and for the purposes of this report, it has been arbitrarily assumed that about three-fourths of them or 27,000 would choose to accept such reduced benefits. The reduced benefits would average about \$50.

Pensions

An estimated 1,400 pensioners on the rolls on January 1, 1959, would receive 10-percent increases, bringing their average benefit to about \$91 compared with the average of \$82 under the present law.

Survivor annuities

The estimated 239,000 survivor benefits in current-payment status on January 1, 1959, would be increased at least 10 percent. The maximum basic amount possible on January 1, 1959, under the new formula would be \$79, while the maximum family benefits would be \$193.60 and \$279 under the railroad retirement and social security guarantee formulas, respectively.

An estimated 18,000 insurance lump-sum benefits would be paid in the calendar year 1959. The average lump sum would be \$560.

Disability work clause

The immediate effect of the change in the disability work clause would be comparatively small. About 1,000 annuities are withheld each month under the present provision and the amount of annuities withheld in a year totals about \$1 million. The proposed change in the disability work clause is estimated to reduce the amount withheld in the first year by about \$200,000.

Total benefit payments

Total benefit payments under the provisions of the bill in calendar year 1959 are estimated at about \$900 million, or \$95 million more than would be payable under the present law. Of the additional \$95 million, \$81 million is attributable to the 10-percent increase in monthly and lump-sum benefits and the remaining \$14 million to the new benefits for women employees and spouses aged 60 to 64.

Tabular summary

The two attached tables illustrate the effect of the proposed amendments. Table 1 shows the effect on benefits in course of payment on January 1, 1959, and table 2 covers benefit awards in calendar year 1959.

TABLE 1.—Estimated number of monthly benefits in current-payment status on Jan. 1, 1959, and estimated average monthly amount before and after increases under the bill, by type of benefit

Type of benefit	Benefits in current-payment status				
	Total	Benefit computed under—		Average monthly amount ¹	
		Railroad formula	Social security formula	Present law	Proposed bill
Total.....	724, 600	511, 100	213, 500		
Retirement:					
Employee annuities.....	355, 000	320, 000	² 35, 000	\$116. 90	\$128. 60
Pensions.....	1, 400	1, 400		82. 40	90. 70
Spouse annuities.....	129, 000	120, 000	9, 000	51. 60	56. 80
Monthly survivor:					
Aged widows' annuities.....	181, 000	64, 000	117, 000	56. 90	62. 60
Widowed mothers' annuities.....	11, 300	300	11, 000	75. 30	82. 90
Children's annuities.....	42, 500	2, 000	40, 500	48. 90	53. 80
Parents' annuities.....	1, 100	100	1, 000	67. 70	63. 50
Survivor (option) annuities.....	3, 300	3, 300		50. 50	55. 60

¹ After adjustment for increases under 1958 Social Security Act Amendments.
² Includes 7,000 disability annuitants aged 50 to 64.

TABLE 2.—Estimated number of awards in calendar year 1959, and average benefit under present law and the bill, by type of benefit

Type of benefit	Awards under—			
	Present law		Proposed bill	
	Number	Average amount	Number	Average amount
Retirement:				
Employee annuities.....	43, 000	\$126. 90	44, 000	\$139. 60
Reduced age annuities to women.....			1, 500	84. 00
Reduced spouse annuities.....			¹ 27, 000	50. 10
Unreduced spouse annuities.....	22, 000	50. 60	16, 000	55. 70
Monthly survivor:				
Aged widows' annuities.....	21, 000	66. 50	21, 000	73. 20
Widowed mothers' annuities.....	2, 300	85. 40	2, 300	94. 00
Children's annuities.....	5, 800	57. 60	5, 800	63. 40
Parents' annuities.....	100	73. 50	100	80. 90
Survivor (option) annuities.....	50	55. 00	50	60. 50
Lump-sum payments:				
Insurance benefits.....	18, 000	510. 00	18, 000	560. 00
Residual payments.....	6, 500	1, 700. 00	6, 500	1, 600. 00

¹ There will be an estimated 36,000 spouses of retired employees, and 1,000 women employees with less than 30 years of service, aged 62 to 64, eligible to elect reduced annuities. It is assumed that three-quarters of the spouses and one-half of the women employees would make such elections.

IMMEDIATE EFFECT OF AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

The bill proposes to amend the Railroad Retirement Tax Act, effective January 1, 1959, by raising the monthly limit on taxable earnings from \$350 to \$400, and by increasing the combined rate of tax from the present 12½ percent to 13½ percent in 1959-61 and to 14½ percent in 1962-64. In addition, the rate of tax in 1965 and thereafter would be increased by the excess of future actual social security rates over 5½ percent.

Assuming that the railroad industry will be recovering from the low level of activity experienced during the 1957-58 economic recession with a consequent gradual increase in employment, and taking into consideration the increases provided in existing wage agreements, the effect of the proposed legislation on railroad retirement taxes in calendar years 1959-62 would be as follows:

[In millions]

	1959	1960	1961	1962
Taxable payroll:				
Present law.....	\$4,600	\$4,700	\$4,900	\$5,100
Proposed law.....	5,100	5,200	5,400	5,600
Taxes:				
Present law (12.5 percent).....	575	587	612	637
Proposed law (13.5 percent for 1959-61; 14.5 percent for 1962).....	689	702	729	812
Total additional taxes.....	114	115	117	175
(a) Due solely to higher tax base.....	63	63	63	63
(b) Due to higher tax rate on old base.....	46	47	49	102
(c) Due to higher tax rate on addition to old base.....	5	5	5	10

ACTUARIAL EFFECTS OF PROPOSED AMENDMENTS TO THE RAILROAD RETIREMENT AND RAILROAD RETIREMENT TAX ACTS

As stated before the proposed amendments pertaining to the retirement and survivor programs would increase the benefit disbursements in 1959 by about \$95 million to a total of about \$900 million. Of this \$81 million is attributable to the 10 -percent increase in monthly and lump-sum benefits and the remaining \$14 million to the liberalized eligibility requirements for women employees and spouses as well as to certain other provisions of a relatively minor nature. Costs of benefits, on a level basis, would be increased about \$147 million a year. It is further estimated that the additional immediate and deferred taxes would bring in about an extra \$115 million a year until 1962 when the amount would be about \$175 million a year. In 1969, if the contingent increase in taxes becomes effective, as schedules after 1964, the amount would reach about \$370 million a year. A year-by-year estimate of the additional taxes on both employers and employees is shown in table 3. Of the \$114 million in additional taxes (\$57 million to be paid by the employers and an equal amount by the employees), in 1959, \$63 million would be due to taxing compensation between \$350 and \$400 a month at the rate of 12½ percent; and the remaining \$51 million a year would be due to the additional 1 percentage point of tax on the total estimated taxable payroll of \$5.1 billion for the year. The rise in 1962 would result mainly from the additional percentage point in the combined tax rate with similar situations occurring in later years.

Considering both additional outgo and additional income, the estimates indicate that the added revenues would exceed the added disbursements by about \$180 million a year on a level basis, which is equivalent to 3.21 percent of a \$5.6 billion taxable payroll. Since the actuarial deficiency for the present law, calculated as of December 31, 1958, is estimated at 3.81 percent of that payroll (adjusted from 4.18 of a \$5.1 billion payroll), the enactment of the amendments would leave the railroad retirement system with an actuarial deficiency of 0.60 percent of payroll (3.81 minus 3.21) or about \$34 million a year.

The derivation of the above actuarial deficiency figure is shown in table 4 together with a breakdown of the major cost figures for the proposed program by source of cost or of savings, as the case may be.

An analysis of the cost effects of the proposed amendments considered by themselves is presented in table 5. As previously indicated, the total level additional disbursements are estimated at about \$147 million a year, or 2.63 percent of taxable payroll, while the additional revenues come to 5.84 percent of payroll or \$327 million a year on a level basis.

The distribution of the added costs over the years would depend upon the nature of the amendment. Thus, the disbursements due to increase in the limit on creditable compensation (\$44 million a year after considering the proposed 10-percent increase in benefits) would be felt to only a very minor extent during the first several years following enactment of this provision. However, the additional income on the extra creditable compensation would begin to accrue in full almost immediately. On the other hand, the lowering of the retirement age for women on an elective basis would result in considerable additional disbursements in the immediate future, but these would later be largely offset by reductions in benefits payable after age 65.

From an actuarial point of view, only the additional net costs of the change in the retirement age for women had to be considered. It is estimated that the net additional cost would come to some 0.03 percent of payroll or, in round figures, \$1.5 million a year on a level basis. This figure is but a small fraction of the possible additional disbursements in the first year due to this amendment.

For the proposed liberalization in the work clause for disability annuities, this estimate allows an additional cost of 0.02 percent of payroll, or about \$1 million a year on the average. The smallness of the allowance is in conformity with the total work clause savings which has been estimated at about 0.05 percent of payroll. The present estimate assumes that the liberalization in the disability work clause would take up about one-half of the savings which would exist under the provisions of the present law. Whether this assumption will or will not be borne out by actual experience is not very important because of the relative smallness of the amounts involved.

The cost figures here discussed are based on the seventh actuarial valuation as adjusted for the effect of the 1958 amendments to the Social Security Act and as subsequently revised to produce costs as of December 31, 1958. As indicated in table 4, the gross costs of the amended benefit program, including administrative expenses, would come to 20.91 percent of taxable payroll (approximately \$1.2 billion a year on a level basis), and the reduction on account of funds on hand (which will produce interest equivalent to 1.96 percent of payroll estimated as \$5.6 billion) and the financial interchange with social security (producing gains equivalent to 1.12 percent of payroll) would come to 3.08 percent (\$173 million a year), thus leaving a net cost of 17.83 percent (\$998 million a year) to be financed by future payroll taxes. The future tax income is estimated to be equivalent to a level rate of 17.23 percent (\$964 million a year), thus leaving an actuarial deficiency of 0.60 percent of payroll, or about \$34 million a year.

Because of the very small margins for contingencies contained in the assumptions, there is very little likelihood that the actual future cost of the railroad retirement program after giving effect to the pro-

posed amendments will be lower than estimated. An error in the opposite direction is considered to be much more likely although the extent of the probable error in the estimated costs for the proposed amendments could not be determined with any degree of accuracy.

TABLE 3.—Estimated additional tax income under the amendments to the Railroad Retirement Tax Act contained in the bill

[Dollar amounts in millions]

Calendar year	Rate of tax		Taxable payroll for \$350 limit		Additional taxes under bill ¹	
	Employer	Employee	Level assumption	Short-range projection	Level assumption	Short-range projection
	Percent	Percent				
1959.....	6¾	6¾	\$5,100	\$4,600	\$118	\$114
1960.....	6¾	6¾	5,100	4,700	118	114
1961.....	6¾	6¾	5,100	4,900	118	116
1962.....	7¼	7¼	5,100	5,100	174	174
1963.....	7¼	7¼	5,100	5,100	174	174
1964.....	7¼	7¼	5,100	5,100	174	174
1965.....	8	8	5,100	5,200	258	262
1966.....	8½	8½	5,100	5,200	314	319
1967.....	8½	8½	5,100	5,200	314	319
1968.....	8½	8½	5,100	5,200	314	319
1969 and thereafter.....	9	9	5,100	5,200	370	376

¹ Difference between combined employer and employee taxes at proposed rates on taxable payrolls for \$400 limit and 12½ percent of payroll with \$350 limit. The taxable payroll for the \$400 limit is estimated to be \$500 million a year higher than for the \$350 limit on monthly compensation.

TABLE 4.—Cost estimate for the railroad retirement program as it would be amended by the bill

[Level cost figures are as of Dec. 31, 1958, and relate to a taxable payroll of \$5,600,000,000 a year]

Item	Percent of payroll (\$400 limit)
Gross cost of benefits, total.....	20.91
Employee annuities and pensions.....	¹ 14.22
Spouses' annuities.....	1.40
Aged widows' annuities.....	3.94
Other survivor annuities.....	.62
Insurance lump sums.....	.20
Residual payments.....	.39
Administrative expenses.....	.14
Deductions from gross costs, total.....	3.08
Funds on hand.....	² 1.96
Gains from financial interchange.....	1.12
Net cost.....	17.83
Future tax income, total.....	17.23
Independent of OASDI rates.....	14.42
Additional taxes after 1964 dependent upon OASDI rates.....	2.81
Actuarial deficiency (excess of net costs over total future tax income).....	.60

¹ Includes 0.08 percent of payroll for benefits payable with respect to dependents of disability annuitants under the social security minimum provision.

² Excludes an estimated \$325,000,000 accrued under the financial interchange for the period July 1957–December 1958 but not yet received. Had this amount been included, the 1.96 would have been increased to 2.13 and the next figure of 1.12 would have been correspondingly reduced to 0.95.

TABLE 5.—Changes in actuarial deficiency due to the bill

[Taxable payroll of \$5,600,000,000 a year for \$400 limit on monthly compensation]

Item	Percent of payroll (\$400 limit)
Actuarial deficiency under law before amendments (as of Dec. 31, 1958).....	1 3.81
Benefits at present rates due to higher compensation base.....	+ .71
Increase in benefits by 10 percent.....	+1.84
Elective reduced benefits to spouses and women employees at age 62.....	+ .03
Increase in residual benefit.....	+ .03
Liberalization of work clause for disability annuitants.....	+ .02
Taxes at rate of 12½ percent on additional taxable compensation.....	-1.11
Increase in schedule of taxes independent of OASDI rates.....	-1.92
Additional taxes after 1964 dependent upon OASDI rates.....	-2.81
Actuarial deficiency under law after amendments (as of Dec. 31, 1958).....	.60

¹ Equivalent to 4.18 percent of payroll with a \$350 limit on monthly compensation. In both instances, this is equivalent to \$213,000,000 a year.

EFFECT OF AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

The bill would increase benefit rates about 20 percent, provide extended duration of unemployment benefits for employees with 10 years or more of railroad service, increase temporarily the duration of unemployment benefits for other employees, eliminate the unemployment benefit waiting period and the Sunday and holiday disqualifications, and provide a maximum contribution rate of 3.5 percent on compensation up to \$400 a month. If it should be enacted soon enough for the retroactive payments that would result to be made by June 30, benefit payments for the current fiscal year would be increased by \$90 million to \$105 million. This would make total benefits for 1958-59 range from \$310 million to \$355 million, and would create a deficit in the railroad unemployment insurance account by June 30, 1959, of \$25 million to \$75 million. Furthermore, it appears that the maximum contribution rate of 3½ percent of payroll contained in the bill would not be adequate, since it is estimated that the future cost of the program, if the bill is enacted, would be about 3¾ percent of payroll. Following is a detailed discussion of the effect of the bill on beneficiaries, benefits, and financing.

IMMEDIATE EFFECT ON BENEFICIARIES

The immediate effect on beneficiaries of the proposals to amend the Railroad Unemployment Insurance Act may be illustrated by reference to the effect they would have had on payments for the 1957-58 benefit year. Each of the proposals is discussed in turn.

Except for a few thousand beneficiaries with earnings under \$500 who would no longer be qualified, the benefits of all beneficiaries would have been increased substantially. Also, many employees who would not have been paid benefits at all under the present law would have been eligible, mainly for relatively small amounts.

Increase in qualifying earnings requirement

In 1957-58, 4,300 (1.4 percent) of the unemployment beneficiaries and 600 (0.4 percent) of the sickness beneficiaries had base-year earnings under \$500 and so would not have been qualified. However,

no employee currently on the benefit rolls would be denied benefits in this benefit year by the proposed change; it would be effective with the 1958 base year and so would not affect benefit payments until July 1959.

Benefit rates

The 1957-58 beneficiaries with base-year earnings of \$500 or more would, it is estimated, have been paid at an average daily benefit rate of \$9.40 for unemployment and \$9.74 for sickness (prior to adjustment for receipt of other social insurance benefits). For each type of benefit the average benefit rate would be about one-fifth larger than under the present law. The increase in benefit rates for those with rates determined under the proviso with respect to the daily rate of pay would obviously be this much generally, since 60 percent is one-fifth larger than 50 percent. The new schedule in the bill, as shown in the table below, would cause an increase of from 8 to 25 percent, depending on the compensation range. However, increasing the limit on creditable earnings would add to this by shifting many beneficiaries to a higher compensation group, with a consequent higher benefit rate. Thus, for some beneficiaries, particularly in the higher compensation brackets, the total increase would be substantially more than 20 percent, and the average increase for those paid schedule rates would be about one-fifth also.

It is possible under the present law for a beneficiary who was fully employed in the base year to qualify for a benefit rate approaching 60 percent of his rate of pay. Similarly, under the bill it would be possible for some beneficiaries to be paid at benefit rates near 70 percent of the daily rate of pay. For example, an employee paid at a rate of \$14 a day, if employed 5 days a week without overtime for 50 weeks, would earn \$3,500. This would qualify him for a benefit rate of \$9.50 under the schedule in the bill, or 68 percent of his daily rate of pay. With respect to maternity benefits, even higher percentages of the daily rate of pay would be payable because of the nature of the maternity benefit formula.

Comparison of benefit rates in schedule under Railroad Unemployment Insurance Act with proposed schedule

Range of base-year compensation	Daily benefit rate		Percent increase
	Present RUIA	Proposed schedule	
\$400 to \$499.....	\$3.50	-----	-----
\$500 to \$699.....	4.00	\$4.50	12.5
\$700 to \$749.....	4.00	5.00	25.0
\$750 to \$899.....	4.50	5.00	11.1
\$1,000 to \$1,299.....	5.00	5.50	10.0
\$1,300 to \$1,599.....	5.50	6.00	9.1
\$1,600 to \$1,899.....	6.00	6.50	8.3
\$1,900 to \$1,999.....	6.00	7.00	16.7
\$2,000 to \$2,199.....	6.50	7.00	7.7
\$2,200 to \$2,499.....	6.50	7.50	15.4
\$2,500 to \$2,799.....	7.00	8.00	14.3
\$2,800 to \$2,999.....	7.00	8.50	21.4
\$3,000 to \$3,099.....	7.50	8.50	13.3
\$3,100 to \$3,499.....	7.50	9.00	20.0
\$3,500 to \$3,999.....	8.00	9.50	18.8
\$4,000 and over.....	8.50	10.20	20.0

NOTE.—Since the compensation ranges of the 2 schedules differ, it was necessary, for this comparison, to divide some rate groups into 2 parts.

Extended benefit periods

It is estimated that, for 1957-58, extended benefit periods and early beginning dates of benefit years would have provided additional benefits to about 25,000 railroad employees, averaging over \$500 each. Furthermore, about 2,500 of the 25,000 would have received additional sickness benefits, averaging nearly \$200 each. Payment of additional sickness benefits could occur because providing extended benefit periods or beginning benefit years early lengthens the benefit year and so provides increased opportunity for payment of sickness benefits for the year up to the maximum specified in the law.

Eliminating waiting period for unemployment and the Sunday and holiday disqualifications

These two provisions together, in 1957-58, would have increased by about \$12 million the unemployment benefits paid to about 250,000 beneficiaries who either did not exhaust benefit rights in that year, or would be entitled to extended benefit periods. In addition, thousands of employees who did not receive benefits in 1957-58 would have received small payments. In these cases the payments would have been made for claims with 5 to 7 days unemployment which otherwise would not be compensable.

The removal of the Sunday and holiday disqualification provision in the law would increase the number of such claims because, for a man normally working a 5-day week, any day of unemployment in a workweek could be a compensable day. The wage contracts for nonoperating employees now provide payment for holidays. Nevertheless, in the course of a year there will be a large number of employees who will not get paid for one or more holidays for one reason or another; in such cases, because any days of unemployment over four would be compensable, benefits might be paid for the holiday. It is estimated that the number of additional beneficiaries resulting from the two provisions may be in the neighborhood of 50,000.

Temporary extension of duration for employees with under 10 years' service

Additional benefits would have been paid to about 35,000 1957-58 beneficiaries with less than 10 years service who exhausted benefit rights for that year under the temporary provision extending their duration of benefits a maximum of 13 weeks. Probably as many 1958-59 beneficiaries would also receive additional payments from this change. It is estimated that the total amount payable under the provision would be \$15 million to \$18 million.

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Estimates of the additional benefits that would have resulted from the different provisions of the bill in 1957-58 are shown separately in the following table:

Provision	Unemployment		Sickness	
	Amount	Percent	Amount	Percent
Total benefits, present law ¹	\$175,723,000	100.0	\$53,253,000	100.0
Savings due to \$500 qualifying earnings.....	1,632,000	.9	173,000	.3
Increases for qualified beneficiaries:				
1. Benefit rate schedule (including effect of \$400 a month maximum creditable earnings).....	14,892,000	8.5	7,802,000	14.8
2. 60-percent benefit rate proviso.....	20,413,000	11.6	4,314,000	8.1
3. Extended benefit periods and early beginning of benefit years.....	13,450,000	7.7	500,000	.9
4. Elimination of waiting periods for unemployment.....	8,176,000	4.7	-----	-----
5. Removal of sec. 4(a-2)(iv).....	3,873,000	2.2	-----	-----
6. Temporary additional duration for employees with under 10 years' service.....	(²)	(²)	-----	-----
Net increase.....	59,172,000	33.7	12,543,000	23.6

¹ Net benefits payable for year, which differ slightly from published figures of actual amounts paid in the year.
² \$15,000,000 to \$18,000,000 in 1 year only; not included in totals, and percentage not shown, because not a cost factor for later years.

IMMEDIATE EFFECT ON BENEFITS AND FINANCING

The immediate effect of the bill on benefit payments in this fiscal year would be larger than shown in the preceding table because retroactive payments for extended benefit periods starting in the preceding benefit year and payments under the provisions for temporary additional duration would be made in addition to increases applying to current benefit year claims. Also, payments under the present law may be somewhat larger this year than in 1957-58.

Additional benefits

The most recent estimates indicate that payments under the present law for 1958-59 will total between \$220 million and \$250 million. The bill, if enacted, would increase these payments by \$90 million to \$105 million, assuming that enactment would occur early enough for all the retroactive payments to be made by June 30, 1959. About \$60 million of the increase would be additional benefits for unemployment or sickness which occurred before January 1, 1959.

Effect on balance in the account

Under the present law, it is expected that the balance in the railroad unemployment insurance account will be reduced to a figure between \$20 million and \$55 million by June 30, 1959. Income from contributions would be increased by no more than \$10 million by that date, since collections would have been made by then for only the first quarter of calendar year 1959. Thus, the account would be depleted, with a deficit of \$25 million to \$75 million by June 30, 1959, and some provision for deficit financing would be necessary.

The foregoing figures reflect what is considered the most probable range. If conditions next spring are considerably different from those assumed for the estimates, the deficit could be less than the low or more than the high estimate.

Immediate cost to the railroads

The bill would provide a maximum contribution rate of 3.5 percent and maximum taxable earnings of \$400 a month, both of which would become effective on January 1, 1959. Under present law, which would not be changed, the effective rate for 1959 is based on the balance to the credit of the railroad unemployment insurance account at the close of business on September 30, 1958. Because that balance has already been determined and proclaimed by the Board to be less than \$300 million, the amendment providing that the effective rate would be 3.5 percent when the balance is under \$300 million would apply to cause the effective rate for 1959 to be 3.5 percent. The rate for 1959 is 3 percent under the unamended law. Thus, the increase in rate would be only one-half of 1 percent for compensation paid in calendar year 1959. As shown below in the section on future costs, it is doubtful that this would yield sufficient additional income to finance the additional benefits. The average increase in costs accruing for the railroads, as shown by the following table, would be over \$40 million a year.

Calendar year	Contributions at 3 percent for present law, total	Contributions at 3½ percent, with \$400 limit on taxable earnings	
		Total	Increase over present law
1959.....	\$138	\$178	\$40
1960.....	141	182	41
1961.....	147	189	42
1962.....	153	196	43

NOTE.—Figures are estimates of contributions that would be payable on compensation paid in these years.

FUTURE COSTS

There is no adequate statistical basis for estimates of the exact cost of the changes proposed by this bill. The cost would be greatly influenced by such unpredictable things as the frequency and extent of cyclical fluctuations in railroad traffic, international conflicts, and technological developments. It appears, however, that the future cost of the proposals would be somewhat larger, relatively, than the cost for 1957-58. The more important reasons for this are as follows:

1. The cost of the extended benefit periods and of early beginning of benefit years would probably be larger than the estimate for 1957-58 indicates. Exhaustions in 1957-58 occurred later in the year than in most years, so the additional benefits in many cases would only replace payments made in following benefit year without increasing the total paid. The cost of this provision may be substantially higher this year, when exhaustions will occur earlier.

2. A substantial increase in daily benefit rates would probably be accompanied by some increase in the frequency with which benefits are claimed. For example, the sickness beneficiary rates (number of beneficiaries per 100 qualified employees) since the 1954 amendments are higher than those for earlier years.

3. Increases in pay rates in the future will tend to increase benefits more than taxable payrolls, because the effect of the benefit rate proviso is limited only by the \$10.20 maximum, while the increase in taxable payroll will be limited by the \$400 maximum on creditable compensation. Also, rising wage rates will make even less significant the savings in benefits that would result from the increase in the qualifying earnings requirement to \$500.

4. The cost of elimination of waiting periods for unemployment and removal of the Sunday and holiday disqualification would have more effect, relatively, in years in which there is less unemployment, with shorter duration of benefits and relatively more partial or intermittent unemployment.

According to the latest estimates that have been made, benefits under the present provisions of the Railroad Unemployment Insurance Act will average about \$145 million over a period of years, \$94 million for unemployment and \$51 million for sickness, including maternity. The estimate of taxable payrolls is \$5.1 billion a year. Including administrative expenses, the total cost of the present program is estimated at 2.9 percent of the taxable payroll.

For the proposals contained in the bill it appears reasonable, and in accordance with a desire for sound financing, to assume for the future an increase of a little more than two-fifths in the average amount of unemployment benefits and an increase of one-third in the amount of sickness benefits. This results in an average annual benefit cost for the future, if the bill should be enacted, of \$202 million, of which \$135 million would be for unemployment and \$67 million for sickness. At the same time, the \$400 limit on creditable earnings would, it is estimated, increase the taxable payroll to \$5.6 billion. Including an allowance of 0.20 percent of payroll for administration and deducting 0.05 percent for interest on the balance in the account, the total cost of the program would then be about 3¼ percent of payroll. Costs for the present law and with the bill are summarized in the following table:

Item	Present law	With proposed changes
Average benefits, total.....	\$145,000,000	\$202,000,000
For unemployment.....	94,000,000	135,000,000
For sickness.....	51,000,000	67,000,000
Taxable payroll.....	5,100,000,000	5,600,000,000
Benefits as percent of payroll.....	2.85	3.60
Administration costs as percent of payroll.....	.15	.20
Allowance for interest on balance in account (minus).....	-.10	-.05
Net total cost as percent of payroll.....	2.90	3.75

These cost figures are, of course, only an approximation based on what appear to be reasonable interpretations of available data, and on forecasts of the future of the railroad industry. With somewhat different assumptions, which may be just as reasonable, a variation of as much as one-fourth of 1 percent of payroll in either direction might be obtained. The figures can thus be interpreted as indicating that the cost of the benefit program under the Railroad Unemployment Insurance Act, if the bill is enacted, would be somewhere between 3½ and 4 percent of payroll.

Financing

The bill provides the following schedule of contribution rates:

If the balance on Sept. 30 in the railroad unemployment insurance account is—	The contribution rate for the next calendar year shall be—
\$450 million or more.....	1½ percent.
\$400 million, but less than \$450 million.....	2 percent.
\$350 million, but less than \$400 million.....	2½ percent.
\$300 million, but less than \$350 million.....	3 percent.
Less than \$300 million.....	3½ percent.

The balance in the account on September 30, 1958 was \$135 million. Thus, as stated, the maximum rate of 3½ percent would become effective in January 1959.

It appears, in view of the cost estimates, that the maximum rate of 3½ percent provided by the bill would prove inadequate to finance the benefits. Also, as indicated in the discussion of immediate effects, the balance now in the account would not be sufficient to meet the immediate obligations that would be incurred. Furthermore, if some form of deficit financing is provided to meet the immediate obligations, it appears unlikely that money borrowed for this purpose could be repaid without some provision for a contribution rate higher than the 3½ percent maximum in the bill.

STATEMENT OF MR. HABERMEYER

“The bill would increase the amounts of benefits under the Railroad Retirement Act by some 10 percent and benefits under the Railroad Unemployment Insurance Act by some 20 percent, and would provide more favorable eligibility conditions to possible beneficiaries under both acts. The added costs to the railroad retirement system would be met by the revenues to be produced by the increase in the taxable compensation base and in the tax rates under the Railroad Retirement Tax Act provided for by the bill. The contribution base and rates under the Railroad Unemployment Insurance Act would be increased to provide for the additional costs to the unemployment insurance program.

“The increase in the tax base and rates under the Railroad Retirement Tax Act applicable to employees and employers alike would produce sufficient revenue to supply the added costs of the proposed increases and improvements and for all practical purposes would return the railroad retirement system to a sound financial basis by virtually removing the actuarial deficiency which now exists. This removal of the actuarial deficiency accords with the request made by the President of the United States when he signed S. 3616 (Public Law 1013, 84th Cong.), on August 7, 1956, providing an increase in benefits under the Railroad Retirement Act. According to the Board’s actuary, the railroad retirement system fails today of being soundly financed by, on a level basis, 4.18 percent of taxable payroll or about \$213 million a year; but enactment of the bill would reduce the deficit for the system to 0.60 percent of taxable payroll or about \$34 million a year, even after taking into account the resulting increased and improved benefits. This small deficit is on a projected, not actual, basis founded on suppositions which may or may not materialize. Therefore, I believe that the bill would for all practical purposes restore the system to a sound financial basis and the esti-

mated small deficit that would exist after the enactment of the bill does not cause me to be seriously disturbed.

"To supply the increased costs to the railroad unemployment insurance program which would be entailed by the bill, rate of contributions (paid exclusively by employers) would be increased from the present maximum of 3 percent of taxable payroll (up to a maximum of \$350 a month per employee) to 3½ percent of payroll (on a monthly maximum of \$400 a month per employee) should the balance in the railroad unemployment insurance account be found to be below \$300 million. The Board's director of research has, however, in his cost analysis indicated that the level cost would be almost 3¼ percent of taxable payroll, stating also as follows:

"These cost figures are, of course, only an approximation based on what appear to be reasonable interpretations of available data, and on forecasts of the future of the railroad industry. With somewhat different assumptions, which may be just as reasonable, a variation of as much as one-fourth of 1 percent of payroll in either direction might be obtained. The figures can thus be interpreted as indicating that the cost of the benefit program under the Railroad Unemployment Insurance Act, if the bill is enacted, would be somewhere between 3½ and 4 percent of payroll."

"Since the balance in the railroad unemployment insurance account is at a dangerously low level and our director of research calculates the costs of these provisions to be 3¼ percent, I, therefore, urge that if the bill receives favorable consideration, the maximum tax rate be established at 4 percent.

"The two factors which should determine the extent to which benefits are increased and otherwise made more favorable to beneficiaries are (1) the reasonable requirements of the beneficiaries in the light of present economic conditions, and (2) the ability of the railroad industry to absorb the additional costs entailed thereby. These are matters which undoubtedly will be developed at some length before your committee, by representatives of labor and of management presenting information which should be of great assistance in your consideration of the bill.

"I hope that whatever action may be taken respecting taxes and to improve benefits will result in the railroad retirement system being placed on an essentially sound actuarial basis, and similarly that the increase in the contributions' base and rate and the improvement of benefits will be such as not seriously to endanger the soundness of the unemployment insurance program."

STATEMENT OF MR. HARPER

"The standard railway labor organizations, after many conferences and as the result of long and careful consideration, have determined that the provisions of this bill are, from the viewpoint of railroad employees, desirable, reasonable, and, in fact, required to bring the railroad retirement and railroad unemployment insurance systems into reasonable relationship with the realities of present conditions, a conclusion in which I heartily concur. Also, it is the judgment of the standard railway labor organizations that the costs involved are not beyond the ability of the railroad industry to pay, to which I readily concur. The bill would provide an across-the-board increase in all

benefits and would also provide suitable and appropriate eligibility conditions for railroad workers and their dependents. It would increase the tax rates and the compensation base to which the tax applies sufficiently, not only to cover the added costs of the proposed amendments but also to produce enough additional revenues to eliminate for all practical purposes the present estimated deficit in the financing of the railroad retirement system. In that connection, the following is quoted from the Board's report:

"Considering both additional outgo and additional income, the estimates indicate that the added revenues would exceed the added disbursements by about \$180 million a year on a level basis, which is equivalent to 3.21 percent of a \$5.6 billion taxable payroll. Since the actuarial deficiency for the present law, calculated as of December 31, 1958, is estimated at 3.81 percent of that payroll (adjusted from 4.18 percent of a \$5.1 billion payroll), the enactment of the amendments would leave the railroad retirement system with an actuarial deficiency of 0.60 percent of payroll (3.81 minus 3.21) or about \$34 million a year.'

"In short, the enactment of the bill would reduce the present estimated 3.81 percent of payroll deficit to 0.60 percent. With only six-tenths of 1 percent deficit, the railroad retirement system can reasonably be regarded as financially sound. Thus, the bill not only would provide increases in benefits but would have the added virtue of, for all practical purposes, eliminating the present too-large deficit.

"Similarly, the bill, if enacted, would provide desirable and obviously needed improvements in the railroad unemployment insurance system with appropriate provisions for producing funds needed to cover the costs thereof. The increase in the amount of unemployment benefits and the extension of the periods in which benefits are payable, in my opinion, fully justify the additional cost. As pointed out in the Board's report, the costs would be greatly affected by such unpredictable things as the frequency and extent of cyclical fluctuations in railroad traffic, international conflicts, technological developments, etc. However, provisions for contributions to the fund on a sliding-scale basis afford a flexible method for realistically adjusting the fund to meet and conform to such fluctuations. While the Board's cost estimates indicate that a maximum rate of 3¼ percent, instead of 3½ percent, may be necessary to assure sufficient funds for the unemployment insurance account, the difference being only one fourth of 1 percent, should not, in my opinion, weigh against the enactment of the bill. I am firmly convinced that the effect of the provisions contained in the bill would be, apart from other economic considerations, to stabilize employment and, therefore, actually to reduce the cost of the unemployment insurance system. Then too, if the economy continued to go forward, as it is now doing and is generally expected to continue to do, unemployment will fall and, of course, the cost will correspondingly decrease. For these and other reasons, I strongly urge prompt consideration and passage of the bill."

The statement of Board Member Healy will be furnished in the next few days.

Because of your special request for an immediate report on the bill, this report has not been cleared with the Bureau of the Budget. We are, however, forwarding to the Bureau today a copy of the report and

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we will inform the committee promptly of any comments by the Bureau.

By direction of the Board:

MARY B. LINKINS,
Secretary of the Board.

STATEMENT OF MR. HEALY

I record my opposition to any further liberalization of benefits under the Railroad Retirement and Railroad Unemployment Insurance Acts and earnestly recommend an adverse report on H.R. 1012 in its entirety.

There are only two truly comparable social insurance programs for the industrial workers of the Nation. According to the best estimates available, in January 1959, there were 51 million employees in nonagricultural establishments; 44 million, or 86 percent, were under social security coverage and 1 million, or about 2 percent, under the railroad retirement system.

It is an acknowledged fact that the benefits under the railroad retirement system, although costlier, are far superior than obtainable under social security as the following comparative data prove conclusively:

	Social security	Railroad retirement
Number of benefits in current payment on Jan. 1, 1959.....	12,600,000	721,000
Number of beneficiaries per 100 employees at work.....	22	75
Average benefits in current-payment status on Jan. 1, 1959:		
Retirement and disability.....	\$72.20	\$116.80
Spouses.....	\$37.70	\$51.60
Average benefits to be awarded in 1959:		
Retirement and disability.....	\$83.50	\$126.90
Spouses.....	\$42.00	\$50.60
Insurance lump sums.....	\$210.00	\$510.00
Residual payment.....	None	\$1,700.00

And, without any changes in the present law, railroad workers can look forward, as time moves onward, to even wider spreads as earnings and service bring both groups to maximums indicated below:

	Social security	Railroad retirement
Age and disability:		
January 1959.....	\$116	\$185.60
January 1969.....	124	205.30
January 1979.....	125	273.90
Insurance lump sum:		
January 1959.....	255	718.00
January 1969.....	255	794.20
January 1979.....	255	865.30
Residual payments:		
January 1959.....	None	4,653.00
January 1969.....	None	7,593.00
January 1979.....	None	10,533.00

The railroad retirement system has many other advantages, to illustrate:

An age annuitant may also receive, if entitled thereto, benefits under the social security program, without any reduction in his railroad retirement check. There are around 60,000 such individuals presently doing so, and that number is increasing constantly. In point of fact, recent study revealed that 72 percent of the 1,628,000 employees with some railroad service in 1956 had accumulated some social security credits. Of these, 405,000 or 25 percent, had dual coverage in that year alone and of that number 82,000 received credit for 12 months of railroad service, indicative of the amount of secondary job holding among regularly employed railroad workers.

Also, while the relatively small minority of railroad employees in the total population of industrial workers has the privilege of a separate retirement and survivor program, its members also enjoy certain rights under the minimum guarantee provisions of the Social Security Act. Because of the 1958 amendments to that act, some 30,000 retired railroad employees, 90,000 wives and 160,000 widows, children, and aged parents received increases of about 7 percent, generally, in their annuities under the Railroad Retirement Act, effective in January 1959. As a matter of fact, these increases for spouses are even higher, ranging from 10 percent now to 17 percent a year hence. H.R. 1012 proposes to add another 10 percent to that increase.

H.R. 1012 proposes to increase the taxes on railroad workers from \$21.88 per month to \$27 in 1959-61, \$29 in 1962-64, \$32 in 1965, \$34 in 1966-68, \$36 in 1969, and thereafter, with no assurance, as experience has shown, that there will be no further increases in the interim.

The industry's share of the proposed additional taxes for retirement purposes would be \$57 million per year in 1959-61, \$87 million per year in 1962-64, increasing steadily to around \$185 million in 1969.

I shall refer later to the additional tax burden upon the industry which this bill proposes under the Railroad Unemployment Insurance Act.

These proposals to saddle additional taxes upon currently active employees (who have been carrying the burden of the cost of benefits to those who retired without contributing commensurately to the system), upon future entrants and upon an industry that is struggling to recapture its losses and keep as many employees as possible on the payroll is, in my opinion, ill timed and ill advised.

The 1951 amendments to the Railroad Retirement Act increased annuities by 15 percent and provided, for the first time, annuities to wives of railroad employees; the 1954 amendments permitted annuitants to receive full benefits even when simultaneously entitled to social security benefits; the 1955 amendments increased wife's maximum from \$40 to \$54.30, because of changes in the Social Security Act and that maximum was further increased through the Social Security Amendments of 1958 to \$59.50 in January 1959; \$60.50 in February 1959 and through January 1960 and \$63.50 thereafter; the 1956 amendments to the Railroad Retirement Act increased benefits, generally, 10 percent.

Those amendments increased benefit payments under the Railroad Retirement Act \$278 million since 1951.

In the vital statistics between 1951 and 1959 are the following indisputable comparisons:

	1951	1958
Railroad retirement system:		
Number of retirement and survivor beneficiaries as of June 30.....	407, 871	710, 403
Total benefit payments, fiscal year ending June 30.....	\$317, 101, 022	\$721, 428, 368
Administrative expenses, fiscal year ending June 30.....	\$4, 739, 673	\$8, 433, 070
Class I railroads of the United States:		
Revenue freight car loadings.....	40, 499, 182	30, 205, 494
Revenue passengers carried.....	483, 833, 473	375, 000, 000
Average number of employees.....	1, 276, 000	841, 000

In lieu of H.R. 1012 and other proposals, I earnestly recommend that a moratorium be declared against any further increases in benefits under the Railroad Retirement Act, at least, until such time as the help given the industry and its own efforts to improve its position and stabilize railroad employment can be properly evaluated by both management and currently active employees.

I am, as firmly, opposed to those proposals in H.R. 1012 to further enlarge or extend the already overgenerous benefits under the Railroad Unemployment Insurance Act, adding \$40 million in 1959 and by 1962 \$43 million per year to the present tax assessment against the industry.

The average daily benefit rate for unemployment, paced by the growth in rates of pay and amendments in 1952 and 1954, rose from \$3.55 in fiscal 1951-52 to \$7.80 last year and is currently in excess of \$8. This bill proposes to further increase these benefit rates from 8 to 25 percent with a general advance of 20 percent.

It also proposes, significantly, to retroactively extend benefits to employees who exhausted their rights although the opportunity to do so was rejected when the program for all other workers was adopted in the last session of the Congress. Under the present law railroad employees can, and do, draw unemployment benefits in more than 1 year, and it is possible to collect 52 weeks of benefits for a single period of unemployment. In point of fact, 164,000 of the 229,000 railroad employees who drew unemployment benefits between July and December 1958 were also beneficiaries in the fiscal year ending June 30, 1958.

The Railroad Unemployment Insurance Act needs reappraisal and not liberalization for certainly there can be no fairness nor equity in the requirements that compelled the industry, over the past decade, to pay out in unemployment benefits \$90,466,000 to employees who are discharged or suspended for just causes, or who voluntarily quit their jobs; \$15,656,000 to employees participating in strikes against the industry and to other employees affected by such work stoppages, or \$402 million in sickness benefits, and \$31 million in maternity benefits, when the Federal-State systems, covering the vast majority of the Nation's industrial workers:

Consider voluntary separations, discharges for misconduct and labor disputes as major reasons for the disqualification of claimants for unemployment insurance benefits; and

Only four States provide sickness benefits and in two of these the costs are paid for entirely by employees. Maternity benefits are available in only one State.

The Railroad Retirement and Social Security Acts provides immediate annuities to retiring workers entitled thereto but it is permissible, under the Railroad Unemployment Insurance Act for a railroad worker to defer the effective date of his retirement, and, in the interim, draw unemployment or sickness benefits. These practices are costing the railroad industry around \$12 million per year.

Furthermore, benefits are never reduced or canceled in cases of fraud under the Railroad Unemployment Insurance Act as they frequently are under the Federal-State system.

I sincerely believe that the removal of these inequities from the Railroad Unemployment Insurance Act will deprive no one of just benefits, and will definitely be in the interest of the industry, its employees, and the public welfare.

U.S. DEPARTMENT OF LABOR,
February 9, 1959.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN HARRIS: This is in further reply to your request for comments on proposals to amend the Railroad Retirement Act and the Railroad Unemployment Insurance Act. Since H.R. 1012 and H.R. 1013, identical bills, appear to be the most comprehensive of the proposals on this subject pending before your committee and to embody many of the provisions contained in the other bills, we will relate our comments to these bills.

The proposed increase in the wage base from \$4,200 to \$4,800 for tax and benefit computation purposes under the Railroad Retirement Act would carry out a recommendation made by the President in his 1959 budget message. This increase, which would bring the wage base of the railroad retirement program in conformity with that of the old-age and survivors' insurance program under the Social Security Act, is fully supported by equitable considerations.

The President has also urged the Congress to place the railroad retirement system on a sound actuarial basis. As pointed out in his budget message, recent studies show that the system is incurring a substantial actuarial deficit. The most recent actuarial valuation of the railroad retirement account shows that the deficit is 4.18 percent of taxable payroll, or about \$213 million a year. Officials of the Railroad Retirement Board have estimated that the enactment of these proposals would reduce this deficit to 0.60 percent of taxable payroll or about \$34 million a year. Although the deficit is on an estimated basis and the actual future status of the account will likely reflect a variation, it is clear that the account would be in a more solvent position under the proposed legislation than it is at the present time. In addition, the increased benefits and other liberalizations would provide greater economic security for workers covered under the system. We are in favor of these results. If it is determined that the proposals would accomplish these results on a sound basis, we recommend that they receive the most earnest consideration in these respects.

We favor sound improvements in the railroad unemployment insurance system. From information available to us, however, it appears that the proposed improvements would create a deficit in the unemployment insurance account of \$25 to \$75 million by June 30, 1959, notwithstanding the proposed increase from 3 to 3½ percent in the maximum tax rate on employers under the law. We suggest that the problems of financing the railroad unemployment insurance program should be solved before the account starts showing a deficit.

The Bureau of the Budget advises that they have no objection to the submission of this report.

Sincerely yours,

JAMES T. O'CONNELL,
Acting Secretary of Labor.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., February 21, 1959.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget with respect to H.R. 1012, a bill to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits and for other purposes.

This bill would liberalize and increase the retirement, survivor, and unemployment and sickness benefits, and provide for extended unemployment benefits. It would increase railroad retirement taxes and ultimately increase the employer contributions to the railroad unemployment insurance account. Also, the bill would increase the wage base from \$350 to \$400 a month (from \$4,200 to \$4,800 annually). This latter increase is in line with the 1958 amendments to the Federal old-age and survivors' disability insurance system and was recommended by the President in his 1960 budget message.

In the retirement system, the benefit rates would be raised by 10 percent and other substantial liberalizations would be made at a total level premium cost of 2.63 percent of payroll according to the Board's estimate.

The railroad retirement system is at present confronted with an actuarial deficiency of 4.18 percent of payroll. Both your committee and the administration recognize that this serious deficiency must be remedied if the system is to be maintained on a sound reserve basis. Under this bill the additional revenues which would be provided for the railroad retirement system through increases in the tax rate and a higher wage base would offset the increase in benefit outlays and would reduce the actuarial deficit to 0.60 percent of payroll according to actuaries of the Railroad Retirement Board. On the basis of their estimates, this would go far toward making the railroad retirement system self-financed.

The estimated reduction in the actuarial deficiency from 4.18 to 0.60 percent, however, is based upon many assumptions including several which could turn out to be optimistic. First, the Board's actuaries estimate that as a result of the financial interchange with

the old-age and survivors' insurance trust fund, the railroad retirement system cost will be reduced by 1.12 percent of payroll. The actuaries of the Social Security Administration believe that this estimate is high and that probably no net reductions will accrue to the railroad retirement system. Second, the estimate assumes a level annual taxable wage base of \$5.6 billion. Actual payrolls have been below this level. In 1957, they were \$4.6 billion and in 1958, \$4.1 billion. Therefore, there is reasonable doubt that the \$5.6 billion wage base will be realized. We believe that these are points on which the committee might wish to develop further information.

Aside from the above comments concerning financing of the system, two of the the bill's retirement provisions pose problems:

(1) Under the existing law an individual cannot receive disability benefits for any month in which he is paid more than \$100 in earnings. Under the bill this would be modified so that the disability benefit would be denied for any month in which earnings exceed \$100 only if his annual earnings exceed \$1,200. This proposed annual earnings criterion would seriously weaken the existing test for determining whether disability continues to exist. Under the proposed bill an individual could earn \$300 a month for 4 months (which raises a serious question as to his continued disability) and still draw his monthly disability benefits for the entire year. Under existing law his benefits would be withheld for these 4 months. While this annual criterion is found in the old-age and survivors' insurance program, it is not applicable to the disability benefits part of that program. Moreover, inasmuch as the railroad program provides benefits under considerably less stringent conditions in occupational disability cases, it would appear most undesirable to weaken the disability test by liberalizing the earnings provisions.

(2) The existing law provides that annuities be based upon either the railroad formula or the old-age and survivors' insurance formula, whichever yields the higher amount. This particularly affects survivor cases, two-thirds of which now draw benefits under the old-age and survivors' insurance formula. These bills would provide a 10-percent increase in annuities determined under the old-age and survivors' insurance formula as well as a 10-percent increase in annuities determined under the railroad formula. As the use of the old-age and survivors' insurance formula is designed to assure that railroad benefits will not be lower than social security benefits, it is questionable that the benefit resulting from the OASI formula (which were recently increased by 7 percent) should be increased when applied to railroad cases.

Also, proposed amendments to the Railroad Unemployment Insurance Act raise important questions:

(1) The duration of unemployment benefits would be extended from the present 26 weeks to 39 weeks for employees with 10 to 15 years of service and to 52 weeks for employees having 15 years or more service. The present maximum daily limit on unemployment benefits would be increased from \$8.50 to \$10.20 with corresponding increases in the relationship to gross pay from 60 percent to 70 percent.

The President has urged the States to improve the duration and amounts of benefits paid under the States unemployment compensation programs. His 1959 Economic Report states: "Benefits should be raised so that the majority of covered workers will be eligible for

payments equal to at least half of their regular earnings; and the maximum duration of benefits should be lengthened to 26 weeks for any person who qualified for any benefits and who remains unemployed that long." The existing provisions of the Railroad Unemployment Insurance Act meet the above criterion. The proposed increases should receive the most careful scrutiny, since they involve broad questions of social policy.

In addition to the fundamental question of relationship to the basic unemployment insurance system which needs thorough consideration, the proposed extended weekly benefits could impair incentives to move into other lines of work. This would seem to be an undesirable consequence in view of the fluctuating railroad employment situation. Similar impairment might result from the proposed benefits inasmuch as the level of compensation could, in many cases, be substantially in excess of 70 percent when related to take-home pay. These proposed liberalizations on unemployment insurance are estimated by the Railroad Retirement Board to account for a significant part of the increased cost and the required increased employer contributions rate. It also appears likely that the maximum tax rate of 3½ percent specified in this bill will fall short of covering the cost of these benefits.

(2) The bill would virtually eliminate any waiting period for unemployment benefits. An individual would be entitled to benefits even though he was out of work for only 1 day. Experience has shown that there are significant reasons for a waiting period. It is not necessary to compensate every small case of wage loss which is often attendant upon normal and smooth adjustments between labor demand and supply. Few eligible workers lack sufficient funds to tide them over for a few days of unemployment. In addition, the waiting period minimizes administrative costs involved in processing and paying very small claims, and serves to conserve the fund so that it can be used for benefit payments for more significant unemployment risks.

(3) Unemployment compensation benefits are designed to offset current loss of income due to unemployment, not to reimburse for prior losses. This principle is violated by the proposed temporary extended benefits, which would provide benefits in the future to an individual who had days of unemployment between June 19, 1958, and April 1, 1959. The principle is again violated by provisions of the bill which would make all proposed benefit increases retroactive to June 30, 1958.

The above provisions, in our opinion, should receive the most careful scrutiny because they involve serious questions of social policy and possible precedents for other programs. The additional costs of these benefits should also be considered in relation to the pressing problem of assuring a sound financial base for existing benefits.

Altogether, the proposed benefit liberalizations, when added to the needed steps which these bills take toward elimination of the present serious financial deficiency in the railroad retirement system would entail a substantial increase in railroad retirement and railroad unemployment taxes. The immediate effect of these bills would be to raise the railroad retirement rate to 13½ percent and the unemployment rate to 3½ percent, or a combined total of 17 percent of covered payroll—6¾ percent on workers and 10¼ percent on the carriers. By 1969 the railroad retirement tax rate would rise

to 18 percent, thus leading to a combined total of 21½ percent of covered payroll—9 percent on employees and 12½ percent on the employers. These rates would compare with the present railroad tax rate of 12½ percent and unemployment rate of 3 percent, a combined total of 15½ percent—6¼ percent on workers and 9¼ percent on the carriers. The desirability and feasibility of the proposed substantial liberalization in benefits for railroad workers in this industry at these payroll tax rates must, of course, be judged in terms of the industry's long-term prospects and its competitive position with other forms of transportation. The sharp tax increase necessary to pay for the liberalizations over the next decade, would present a grave problem for the railroad industry—an industry which is already receiving emergency financial aid from the Government under legislation enacted in the 85th Congress.

The impact on the employees would also be substantial and has led to legislation being introduced to obtain exemptions of employees' contributions from Federal income tax provisions. In the 1960 budget message, the President opposed changing the status of such contributions for Federal income tax purposes.

In summary, enactment of legislation to place the railroad retirement system on a sound and fully self-financing basis and to increase the level of wages covered under the system was recommended by this administration. While H.R. 1012 would make a useful contribution in this direction, it incorporates substantive provisions affecting both railroad retirement and railroad unemployment benefits which we believe are questionable. The proposed liberalizations would also create a financial problem in the railroad unemployment program. Accordingly, the Bureau of the Budget would strongly recommend against enactment of H.R. 1012 in its present form.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
March 11, 1959.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of January 20, 1959, for a report on H.R. 1012, a bill to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

H.R. 1012 would increase benefit amounts under the railroad retirement program by 10 percent, change the wage and tax base from \$350 to \$400 per month, and increase the rate of employer and employee contributions to the railroad retirement system from 6.25 percent of taxable payroll to 6.75 percent each; all of these changes would be effective on January 1, 1959. The contribution rates would be increased to 7.25 percent each on January 1, 1962, with further increases in the contribution rate to be made after 1964 geared to the increases in tax rates under the Federal old-age, survivors, and dis-

ability insurance program. The ultimate rate would be 9 percent each for railroad employers and employees, beginning on January 1, 1969, if the present old-age, survivors, and disability insurance tax schedule is maintained.

Under other provisions of the bill the present monthly earnings test applicable to individuals receiving railroad disability annuities would be put on an annual basis; the earnings test which applies to railroad survivor annuitants outside the United States would be made the same as that which applies to railroad survivor benefits inside the United States; and reduced annuities would be provided for spouses and women workers beginning at age 62.

The proposed law would amend the Railroad Unemployment Insurance Act by (1) increasing the wage and tax base from \$350 to \$400 a month, effective January 1, 1959; (2) increasing the maximum number of days of unemployment payable in the first registration period from 7 to 10 days, with Sundays and holidays treated the same as other days; (3) providing a new schedule of daily benefit amounts for both unemployment and sickness, ranging from \$4.50 to \$10.20 (the present range, \$3.50 to \$8.50), effective retroactively to June 30, 1958, in most cases; (4) increasing the alternative daily benefit rate for unemployment and sickness from 50 percent to 60 percent of daily rate of pay; (5) providing additional 13 to 26 weeks of unemployment benefits (depending on years of service) for workers with 10 or more years of railroad service who exhaust their normal benefits; (6) providing an early beginning of benefit years for workers with 10 years of service not currently qualifying for benefits; (7) providing retroactively to railroad workers with less than 10 years' service who exhausted their unemployment benefits after June 30, 1957, additional benefit rights similar in duration to those granted under the Temporary Unemployment Compensation Act of 1958; (8) increasing the qualifying amount of base-period wages for unemployment and sickness benefits from \$400 to \$500, effective for base years beginning on or after January 1, 1958; and (9) adopting a new tax schedule which increases the maximum contribution rate from 3 percent to 3½ percent, effective January 1, 1959. The changes described in clauses (2)-(6), above, would be effective retroactively with respect to benefits accruing in general benefit years after the benefit year which ended on June 30, 1958, and in extended benefit periods (described in clause (5)) as early as January 1, 1958.

The sponsors of the predecessor bills of the 85th Congress (S. 1313 and companion bills H.R. 4353 and H.R. 4354) indicated, at least when the bills were introduced and for some time thereafter, that they would favor the enactment of the proposed amendments to the Railroad Retirement Act only if legislation were also passed which would exclude the amount of the employee contributions from taxable income under the Federal income tax laws. We do not know whether or not the acceptability of the present legislation is conditioned on the enactment of a corollary income tax exemption measure. Our objections to this type of income tax legislation are outlined in the March 15, 1957, report of this Department to your committee on H.R. 4353, H.R. 4354, and other similar or identical bills.

The seventh actuarial valuation of the railroad retirement account showed that the railroad retirement system was operating with a deficiency of 4.18 percent of taxable payroll as of the end of 1958,

based on the legislative provisions then in effect. This figure compares with a deficiency of 1.63 percent of taxable payroll shown by the sixth triennial valuation contained in the 1955 Annual Report of the Railroad Retirement Board. The increase in the actuarial deficiency has in large part been the result of the increased benefit costs due to the amendments to both the Railroad Retirement Act and the Social Security Act in the intervening years, without any corresponding changes in the financing basis of the railroad retirement program.

It seems clear that some action is needed to improve the financial condition of the railroad retirement system. As you know, the President in his recent budget message recommended that the railroad retirement system be placed on a sound actuarial basis, stating that ". . . taxes on railroad employment should be increased at the earliest possible time, without changing the status of such contributions for Federal income tax purposes." We do not know the precise degree to which the tax increases proposed by H.R. 1012 would improve the financing of the railroad system, considering the substantial increase in the cost of the program resulting from the benefit changes proposed—primarily that relating to the 10 percent increase in benefits.

The President in his budget message recommended increasing the wage and tax base of the railroad program from \$350 to \$400 per month, as would be done by H.R. 1012. The \$400-per-month figure would correspond with the \$4,800-per-year-wage base provided for old-age, survivors, and disability insurance, effective for 1959 and later years, by the Social Security Amendments of 1958. An increase in the railroad retirement wage base would reduce somewhat the actuarial deficiency of the program.

It is our belief that any liberalization of railroad unemployment and sickness benefits should be accompanied by provisions for the adequate financing of the increased costs. As it is not certain that a maximum contribution rate of 3.5 percent on compensation up to \$400 a month will afford sound financing for the railroad unemployment system, the committee may wish to consider some adjustment in either the maximum rate in the proposed tax schedule or in the proposed benefit provisions.

We have particular reference to the proposed increase in the benefit rate of 60 percent of the employee's daily rate of pay in his last employment in the base year. While many State unemployment insurance laws provide for theoretical benefit rates equivalent to 60 percent or more of average weekly wages, these provisions are invariably accompanied by maximum benefit ceilings that operate to reduce this percentage to considerably below 50 percent for the majority of workers, especially in the case of higher paid workers. Since, under the proposed legislation, the railroad system would have the highest weekly ceiling on benefits (\$51) in continental United States, the proposed daily benefit-rate schedule would in fact replace a higher proportion of earnings than is provided through those State systems paying the highest benefits for workers in private industry or for Federal employees.

We would urge the committee to report out legislation that will correct the existing deficiencies in the financing of the railroad retirement and unemployment systems and assure their functioning on an

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actuarially sound basis. The information available to us indicates that while H.R. 1012 would very substantially improve the existing situation, it would not without some modification of its provisions, fully achieve this objective.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

ARTHUR S. FLEMMING, *Secretary.*

MINORITY VIEWS

We believe that the committee should recommend the enactment of H.R. 1012 as introduced.

We find H.R. 5610 entirely unacceptable, because the major amendments it proposes are clearly an assault upon basic principles of social insurance which, in some cases, have been accepted as national policy since the enactment of the Railroad Unemployment Insurance Act. Clearly principles which have applied for as long as 20 years should not be wiped out without just and reasonable cause and, in our judgment, no abuses of any extent serious enough to warrant the deprivation to unemployed railroad workers of these long-standing provisions have been brought to the attention of the committee. We hold the same view with respect to the proposals in H.R. 5610 to strike out provisions for sickness benefits which have been in effect since the system of sickness insurance was enacted in 1946. The need today is for improved protection of those who become unemployed or ill; it is counter to logic and justice to provide even less aid to the victims of unemployment or illness at a time when they are confronted with a greatly inflated cost of living over conditions prevailing at the time the original legislation was enacted.

Perhaps the most alarming aspect of the committee's action in this assault upon long-standing principles of social insurance is the callous disregard for due process contained in the provisions carrying out these changes. Persons ought not to be discharged for cause without an opportunity to appeal. No government bureaucrat should be empowered to withhold unemployment benefits from a family without appropriate standards of review of his action. We believe that workers ought to be able to quit their job if they can find a better one. The committee bill would seriously hinder this basic right of choice. We cannot imagine that the Congress will want to interfere with this choice.

BACKGROUND

The subject matter of H.R. 1012 was before the 85th Congress during practically the entire period of its duration. Early in the first session of that Congress the chairman of this committee, Mr. Harris, introduced H.R. 4353. The ranking minority member, Mr. Wolverton, introduced an identical bill, H.R. 4354 and numbers of other members of both parties did likewise. An identical bill, S. 1313, was introduced in the Senate by a large bipartisan group of Senators.

Both this committee and the Senate Committee on Labor and Public Welfare held extensive hearings on those bills in the first half of 1957. After giving the most thorough consideration to all the evidence, both this committee and the Senate committee reported favorably on the bills, with amendments.

S. 1313, amended as recommended by the Senate committee, and further amended to reduce improvements in unemployment insurance

benefits so as to conform with the recommendations of this committee, was passed in the Senate late in the last session of the 85th Congress, with the understanding that as so amended it would have the support of this committee in the House.

H.R. 1012 as introduced by the chairman of this committee is identical to the amended S. 1313 that passed the Senate last year. The ranking minority member of this committee, Mr. Bennett, together with many other Members of the House introduced identical bills. The representatives of the railroad employees accepted and supported this compromise bill in the expectation that by doing so there would certainly be prompt completion of the action the last Congress almost but not quite consummated.

We are particularly disturbed by the unreasonable provisions which H.R. 5610 would establish concerning the payment of benefits to workers who voluntarily quit their jobs and are discharged for misconduct. The bill reported by the majority of the committee would apply to railroad workers even stricter disqualification provisions than are applied to workers in other industries and for this reason alone are patently unfair and unreasonable. The provision regarding those discharged for misconduct is especially inappropriate inasmuch as a similar provision in the original law was removed, at the request of both railroad management and the railway labor organizations, on grounds that it was unworkable and improper.

VOLUNTARY QUILTS AND FAILURE TO ACCEPT SUITABLE WORK

The Railroad Unemployment Insurance Act, like most State unemployment compensation laws, disqualifies an employee for benefits for a reasonable but limited period if he voluntarily leaves suitable work without good cause or fails without good cause to accept available suitable work. Under the Railroad Act the period of disqualification is 30 days and the States provide varying but generally comparable periods.

These disqualifications recognize that an employee should not have a free choice to stop working or to refuse work and draw unemployment insurance benefits instead. But by putting a reasonable limit on the period of disqualification they also recognize a number of other pertinent factors. There is attached hereto a table showing the provisions of law in the several States which cover disqualification periods for voluntary quits.

Generally people who are dependent on wages for a livelihood want to keep jobs they have and get better ones and want to find jobs when they are unemployed. They do not capriciously quit suitable jobs or turn down suitable job opportunities, and unemployment insurance legislation should not be considered on the premise that they do.

Working people quit apparently suitable jobs for many reasons. They may have a better job in prospect which does not materialize and in retrospect an administrative official of a Government agency may not consider the prospect good cause for quitting. The same factors may operate regarding a decline of proffered employment. An employee may find himself physically no longer able to cope with the requirements of the job he has been holding, though he may not be technically considered disabled for the job. His boss may not like

him and may make the job so miserable for him that he quits even though, to an objective observer, the work appears suitable. Or an employee may be threatened with disciplinary action and be offered the alternative of voluntary resignation; he may choose this alternative even though innocent of any infraction rather than run the risk of a bad employment record that would be a lifetime handicap.

The present provisions of the Railroad Unemployment Insurance Act reflect a reasonable balancing of all these factors. But H.R. 5610 proposes a continuing disqualification for benefits of all employees who quit work or fail to accept work until they again get a railroad job and work in it at least 20 days. Often this would be a permanent disqualification. Such a penalty, based on necessarily dubious judgments, loses contact with the basic function and purposes of unemployment insurance.

DISCHARGE FOR MISCONDUCT RELATED TO HIS WORK

When the Railroad Unemployment Insurance Act was enacted in 1938, it contained a provision disqualifying employees for benefits for 45 days if they had been discharged for misconduct relating to their work. But, in 1939, before the act went into operation Congress removed this disqualification on the recommendation of railroad management, labor, and the Railroad Retirement Board. All concerned then recognized that it was not desirable to have the Board intrude its judgment as to the basis of discharge into the delicate machinery of the Railway Labor Act for the handling of grievances. Twenty years later, this committee now recommends that a discharge for misconduct related to his work be made, in effect, a permanent disqualification.

H.R. 5610 proposes that an employee discharged for misconduct related to his work be disqualified for benefits until he again gets railroad employment and works for at least 20 days. Virtually the only chance such an employee has to be reemployed in railroad service is his reinstatement on the ground that he was improperly discharged. Thus the judgment of the Railroad Retirement Board as to the propriety of discharge would become decisive of benefit rights involving thousands of dollars as well as being a prejudgment of the outcome of grievance procedures.

Here again, broader considerations too are involved. The right of an employer to discharge an employee for misconduct, subject to review through grievance procedures, is one that the employer must have if he is to maintain proper discipline in the performance of work. Yet it must be recognized that such rights puts into the hands of private parties the power to inflict punishments which in practical operation may be far more severe than those that public authority could impose through judicial tribunals. When it is proposed, as H.R. 5610 proposes, that this penal action of the employer be extended to jeopardize the means of subsistence of the employee's family, there is again a loss of contact with the purposes of unemployment insurance. We can see no justification for putting into the hands of a private enterprise the power to assess as a disciplinary measure a deprivation of governmentally administered social insurance benefits.

EXTENDED PERIODS OF UNEMPLOYMENT INSURANCE PROTECTION FOR
EMPLOYEES OF LONG SERVICE

One of the most serious human problems in industry is the effect which technological changes and changes in methods of operation have had and continue to have on employment. In ordinary adjustments of the forces to meet fluctuating needs reflecting fluctuations in business or seasonal conditions junior employees are temporarily laid off in inverse order of seniority and may expect to be recalled as need for an increased working force returns. The duration of unemployment insurance benefits has been geared to such conditions.

What we have been witnessing in the railroad industry, however, is something entirely different. Since the end of World War II technological changes and changes in methods of operation have been taking place in this industry at an unprecedented rate and the impact of these changes on railroad employment has been particularly severe in recent years.

The impact of these changes upon employment opportunities is not confined to junior employees. Employees with 10, 20, or 30 and more years of service find that their particular skills are no longer needed or that employees with these skills are only needed in greatly reduced numbers. Such employees are permanently displaced from the railroad industry with very limited or no employment opportunities in other industries. They are generally not old enough to retire. The normal duration of employment insurance benefits is completely inadequate to meet their needs or to discharge the obligation of the industry to share with them to some reasonable degree the savings that the industry makes through the elimination of their jobs.

The House and Senate committees last year recognized the need for extended benefit periods for the long-service employees, but the committee recommendations sharply reduced the period of protection below that provided for in the original bills. The Senate committee recommended 26 weeks of extended benefits for employees with 10 to 15 years of service and 52 weeks for employees with 15 or more years of service. This committee recommended only half as much—13 weeks for employees with 10 to 15 years of service and 26 weeks for employees with 15 or more years of service. The bill that passed the Senate was conformed to the lower recommendations of this committee and H.R. 1012 provides only for extended protection at this minimum.

We feel that the provisions of H.R. 1012 represent the very minimum of extended benefit protection that is required for the veteran railroad employees. It should not be forgotten that this extended protection operates only while the individual is actually unemployed—if permanent suitable work can be found for him either in or out of the railroad industry his benefits cease and even temporary work would interrupt benefits for the duration of such employment.

COMPENSABLE DAYS OF SICKNESS

H.R. 1012 proposes no change in the number of days of unemployment due to sickness that are now compensable, i.e., 7 in the first registration period in a benefit year and 10 in subsequent registration periods. H.R. 5610, however, proposes to reduce the number of

compensable days from seven to five in the first registration period in a benefit year and to condition the payment of benefits in subsequent registration periods upon the employee's having at least 7 days of sickness or unemployment or both in such registration period or in the 14 days immediately preceding it. Here again is a reduction in benefits that have been provided since 1946. It would mean that employees could be repeatedly sick for periods up to 8 days and never be compensated for any of the wage loss resulting from such sickness. This is particularly discriminatory in light of the fact that provisions for paid sick leave are very rare in the railroad industry outside the official classes. The provisions of the Railroad Unemployment Insurance Act pertaining to unemployment due to sickness meet a need which in many other industries is met by provisions for sick leave at full pay.

ARBITRARY TIME LIMITATION ON COMPENSABLE DAYS OF SICKNESS

H.R. 5610, page 18, 1. 21—page 19, 1. 11, would bring into the Railroad Unemployment Insurance Act a drastic time limitation on the compensability of days of sickness, superimposed on present limitations that have governed since the inception of the program. It is a complicated provision that says in substance that no days of sickness shall be compensable if they occur more than 90 days after the employee last worked in railroad service for compensation, excluding from such 90-day period any days on which the employee was disqualified for benefits for participating in a wildcat strike and any days in sickness or unemployment registration periods.

Presumably the majority of the committee feels that an employee who for a period of 90 days has not had railroad employment, has not been sick, and has not been unemployed, has severed his connection with the railroad, and, hence, should be deprived of any benefits for which his past railroad service has qualified him. But, as the above example shows, such an employee is likely to have built up valuable seniority rights and the price of protecting those rights against forfeiture is a continuing daily obligation to respond to any need the railroad may have for his services. It is brutal and inhuman to place such an arbitrary time limitation on his benefit rights. Here once more is an instance where the committee bill is a step backward. Here again benefits that have been in effect for years are being taken away.

OTHER BACKWARD-MOVING AMENDMENTS

Other amendments proposed by H.R. 5610 would take away, without just cause, benefits provided under the existing law, or improvement proposed by H.R. 1012 which are warranted in order to provide fair treatment to covered employees.

Present law, for example, provides that benefits may be paid only for days of unemployment in excess of 7 in the first registration period, 14 days, in a benefit year. This condition has become troublesome since 1954 when most of the nonoperating employees were covered by an agreement providing for pay for holidays not worked, such pay, however, being conditioned upon the employee's working on the workday immediately preceding and the workday immediately following the holiday. This condition has operated as an inducement to

some railroads to escape holiday pay by laying off workers on the day before or the day after a holiday. Thus the employee loses a working day's pay and his holiday pay but does not qualify for unemployment insurance, since an employee may be repeatedly unemployed for days up to six without ever qualifying for unemployment benefits. H.R. 1012 would alleviate this unjust situation by providing for the payment of unemployment benefits in excess of four in the first registration period, the same as is now provided with respect to registration periods subsequent to the first. We regard this as a salutary provision. H.R. 5610 would eliminate it.

Since 1946, when provisions to compensate for unemployment due to sickness were adopted, the Railroad Unemployment Insurance Act has provided payment of benefits for maternity periods—a reasonable period before and after the birth of a child during which a woman worker may refrain from work and be considered unemployed on account of sickness. These provisions have been considered conducive to the health of mothers and children and hence to the social and economic benefit of the Nation. Their cost has been negligible—only about 2.4 percent of the benefits paid under the unemployment and sickness insurance system, and, in our opinion, there has been no evidence introduced this year which detracts in any way from the heretofore recognized merits and social justice of this provision. H.R. 5610 would wipe out these benefits although they have been provided since the establishment of the sickness insurance program.

Besides eliminating maternity benefits, H.R. 5610 would establish a number of irrelevant and unjust disqualifications for sick benefits that depart from long-established and fundamental principles and purposes of social insurance legislation. H.R. 5610 proposed to disqualify days of sickness on the same extreme grounds that it would disqualify days of unemployment after a voluntary quit or failure to accept available work. In addition, it would require the Railroad Retirement Board to determine before it could pay any benefits for days of sickness the completely theoretical question of whether or not the individual would be available for work if he were not sick. It would also disqualify an employee who became sick while participating in a prohibited strike, even though for all anyone knows he might have abandoned such participation and returned to work had he not been sick.

The important point with respect to all these proposed disqualifications is that whatever bearing they may have on the right to claim benefits for lack of work and however extreme they may be in that context, they have no legitimate bearing in the rights of a qualified employee who is sick and for that reason is unable to work, no matter what jobs might be available to him if he were well. The proposals in H.R. 5610 to disqualify claimants on these irrelevant bases reflect only further attempts to deprive employees of benefit rights they have had since the program was adopted.

CONCLUSION

We believe that the recommendations that committee made last year with respect to railroad unemployment insurance reflected a reasonable compromise of conflicting interests and recommendations for the time being. They won acceptance in the Senate last year and would undoubtedly have been accepted by the House if an opportunity for action had been presented. H.R. 1012 as introduced would carry out those recommendations as well as the substantive recommendations of the majority of the committee, in which we concur, regarding amendments to the Railroad Retirement Act and Railroad Retirement Tax Act. We, therefore, urge that the provisions of H.R. 1012 rather than H.R. 5610 be passed.

TABLE 27.—Disqualification for voluntary leaving, good cause and disqualification imposed

State	Good cause restricted ¹ (21 States)	Benefits postponed ²			Benefits reduced or canceled ³ (18 States)
		For specified number of weeks ⁴ (15 States)	For variable number of weeks ⁵ (22 States)	For duration of unemployment ⁶ (16 States)	
Alabama.....	¹ X			X ⁶	Benefits based on any work left canceled.
Alaska.....		W+5			
Arizona.....	X	W+4			4 weeks.
Arkansas.....	¹ X	8 ⁴			
California.....		5 ⁴ 7			
Colorado.....			1-10 ⁵		Equal. ³
Connecticut.....	¹ X	W+4			
Delaware.....	¹ X			X	
District of Columbia.....			W+4-9		Equal.
Florida.....			W+1-12 ⁵	+10 x wba ⁸	
Georgia.....	¹ X		5-9 ⁵ 3		Equal. ³
Hawaii.....			W+2-7		
Idaho.....				+30 days' wages	
Illinois.....		W+6 ⁵ 9		+6 x wba ⁸	
Indiana.....				+10 x wba	
Iowa.....	¹ X			+qualifying wages.	All prior wage credits canceled.
Kansas.....			W+1-9		
Kentucky.....			1-16		
Louisiana.....	X			+10 x wba ²	
Maine.....	¹ X		7-14		Equal.
Maryland.....			W+1-9		
Massachusetts.....	X			+4 weeks' work at wages equal to wba.	
Michigan.....	X			X ⁶	Benefits rights based on any work left canceled. ³
Minnesota.....	¹ X		3-7 ⁵		
Mississippi.....				+8 x wba	
Missouri.....	¹ X			+10 x wba ²	
Montana.....			1-4		
Nebraska.....			W+1-5		
Nevada.....			W+1-15		
New Hampshire.....	X			+ wba and \$3 in 1 week in covered work.	

See footnotes at end of table, p. 122.

122 AMENDMENTS TO THE RAILROAD RETIREMENT ACT

TABLE 27.—Disqualification for voluntary leaving, good cause and disqualification imposed—Continued

State	Good cause restricted ¹ (21 States)	Benefits postponed ²			Benefits reduced or canceled ³ (18 States)
		For specified number of weeks ⁴ (15 States)	For variable number of weeks ⁵ (22 States)	For duration of unemployment ⁶ (16 States)	
New Jersey ¹				+4 x wba	Equal.
New Mexico			W+1-13		
New York		6 ³			Equal.
North Carolina	X		4-12 ³		
North Dakota			1-8 ³		Benefit rights based on any work left canceled. ⁹
Ohio				+ wba in covered work. ⁶	
Oklahoma	X	7 ³			Optional equal.
Oregon		8 ³			
Pennsylvania				+8 x wba	Equal.
Rhode Island		W+5			
South Carolina			1-5 ³		Optional equal.
South Dakota			1-5 ³		
Tennessee	X		W+1-9		Equal. ¹⁰
Texas	X		1-24 ³		
Utah			W+1-5 ³		Equal.
Vermont	X		1-9 ³		
Virginia		7			Equal.
Washington		W+5			
West Virginia	X	W+6			6 weeks. ⁹
Wisconsin	X	W+4		(⁹)	
Wyoming		W+3			Benefit rights based on any work left canceled.

¹ Good cause restricted to that connected with the work, attributable to the employer or involving fault on the part of the employer. See text for exceptions in States footnoted.

² By statute, benefits postponed and/or reduced or canceled for other than last separation as indicated: from the beginning of the base period (Colorado, Louisiana, and South Dakota); within specified periods preceding a claim 52 weeks (Georgia), 1 year (Missouri). See footnote 6 and text.

³ Unless otherwise indicated in States noted, "W+" means week of occurrence plus indicated number of weeks following. Disqualification period begins with week following separation (Colorado); week for which a claim is filed (Georgia, North Dakota, Oklahoma, South Carolina, and Vermont); unless the claimant has bona fide employment after separation (Illinois and Utah); week following filing of claim (Texas). Weeks of disqualification must be weeks in which the claimant is otherwise eligible (Illinois); is otherwise eligible or earns wages equal to his weekly benefit amount (Arkansas, Minnesota, and Oregon); weeks in which the claimant meets reporting and registration requirements (California); weeks following registration in which the claimant is in the labor market (New York); weeks for which claim is filed within the current benefit year and following benefit year if it begins within 12 months after the current year (North Carolina); weeks of otherwise compensable unemployment (South Dakota). See also footnote 7.

⁴ Figures show minimum employment or wages required to requalify for benefits.

⁵ "Equal" indicates a reduction equal to the weekly benefit amount multiplied by the number of weeks of disqualification. "Optional" indicates reduction at the discretion of the agency.

⁶ If the separating employer was the only base-period employer, cancellation results in disqualification for at least the remainder of the benefit year (Alabama, Michigan, and Ohio) or for at least the duration of the unemployment (Wisconsin).

⁷ Agency may add 1-8 weeks more for successive disqualifications.

⁸ State counted in two columns. See text for explanation of double periods.

⁹ If individual left to accept permanent full-time work with another employer, benefit rights are restored if he is laid off for lack of work by the new employer within 39 weeks or, if he left to return to a former employer in response to a recall, benefit credits are transferred to recalling employer and cancellation does not apply (Michigan). Disqualification not applied if individual left to accept bona fide offer and earned 10 times his weekly benefit amount from the new employer (Ohio). Deduction recredited if individual returns to covered employment during benefit year (West Virginia).

¹⁰ Applicable only if claim is filed immediately after disqualifying separation.

HARLEY O. STAGGERS.
 MORGAN M. MOULDER.
 JOHN D. DINGELL.
 GEORGE M. RHODES.
 TORBERT H. MACDONALD.
 SAMUEL N. FRIEDEL.
 PETER F. MACK, JR.
 JOHN E. MOSS.
 LEO W. O'BRIEN.
 DAN ROSTENKOWSKI.

VIEWS OF MR. BENNETT OF MICHIGAN

I am opposed to the committee bill H.R. 5610 in its present form.

I regret exceedingly that a majority of the committee did not see fit to approve a number of amendments to the Railroad Unemployment Insurance Act contained in H.R. 1012 as introduced by the chairman of the committee and H.R. 1013 which I introduced and which were supported by all the standard railway labor organizations. In particular I refer to the section in H.R. 1012 which provided extended unemployment benefits, beyond the 130 days a year of normal benefits now allowed by law, to employees who have had 10 or more years of service in the railroad industry and have been laid off and are unable to obtain employment. This provision was approved by the committee last year in its report on H.R. 4353. I am also opposed to a number of committee amendments in the reported bill which drastically restrict unemployment and sickness benefits which have been a part of the Railroad Unemployment Insurance Act since their adoption in 1938 and 1946, respectively. Under these circumstances, I favor H.R. 1012 as introduced in preference to the committee bill.

JOHN B. BENNETT,



86TH CONGRESS
1ST SESSION

H. R. 5610

[Report No. 243]

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 1959

Mr. HARRIS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

MARCH 23, 1959

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

A BILL

To amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, 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 "Railroad Employees
4 Benefits Act of 1959".

5 **PART I—AMENDMENTS TO THE RAILROAD RE-**
6 **TIREMENT ACT OF 1937**

7 SECTION 1. (a) Section 2 (a) 3 of the Railroad Retire-
8 ment Act of 1937 is amended to read as follows:

9 "3. Individuals who will have attained the age of sixty

1 and will have completed thirty years of service or, in the case
2 of women, who will have attained the age of sixty-two and
3 will have completed less than thirty years of service, but
4 the annuity of such individual shall be reduced by one one-
5 hundred-and-eightieth for each calendar month that he or
6 she is under age sixty-five when the annuity begins to
7 accrue.”

8 (b) Section 2 (d) of such Act is amended by adding at
9 the end thereof the following new sentence: “If pursuant
10 to the third sentence of this subsection an annuity was not
11 paid to an individual with respect to one or more months
12 in any calendar year, and it is subsequently established that
13 the total amount of such individual’s earnings during such
14 year as determined in accordance with that sentence (but ex-
15 clusive of earnings for services described in the first sentence
16 of this subsection) did not exceed \$1,200, the annuity with
17 respect to such month or months, and any deduction imposed
18 by reason of the failure to report earnings for such month
19 or months under the fifth sentence of this subsection, shall
20 then be payable. If the total amount of such individual’s
21 earnings during such year (exclusive of earnings for services
22 described in the first sentence of this subsection) is in excess
23 of \$1,200, the number of months in such year with respect
24 to which an annuity is not payable by reason of such third
25 and fifth sentences shall not exceed one month for each \$100

1 of such excess, treating the last \$50 or more of such excess
2 as \$100; and if the amount of the annuity has changed dur-
3 ing such year, any payments of annuity which become pay-
4 able solely by reason of the limitation contained in this
5 sentence shall be made first with respect to the month or
6 months for which the annuity is larger.”

7 (c) Section 2 (e) of such Act is amended by striking
8 out “than an amount” and inserting in lieu thereof “than
9 110 per centum of an amount”.

10 (d) Section 2 (g) of such Act is amended by inserting
11 after “wife under age 65” the following: “(other than a
12 wife who is receiving such annuity by reason of an election
13 under subsection (h))”.

14 (e) Section 2 of such Act is further amended by adding
15 at the end thereof the following new subsection :

16 “(h) A spouse who would be entitled to an annuity under
17 subsection (e) if she or he had attained the age of 65 may
18 elect upon or after attaining the age of 62 to receive such
19 annuity, but the annuity in any such case shall be reduced
20 by one one-hundred-and-eightieth for each calendar month
21 that the spouse is under age 65 when the annuity begins to
22 accrue.”

23 SEC. 2. (a) Section 3 (a) of the Railroad Retirement
24 Act of 1937 is amended (1) by striking out “3.04”, “2.28”,

1 and "1.52" and inserting in lieu thereof "3.35", "2.51",
2 and "1.67", respectively; and (2) by striking out "\$200"
3 and inserting in lieu thereof "\$250".

4 (b) Section 3 (c) of such Act is amended by inserting
5 after "or in excess of \$350 for any month after June 30,
6 1954," the following: "and before the effective date of the
7 Railroad Employees Benefits Act of 1959 or in excess of
8 \$400 for any month which begins on or after such effective
9 date,".

10 (c) Section 3 (e) of such Act is amended (1) by
11 striking out "\$4.55", "\$75.90", and "his monthly compensa-
12 tion" and inserting in lieu thereof "\$5.00", "\$83.50" and
13 "110 per centum of his monthly compensation", respectively;
14 (2) by striking out "is less than the amount, or the addi-
15 tional amount" and inserting in lieu thereof "is less than
16 110 per centum of the amount, or 110 per centum of the
17 additional amount"; (3) by inserting after "age sixty-five,"
18 the following: "women entitled to spouses' annuities pur-
19 suant to elections made under subsection (h) of section 2
20 to be entitled to wife's insurance benefits determined under
21 section 202 (q) of the Social Security Act,"; and (4)
22 by striking out "such amount or such additional amount"
23 and inserting in lieu thereof "110 per centum of such amount
24 or 110 per centum of such additional amount".

25 SEC. 3. (a) Section 5 (f) (2) of the Railroad Retire-

1 ment Act of 1937 is amended by striking out “and 7 per
2 centum of his or her compensation after December 31,
3 1946 (exclusive in both cases of compensation in excess
4 of \$300 for any month before July 1, 1954, and in the
5 latter case in excess of \$350 for any month after June 30,
6 1954),” and by inserting in lieu thereof the following:
7 “plus 7 per centum of his or her compensation paid after
8 December 31, 1946, and before the effective date of the Rail-
9 road Employees Benefits Act of 1959, plus $7\frac{1}{2}$ per centum
10 of his or her compensation paid on or after such effective
11 date and before January 1, 1962, plus 8 per centum of his
12 or her compensation paid after December 31, 1961 (exclu-
13 sive of compensation in excess of \$300 for any month before
14 July 1, 1954, and in excess of \$350 for any month after
15 June 30, 1954, and before such effective date, and in excess
16 of \$400 for any month which begins on or after such effec-
17 tive date),”.

18 (b) Section 5 (h) of such Act is amended by striking
19 out “\$33”, “\$176”, and “\$15.40” wherever they appear and
20 inserting in lieu thereof “\$36.30”, “\$193.60”, and “\$16.95”,
21 respectively.

22 (c) Section 5 (i) (1) (ii) of such Act is amended by
23 striking out “or in which month he engaged on seven or
24 more different calendar days in noncovered remunerative ac-
25 tivity outside the United States (as defined in section 203

1 (k) of the Social Security Act)” and inserting in lieu thereof
2 the following: “or, having engaged in any activity outside
3 the United States, would be charged under such section
4 203 (e) with any earnings derived from such activity if it
5 had been an activity within the United States”.

6 (d) Clause (A) (i) of section 5 (1) (9) of such Act is
7 amended by striking out the word “and” appearing after
8 “July 1, 1954,” and by inserting after “June 30, 1954,”
9 the following: “and before the effective date of the Railroad
10 Employees Benefits Act of 1959, and any excess over \$400
11 for any calendar month which begins on or after such
12 effective date,”.

13 (e) Clause (A) (ii) of section 5 (1) (9) of such Act is
14 amended (1) by striking out “after 1954 is less than
15 \$4,200” and inserting in lieu thereof the following: “after
16 1954 and before the first day of the calendar year beginning
17 after the effective date of the Railroad Employees Benefits
18 Act of 1959 is less than \$4,200, or for any calendar year
19 beginning on or after such effective date is less than
20 \$4,800,”; (2) by striking out “\$350” and inserting in
21 lieu thereof “\$400”; and (3) by striking out “and \$4,200
22 for years after 1954, by” and inserting in lieu thereof the
23 following: “, \$4,200 for years after 1954 and before the

1 calendar year following the effective date of the Railroad
2 Employees Benefits Act of 1959, and \$4,800 for years
3 which begin after such effective date, by”.

4 (f) Section 5 (l) (10) of such Act is amended by strik-
5 ing out “44”, “11”, “\$350”, “\$15.40”, “\$36.66”, “\$27.50”,
6 and “\$14.66” wherever they appear and inserting in lieu
7 thereof “49”, “12”, “\$400”, “\$16.95”, “\$40.33”, “\$30.25”,
8 and “\$16.13”, respectively.

9 SEC. 4. All pensions under section 6 of the Railroad
10 Retirement Act of 1937, all joint and survivor annuities and
11 survivor annuities deriving from joint and survivor annuities
12 under that Act awarded before the effective date of this Act,
13 all widows’ and widowers’ insurance annuities which began
14 to accrue before the first day of the first calendar month
15 which begins after such effective date, and which, in accord-
16 ance with the proviso in section 5 (a) or section 5 (b) of the
17 Railroad Retirement Act of 1937, are payable in the amount
18 of the spouse’s annuity to which the widow or widower was
19 entitled, and all annuities under the Railroad Retirement Act
20 of 1935, are increased by 10 per centum.

21 SEC. 5. (a) The amendments made by section 1 (other
22 than subsection (b) thereof), by subsections (a) and (c)
23 of section 2 and by subsections (b) and (c) of section 3

1 shall be effective only with respect to annuities (not including
2 annuities to which section 4 applies) accruing for months
3 which begin on or after the effective date of this Act. The
4 amendment made by subsection (b) of section 1 shall be
5 effective with respect to annuities accruing during calendar
6 years which begin after the effective date of this Act. The
7 amendment made by subsection (a) of section 3 shall be
8 effective only with respect to lump-sum payments (under
9 section 5 (f) (2) of the Railroad Retirement Act of 1937)
10 in the case of deaths occurring on or after the effective date
11 of this Act. The amendments made by subsection (f) of
12 section 3 shall be effective only with respect to annuities
13 accruing for months which begin on or after the effective
14 date of this Act and lump-sum payments (under section
15 5 (f) (1) of the Railroad Retirement Act of 1937) in the
16 case of deaths occurring on or after such effective date. Sec-
17 tion 4 shall be effective only with respect to pensions due in
18 calendar months which begin after the effective date of this
19 Act and annuities accruing for months which begin on or
20 after such date.

21 (b) All recertifications required by reason of the
22 amendments made by this part shall be made by the Rail-
23 road Retirement Board without application therefor.

1 **PART II—AMENDMENTS TO THE RAILROAD**
2 **RETIREMENT TAX ACT**

3 SEC. 201. (a) Section 3201 of the Railroad Retirement
4 Tax Act is amended to read as follows:

5 **“SEC. 3201. RATE OF TAX.**

6 “In addition to other taxes, there is hereby imposed on
7 the income of every employee a tax equal to—

8 “(1) $6\frac{3}{4}$ percent of so much of the compensation
9 paid to such employee for services rendered by him
10 on or after the effective date of the Railroad Employees
11 Benefits Act of 1959, and before January 1, 1962,
12 and

13 “(2) $7\frac{1}{4}$ percent of so much of the compensation
14 paid to such employee for services rendered by him after
15 December 31, 1961,

16 as is not in excess of \$400 for any calendar month: *Provided,*
17 That the rate of tax imposed by this section shall be increased,
18 with respect to compensation paid for services rendered
19 after December 31, 1964, by a number of percentage points
20 (including fractional points) equal at any given time to the
21 number of percentage points (including fractional points)
22 by which the rate of the tax imposed with respect to wages

1 by section 3101 at such time exceeds the rate provided by
2 paragraph (2) of such section 3101 as amended by the
3 Social Security Amendments of 1956.”

4 (b) Section 3202 (a) of the Railroad Retirement Tax
5 Act is amended (1) by striking out “after December 31,
6 1954” wherever it appears and inserting in lieu thereof
7 “on or after the effective date of the Railroad Employees
8 Benefits Act of 1959”; (2) by striking out “\$350” wher-
9 ever it appears and inserting in lieu thereof “\$400”; (3)
10 by striking out “after 1954” and inserting in lieu thereof
11 “which begins on or after such effective date”.

12 (c) Section 3211 of the Railroad Retirement Tax Act
13 is amended to read as follows:

14 **“SEC. 3211. RATE OF TAX.**

15 “In addition to other taxes, there is hereby imposed
16 on the income of each employee representative a tax equal
17 to—

18 “(1) $13\frac{1}{2}$ percent of so much of the compensation
19 paid to such employee representative for services ren-
20 dered by him on or after the effective date of the Rail-
21 road Employees Benefits Act of 1959, and before
22 January 1, 1962, and

23 “(2) $14\frac{1}{2}$ percent of so much of the compensation
24 paid to such employee representative for services ren-
25 dered by him after December 31, 1961,

1 as is not in excess of \$400 for any calendar month: *Pro-*
2 *vided*, That the rate of tax imposed by this section shall be
3 increased, with respect to compensation paid for services
4 rendered after December 31, 1964, by a number of per-
5 centage points (including fractional points) equal at any
6 given time to twice the number of percentage points (includ-
7 ing fractional points) by which the rate of the tax imposed
8 with respect to wages by section 3101 at such time exceeds
9 the rate provided by paragraph (2) of such section 3101
10 as amended by the Social Security Amendments of 1956.”

11 (d) (1) Section 3221 of the Railroad Retirement Tax
12 Act is amended by striking out “In addition to” and all
13 that follows down through “\$350” the first time it
14 appears, and inserting in lieu thereof the following:

15 “(a) In addition to other taxes, there is hereby imposed
16 on every employer an excise tax, with respect to having
17 individuals in his employ, equal to—

18 “(1) $6\frac{3}{4}$ percent of so much of the compensation
19 paid by such employer for services rendered to him on
20 or after the effective date of the Railroad Employees
21 Benefits Act of 1959, and before January 1, 1962, and

22 “(2) $7\frac{1}{4}$ percent of so much of the compensation
23 paid by such employer for services rendered to him after
24 December 31, 1961,

1 as is, with respect to any employee for any calendar month,
2 not in excess of \$400”.

3 (2) Such section 3221 is further amended (A) by
4 striking out “after December 31, 1954” wherever else it
5 appears in that section and inserting in lieu thereof “on or
6 after the effective date of the Railroad Employees Benefits
7 Act of 1959”, and by striking out “after 1954” and inserting
8 in lieu thereof “which begins on or after such effective date”;
9 (B) by striking out “\$350” wherever else it appears in that
10 section and inserting in lieu thereof “\$400”; and (C)
11 by adding at the end thereof the following new subsection:

12 “(b) The rate of tax imposed by subsection (a) shall
13 be increased, with respect to compensation paid for services
14 rendered after December 31, 1964, by a number of percent-
15 age points (including fractional points) equal at any given
16 time to the number of percentage points (including fractional
17 points) by which the rate of the tax imposed with respect to
18 wages by section 3111 at such time exceeds the rate provided
19 by paragraph (2) of such section 3111 as amended by the
20 Social Security Amendments of 1956.”

21 SEC. 202. The amendments made by section 201 shall,
22 except as otherwise provided in such amendments, apply only
23 with respect to compensation paid on or after the effective
24 date of this Act for services rendered on or after such date.

1 **PART III—AMENDMENTS TO THE RAILROAD**
 2 **UNEMPLOYMENT INSURANCE ACT**

3 SEC. 301. Section 1(i) of the Railroad Unemploy-
 4 ment Insurance Act is amended by striking out the proviso
 5 in the first sentence and inserting in lieu thereof “: *Pro-*
 6 *vided, however,* That in computing the compensation paid
 7 to any employee, no part of any month’s compensation in
 8 excess of \$300 for any month before July 1, 1954, or in
 9 excess of \$350 for any month after June 30, 1954, and be-
 10 fore the effective date of the Railroad Employees Benefits
 11 Act of 1959, or in excess of \$400 for any month which
 12 begins on or after such effective date, shall be recognized”.

13 SEC. 302. (a) Section 2(a) of the Railroad Unem-
 14 ployment Insurance Act is amended by striking out columns
 15 I and II and inserting in lieu thereof the following:

“Column I Total Compensation:	Column II Daily Benefit Rate
\$500 to \$699.99-----	\$4. 50
700 to 999.99-----	5. 00
1,000 to 1,299.99-----	5. 50
1,300 to 1,599.99-----	6. 00
1,600 to 1,899.99-----	6. 50
1,900 to 2,199.99-----	7. 00
2,200 to 2,499.99-----	7. 50
2,500 to 2,799.99-----	8. 00
2,800 to 3,099.99-----	8. 50
3,100 to 3,499.99-----	9. 00
3,500 to 3,999.99-----	9. 50
4,000 and over-----	10. 20”.

1 (b) The proviso in such section 2 (a) is amended by
2 striking out "50" and "\$8.50" and inserting in lieu thereof
3 "60" and "\$10.20", respectively.

4 SEC. 303. (a) An "employee", as defined in section
5 1 (d) of the Railroad Unemployment Insurance Act, who has
6 after June 30, 1957, exhausted (within the meaning pre-
7 scribed by the Railroad Retirement Board by regulation)
8 his rights to unemployment benefits, shall be paid unem-
9 ployment benefits for days of unemployment, not exceeding
10 sixty-five, which occur in registration periods beginning on
11 or after June 19, 1958, and before April 1, 1959, and
12 which would not be days with respect to which he would
13 be held entitled otherwise to receive unemployment benefits
14 under the Railroad Unemployment Insurance Act, except
15 that an employee who has filed, and established, a first
16 claim for benefits under the Temporary Unemployment
17 Compensation Act of 1958 may not thereafter establish
18 a claim under this subsection, and an employee who has
19 registered for, and established, a claim for benefits under this
20 subsection may not thereafter establish a claim under the
21 Temporary Unemployment Compensation Act of 1958. Ex-
22 cept to the extent inconsistent with this subsection, the pro-
23 visions of the Railroad Unemployment Insurance Act shall
24 be applicable in the administration of this subsection.

25 (b) The Secretary of Labor, upon request, shall

1 furnish the Board information deemed necessary by the
2 Board for the administration of the provisions of subsection
3 (a) hereof, and the Board, upon request, shall furnish
4 the Secretary of Labor information deemed necessary by the
5 Secretary for the administration of the Temporary Unem-
6 ployment Compensation Act of 1958.

7 (c) This section shall take effect on the date of enact-
8 ment of this Act.

9 SEC. 304. Section 3 of the Railroad Unemployment
10 Insurance Act is amended by striking out "\$400" and in-
11 serting in lieu thereof "\$500".

12 SEC. 305. (a) Section 4 (a-2) of the Railroad Unem-
13 ployment Insurance Act is amended by striking out sub-
14 division (iv) and inserting in lieu thereof the following:

15 " (iv) Any of the days beginning with the day with
16 respect to which the Board finds that he was discharged
17 or suspended for misconduct related to his work and
18 ending in case of discharge with the twentieth day there-
19 after with respect to each of which the Board finds that
20 he shall have earned compensation, and ending with
21 the last day of the period of suspension in cases of
22 suspension."

23 (b) Subdivisions (i) and (ii) of such section 4 (a-2)
24 are each amended by striking out "thirty" and by inserting
25 immediately before the semicolon at the end of each such

1 subdivision the following: "and ending with the twentieth
2 day thereafter with respect to each of which the Board finds
3 that he shall have earned compensation".

4 SEC. 306. (a) Clause (2) of section 1 (k) of the Rail-
5 road Unemployment Insurance Act is amended by striking
6 out all that follows "(2)." down through "maternity period,"
7 and inserting in lieu thereof the following: "a 'day of sick-
8 ness', with respect to any employee, means a calendar day
9 on which because of any physical, mental, psychological, or
10 nervous injury, illness, sickness, or disease he is not able
11 to work,".

12 (b) Section 1 (1) (1) of such Act is amended by strik-
13 ing out ", and the term 'statement of maternity sickness'
14 means a statement with respect to a maternity period of a
15 female employee, in each case".

16 (c) Section 1 (1) (2) of such Act is repealed.

17 (d) Section 2 (a) of such Act is amended (1) by
18 striking out "(other than a day of sickness in a maternity
19 period)"; (2) by striking out ", and (iii) for each day
20 of sickness in a maternity period"; and (3) by striking out
21 the fourth, fifth, and sixth sentences thereof.

22 (e) Section 2 (c) of such Act is amended by striking
23 out ", other than days of sickness in a maternity period,"
24 both times it occurs; and by striking out "; and the total
25 amount of benefits which may be paid to an employee for

1 days of sickness in a maternity period shall in no case exceed
2 the employee's compensation in the base year on the basis
3 of which the employee was determined to be qualified for
4 benefits in such maternity period".

5 (f) The seventh sentence of section 12 (i) of such Act
6 is amended by striking out "and, in the case of maternity
7 sickness, the expected date of birth and the actual date of
8 birth of the child".

9 (g) Section 12 (n) of such Act is amended (1) by
10 striking out "or maternity benefits" each place it appears
11 and inserting in lieu thereof "benefits"; (2) by striking out
12 "or maternity period"; and (3) by striking out of the fourth
13 sentence thereof the following: "or as to the expected date
14 of birth of a female employee's child, or the birth of such a
15 child".

16 SEC. 307. (a) Section 4 of the Railroad Unemploy-
17 ment Insurance Act is amended by inserting immediately
18 after subsection (a-2) thereof the following new subsection:

19 "(a-3) There shall not be considered as a day of sick-
20 ness with respect to any employee—

21 "(i) any of the days beginning with the day with
22 respect to which the Board finds that he left work
23 voluntarily without good cause and ending with the
24 twentieth day thereafter with respect to each of which
25 the Board finds that he shall have earned compensation;

1 “(ii) any of the days beginning with the day with
2 respect to which the Board finds that he failed, without
3 good cause, to accept suitable work available on such
4 day and offered to him, or to comply with instructions
5 from the Board requiring him to apply for suitable
6 work or to report, in person or by mail as the Board
7 may require, to an employment office, and ending with
8 the twentieth day thereafter with respect to each of
9 which the Board finds that he shall have earned
10 compensation;

11 “(iii) subject to the provisions of subsection (b)
12 of this section, any day with respect to which the
13 Board finds that, but for sickness, he would be un-
14 employed due to a stoppage of work because of a
15 strike in the establishment, premises, or enterprise at
16 which he was last employed and the Board finds that
17 such strike was commenced in violation of the provisions
18 of the Railway Labor Act or in violation of the estab-
19 lished rules and practices of a bona fide labor organiza-
20 tion of which he was a member;

21 “(iv) any day following the expiration of the
22 ninety-one-day period which begins on the last day
23 with respect to which the individual will have earned
24 compensation, excluding from such ninety-one-day

1 period any days occurring therein with respect to which
2 the Board finds he was unemployed due to a stoppage
3 of work described in clause (iii) of this subsection,
4 and excluding any days in any registration period which
5 begins, or in any continuous series of registration periods
6 the first day of which series begins, before the expira-
7 tion of such ninety-one-day period. For the purposes
8 of this clause, a 'registration period' shall be deemed to
9 be continuous with the preceding registration period if
10 established within ten days after the last day of such
11 preceding registration period."

12 (b) Section 4 (b) of such Act is amended by inserting
13 "or section 4 (a-3) (iii)" immediately after "section
14 4 (a-2) (iii)".

15 (c) Sections 4 (c) and 4 (d) of such Act are each
16 amended by inserting "or section 4 (a-3) (ii)" immediately
17 after "Section 4 (a-2) (ii)".

18 (d) Section 4 (e) of such Act is amended by inserting
19 "or section 4 (a-3) (i)" immediately after "section
20 4 (a-2) (i)".

21 (e) Clause (ii) of section 2 (a) of such Act is amended
22 by striking out "seven" both times it appears and inserting
23 in lieu thereof "nine", and by inserting immediately after
24 "the same benefit year" the following: "if in such subse-

1 quent registration period or in the fourteen days immediately
2 prior thereto he had not less than seven days of sickness or
3 unemployment, or both”.

4 (f) Section 1 (k) (2) of such Act is amended by insert-
5 ing immediately after “he is not able to work” the following:
6 “but otherwise would be available for work”.

7 SEC. 308. Section 8 (a) of the Railroad Unemploy-
8 ment Insurance Act is amended (1) by inserting after
9 “June 30, 1954” where it first appears the following: “, and
10 before the effective date of the Railroad Employees Bene-
11 fits Act of 1959, and is not in excess of \$400 for any cal-
12 endar month paid by him to any employee for services ren-
13 dered to him on or after such effective date”; (2) by in-
14 serting after “June 30, 1954,” where it appears for the
15 second time the following: “and before the effective date of
16 the Railroad Employees Benefits Act of 1959, and to not
17 more than \$400 for any month which begins on or after
18 such effective date,”; (3) by inserting after “June 30,
19 1954,” where it appears for the third time the following:
20 “and before the effective date of the Railroad Employees
21 Benefits Act of 1959, or less than \$400 if such month be-
22 gins on or after such effective date,”; (4) by striking out
23 “December 31, 1947” in paragraph 2 and inserting in lieu
24 thereof “the effective date of the Railroad Employees Bene-
25 fits Act of 1959”; and (5) by striking out the table (except

1 the column headings) in such paragraph 2 and inserting in
 2 lieu thereof the following:

	Percent
"\$450,000,000 or more-----	1½
\$400,000,000 or more but less than \$450,000,000-----	2
\$350,000,000 or more but less than \$400,000,000-----	2½
\$300,000,000 or more but less than \$350,000,000-----	3
Less than \$300,000,000-----	3½".

3 SEC. 309. Section 8 (b) of the Railroad Unemployment
 4 Insurance Act is amended (1) by striking out "3 per
 5 centum" and inserting in lieu thereof "3½ per centum"; and
 6 (2) by inserting before the period at the end of the first
 7 sentence the following: ", and before the effective date of
 8 the Railroad Employees Benefits Act of 1959, and as is
 9 not in excess of \$400 paid to him for services rendered as
 10 an employee representative in any calendar month after
 11 such effective date".

12 SEC. 310. (a) Subsection (d) of section 10 of the
 13 Railroad Unemployment Insurance Act be amended to read
 14 as follows:

15 "(d) Whenever the Board finds at any time that the
 16 balance in the railroad unemployment insurance account will
 17 be insufficient to pay the benefits and refunds which it esti-
 18 mates are due, or will become due, under this Act, it shall
 19 request the Secretary of the Treasury to transfer from the
 20 railroad retirement account to the credit of the railroad un-
 21 employment insurance account such moneys as the Board

1 estimates would be necessary for the payment of such benefits
2 and refunds, and the Secretary shall make such transfer.
3 Whenever the Board finds that the balance in the railroad
4 unemployment insurance account, without regard to the
5 amounts transferred pursuant to the next preceding sentence,
6 is sufficient to pay such benefits and refunds, it shall request
7 the Secretary of the Treasury to retransfer from the rail-
8 road unemployment insurance account to the credit of the
9 railroad retirement account such moneys as in its judgment
10 are not needed for the payment of such benefits and refunds,
11 plus interest at the rate of 3 per centum per annum, and the
12 Secretary shall make such retransfer. In determining the
13 balance in the railroad unemployment insurance account as
14 of September 30 of any year pursuant to section 8 (a) (2)
15 of this Act, any moneys transferred from the railroad retire-
16 ment account to the credit of the railroad unemployment in-
17 surance account which have not been retransferred as of such
18 date from the latter account to the credit of the former, plus
19 the interest accrued thereon to that date, shall be disre-
20 garded.”

21 (b) The amendment made by this section shall take
22 effect on the date of enactment of this Act.

23 SEC. 311. The amendments made by sections 302, 305,
24 and 307 shall be effective with respect to benefits accruing
25 for registration periods which begin after the effective date

1 of this Act. The amendment made by section 304 shall be
2 effective with respect to base years ending on or after
3 December 31 of the year before the year in which this Act
4 is enacted, but shall be applicable only with respect to
5 registration periods which begin on or after the effective
6 date of this Act. The amendment made by section 306
7 shall take effect as of the effective date of this Act, but shall
8 not apply with respect to maternity benefits payable for
9 any maternity period established before such effective date
10 and extending beyond such date. The amendments made by
11 clauses (4) and (5) of section 308 and clause (1) of sec-
12 tion 309 shall be effective as of the effective date of this
13 Act, and shall apply only with respect to compensation paid
14 for services rendered in calendar months which begin on or
15 after such effective date.

16 **PART IV—EFFECTIVE DATE**

17 SEC. 401. Except as otherwise provided in this Act, this
18 Act shall take effect on the first day of the first calendar
19 month which begins more than forty-five days after the
20 date of enactment of this Act.

[Report No. 243]

A BILL

To amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

By Mr. HARRIS

MARCH 12, 1959

Referred to the Committee on Interstate and Foreign
Commerce

MARCH 23, 1959

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

**AMENDING RAILROAD RETIREMENT
ACT OF 1937, THE RAILROAD RE-
TIREMENT TAX ACT, AND THE
RAILROAD UNEMPLOYMENT IN-
SURANCE ACT**

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 248 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. MADDEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5610 is of direct and in many cases of vital importance to some 2 million of our fellow citizens and their families. These include railroad men and women of America, actively employed by railroads and also the retired and unemployed. These people have been patiently waiting for Congress to act on this legislation for several years.

The high cost of living and inflation has been devastating on the retired citizen during the last few years. The unemployed railroad workers, whether permanent or temporary, has been shut out of the market for most of life's ordinary conveniences by reason of conditions beyond his or her control.

During the 85th session of Congress, the railroad retirement legislation was postponed and inexcusably neglected. A great number of our Members constantly fought to secure favorable action on railroad retirement legislation but to no avail. The time has finally arrived for the Congress to act.

The purpose of this legislation is, generally speaking, to strengthen and place on a sound self-supporting basis the railroad retirement and the railroad unemployment insurance system.

Each Member of the House should acquaint himself with all the provisions of H.R. 5610. The bill has outstanding merits and it also contains several provisions which are highly detrimental to the railroad workers and their families.

The most important provisions of H.R. 5610, as approved by a majority of the Committee on Interstate and Foreign Commerce, are these:

First. It would generally increase railroad retirement benefits by 10 percent. It would also liberalize the railroad retirement system in several minor ways.

Second. The bill would raise the rates for railroad retirement taxes. These taxes are levied equally on railroad employes and on the railroads themselves. At present, both sides pay at the rate of 6¼ percent of each employee's compensation up to \$350 a month. The bill would raise this tax rate to 6¾ percent from date of enactment to the beginning of 1962. Thereafter, the rate would go to 7¼ percent. Also, if in future years, the scheduled increases in social security taxes go into effect, similar increases would also be imposed in railroad retirement taxes. Moreover, the bill raises the taxable earnings base from \$350 to \$400 a month, effective with enactment.

Third. The bill would increase the maximum daily rate for railroad unemployment and sickness benefits by roughly 20 percent. It would extend to unemployed railroaders the same type of limited emergency prolongation of benefits that we voted for other unemployed workers last year. Jobless railroaders did not benefit from that emergency legislation last year.

Fourth. The bill would increase the tax ceiling for railroad unemployment insurance from 3 to 3½ percent and make other provisions needed to save this unemployment insurance fund from bankruptcy. These taxes, in contrast to the railroad retirement taxes, are paid solely by the railroads.

Fifth. H.R. 5610 would curtail or abolish certain unemployment and sickness benefits presently enjoyed by the railroad workers. The committee report estimates the value of these curtailments at \$21.4 million a year. The workers would lose that amount, the railroads would gain it.

These are the main provisions in the bill. I should like to make two general comments:

First. I would emphasize that this benefit bill we are asked to discuss will not cost the U.S. Treasury one penny.

Second. This bill reminds us that the railroads and their workers are not under the general social security and unemployment insurance system. Instead, they have a special system of their own. This system is approved alike by spokesmen for the railroads and for their employees.

In some ways, the railroad system is more liberal than the general social insurance system; it is also more costly. The chief reason for this development, I believe, can be found in the fact that the Congress for many years, through the Railway Labor Act, has imposed special restrictions on collective bargaining and the right to strike in the railroad industry.

As a result, while organized workers in other industries have won supplemental pensions and unemployment and sickness benefits directly from their own in-

dustries—often by lengthy strikes—the railroad workers and their unions have turned more often to the legislative path to secure some of the same gains.

Let me now turn to a very brief interview of the legislative history behind H.R. 5610. This starts in the year 1956, when the Congress voted a 10-percent increase in most railroad retirement annuities. However, Congress then provided no increase in the tax rate to pay for those higher benefits.

At that time, spokesmen for both the railway brotherhoods and the industry assured Members that they would support the needed tax increases in the next Congress. President Eisenhower signed the 1956 act on the understanding, he said, that the needed financing would be forthcoming.

In the 85th Congress, the railway brotherhoods came to Congress with a bill which might be called the granddaddy of the present H.R. 5610. However, the grandparent was quite a bit larger and more comprehensive than the present offspring, H.R. 5610.

The 1957 bill provided a further 10 percent increase in retirement benefits, to relieve retirees from the effects of the constantly rising cost of living. It provided for tax increases on the employees and the railroads to pay for both the 1956 rise in benefits and the new rise. It also provided for a rise in the daily rate of unemployment benefits. Broadly speaking, in these various respects, the 1957 bill was not greatly different from our present H.R. 5610.

However, the 1957 bill also contained a major section designed to meet the fast growing problem of long-service railroad employees being thrown out on the streets because of increasing automation and declining passenger traffic on the railroads. This section of the 1957 bill provided extended unemployment benefits ranging up to 4½ years for railroad employees with 20 years or more of service who were laid off and unable to find new work for that long a period.

For various reasons, which I need not detail here, that 1957 bill did not emerge from the committees in either Chamber in 1957. Nor did it emerge in 1958 until near the end of the session.

When the Committee on Interstate and Foreign Commerce did report out that bill last summer, it cut down sharply on the proposal for extended unemployment benefits. Last year's committee bill provided such extended benefits for just 13 weeks for laid-off employees with 10 to 15 years of service, and 26 weeks for laid-off employees with 15 or more years of service.

In the closing days of the last session, that committee bill was not granted a rule. In the other chamber, however, a vote was taken last summer during the closing days of the session. The Senate, by a large majority then approved a bill also limiting the extended unemployment benefits to the 13- and 26-week periods.

An attempt to bring the Senate bill to the floor of this House was defeated by an objection. Thus Members of the

House in the 85th Congress had no opportunity to vote on the matter.

This year, the gentleman from Arkansas, chairman of the Interstate and Foreign Commerce Committee, the gentleman from Michigan, senior minority member of that committee, and numerous other Members of the House, introduced bills substantially identical to the measure that passed the other Chamber last summer.

Members will note, however, that the bill reported from the committee this year, that is, H.R. 5610, was still further changed. The two most important changes, I should say, are:

First, H.R. 5610 has dropped completely the idea of a regular system of extended unemployment benefits for long-service railroad workers. The 4½-year proposal went out last year. Now the 13 to 26 weeks are gone too. Nothing whatever of the former bill's provisions on this problem is left in H.R. 5610.

Second, H.R. 5610 cuts back or abolishes already existing unemployment and sickness benefits in certain cases. The committee bill last year did not do that. I note also that a minority of the committee, consisting of 11 members, have announced their opposition to H.R. 5610 and their continued support of the bills, including H.R. 1012 introduced earlier in this session. This rule should be adopted and I hope that the Members after debate will substitute H.R. 1012 for the pending bill.

Thus we are dealing here with a controversial subject. It is not my purpose now to debate the merits of the controversy. What I do wish to urge on the House is that it is high time we reach some conclusion on this matter.

Extended hearings have been held by the Committee on Interstate and Foreign Commerce. All parties have been heard. Two million Americans and their families have been waiting long years for us to act. Many of these folks, whether retired or unemployed, are in real need. We owe them, at the very least, a decision on this legislation.

I reserve the balance of my time and yield 30 minutes to my colleague on the Rules Committee, the gentleman from Illinois [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the gentleman from Indiana has explained that this is an open rule, providing for 4 hours of general debate, for amendments under the 5-minute rule, and for one motion to recommit.

Last year this body passed the Transportation Act of 1958 by the vote of 348 to 2. We realized that the railroads were in serious financial trouble, caused mostly by conditions over which they themselves had no control. As a result of our action, the railroads were able to repair old equipment, to purchase new equipment, and to give employment that otherwise they would not have been able to do.

While the Transportation Act of 1958 dealt for the most part, perhaps, with railroad problems and came to be known by some as the railroad bill, its provi-

sions were not by any means designed for the assistance, development, and welfare of the railroads alone. It was needed by and it benefited all forms of regulated, common-carrier transport—it was needed by and benefited shippers and consumers, and the public generally.

Interest in that bill was highlighted, it is true, by the plight of the railroad industry—especially certain parts of that industry—but an equally serious problem was posed by the weakening of our entire regulated, or common-carrier, system of transportation.

I believe all will agree that the railroads are still in serious financial trouble, especially the eastern railroads. We must be realistic as to just how much of an added tax burden the railroads can stand. I do not know whether they can withstand the impact of the provisions contained in H.R. 5610—but those provisions are much to be desired over the provisions of H.R. 1012.

Since it is apparent that it is the desire of the Congress to pass some legislation in the field of railroad retirement and unemployment insurance, I wish to congratulate the chairman and members of the great Committee on Interstate and Foreign Commerce for favorably reporting H.R. 5610 which was reported after the committee held lengthy public hearings in lieu of H.R. 1012.

The bill presently before us—which, I reiterate, is a better bill than H.R. 1012—would add an immediate payroll tax increase paid by the railroads—of about \$100 million a year. It has been reliably estimated that future tax increases provided in this bill would eventually add approximately \$225 million to the railroads' payroll taxes.

One must not forget that these added tax burdens of hundreds of millions of dollars affect the railroads solely—the railroads' competitors are not affected.

One would not have to be an Einstein to know that these added tax burdens of hundreds of millions of dollars a year must inevitably result in loss of railroad jobs, purchase of fewer new cars and locomotives, reduced maintenance of property and equipment, and less transportation service.

I feel that this country needs a railroad system, and I would like to preserve it.

It seems probable to me that placing additional financial burdens on them will eventually put them out of the picture entirely.

* * * * *

Mr. MADDEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

Mr. HARRIS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5610, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. HARRIS. Mr. Chairman, I yield myself 40 minutes.

Mr. Chairman, the Committee on Interstate and Foreign Commerce is presenting to you, as you were advised a moment ago during the discussion of the rule, the bill, H.R. 5610, to amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act.

Mr. Chairman, I plan to insert a full and detailed explanation of this bill in the RECORD and will undertake then to explain to the House the provisions of this bill and the problems in connection therewith.

First, let me say to my colleagues that no one here is more aware of the interest in this legislation than I. No one here realizes and understands more than I the controversial nature of it. No one here knows better than I or any other member of our committee, the importance of this legislation as well as some of the claims and contentions that have been made by those who have varying viewpoints. Because of that, I am going to ask the indulgence of my colleagues, to listen to me and to the other members of the committee, explain precisely the provisions of this legislation. We have had numerous people call on us and explain to us the problem that we have here from their own viewpoint, and certainly in their own interest.

Mr. Chairman. This is a highly technical and complicated bill. In such a program of social insurance benefits, it is necessarily complicated. There is a lot involved here. I trust the members of the Committee will endeavor to follow me as I explain this problem because I fear that some of us might have been influenced by certain efforts that have been exerted on the part of various people.

In the first place, let me take you back to 1951. This Congress, in an effort to provide the finest and the best Railroad Retirement and Unemploy-

ment Insurance Acts, extended benefits—both retirement benefits and unemployment insurance and sickness benefits—to the employees of the railroad industry. At that time there were approximately 1,400,000 employees in the industry. In 1951, this Congress extended and liberalized the benefits not only to the retired railroad employees themselves and those who become unemployed but also to dependents including the spouse and the widow and other surviving dependents of the railroad employee. In doing so, we integrated the railroad retirement program with the social security program. That was in 1951. Since that time there has been in effect a reinsurance of the railroad retirement program under social security. There is a transfer from the railroad retirement account to the social security trust fund an amount equivalent to the taxes which railroad employees and their employers would have had to pay if they were covered by the Social Security Act and in return there is a reverse transfer of funds which represent the benefits which social security would have had to pay these employees.

Under the retirement program there are today some 725,000 individuals who are drawing benefits from the railroad retirement fund.

Today, because of technology, because of business conditions, because of competitive conditions that exist in the transportation industry, of which we all know, the railroad industry has been losing some of its business. In fact, it has not been keeping up, percentage-wise, with the total volume of freight and passenger service, and today there has been a reduction in the total rolls of employment in the railroad industry from 1,400,000 employees in 1950 to 810,000 employees a few months ago. In other words, in less than 10 years there has been a reduction in the number of employees in the railroad industry of some 600,000.

I present that to you as a very serious situation. To me that is a very bad situation for the railroad industry, which is the basic transportation system of this country. Everybody knows we have got to maintain the railroads. Service to the people of this country and our national defense requires it.

Last year, realizing the terrific condition that was presented to the Congress, we tried to do something to stabilize the railroad industry. That is a problem which the Committee on Interstate and Foreign Commerce and the Congress considered for 5 years before we passed the Transportation Act of 1958 to try to help the railroad industry.

In 1956, realizing that it was necessary to meet the increased cost of living, the Congress increased the railroad retirement benefits by 10 percent. We did not provide for the financing of this increase. When we increased the benefits by 10 percent we also increased the long-term actuarial deficit to \$169 million a year on a net level basis. Today the actuarial deficiency is \$213 million a year on a net level cost basis. The Congress and the railway brotherhoods

agreed at that time that we would provide increased taxes to take care of the deficiency in the retirement account, and that in 1957 we would come back and make up the deficit.

There is one thing everybody agrees to regardless of all the controversy in this program, and that is the necessity of maintaining an actuarially sound fund in the retirement program. There are too many people who are dependent upon this fund. The President, when he signed the bill in 1956, made a statement urging the Congress to make up the deficit in 1957.

In 1957 a bill, H.R. 4353, was introduced in an effort to carry out the commitment made by all of us. There were further liberalizing proposals in the bill, including both retirement benefits and unemployment benefits.

The committee was prepared to take action on the pending bill but was requested to defer such action, pending the outcome of a separate bill—H.R. 5551, 85th Congress—pending before the Committee on Ways and Means, which provided for the exclusion of employee retirement taxes from gross income for purposes of the employee's income tax and from withholding at the source. Therefore, no bill was reported by the committee during the 1st session of the 85th Congress.

In the interim the 1958 amendments to the Social Security Act gave a 7-percent increase in retirement benefits and survivor benefits. Many retired annuitants and survivors under the Railroad Retirement system received the benefit of that increase under social security in addition to the 10 percent prior to that time. This occurred because of the social security minimum guaranty provision of the Railroad Retirement Act provides that in no case will monthly benefits payable to retired employees and their wives and the survivors of such employees be less than the amounts the social security system would pay them if railroad employment were covered by that system.

At the close of the session last year when it became so apparent that H.R. 5551 would not pass, the committee at the urging of those interested, endeavored to report a bill. We reported a bill that would have provided an additional increase of 7 percent in retirement and survivor benefits, and that would have liberalized and increased benefits under the unemployment insurance program. That would have made the retirement and unemployment insurance funds sound by increasing the amounts to be paid both by the employers and the employees in the case of retirement and by employers in case of the unemployment insurance programs. That was at the close of the session. It would have granted in addition thereto a 20 percent increase in the daily benefit rates for unemployment and for sickness. It would have extended on a temporary basis to the less than 10-year employees 13 additional weeks of unemployment benefits; to those from 10 to 15 years of service 13 permanent additional weeks of extended unemployment benefits; and those who were employed

longer than 15 years a total of 26 additional weeks of extended unemployment benefits which would make a total of 52 weeks of unemployment insurance benefits for this group of workers with 15 or more years of service.

As you know, there was a logjam that came up in the House of Representatives. In the meantime, the other body had reported a bill. The chairman of the subcommittee came over and talked to me and some others here on the floor of the House. This was an effort to try to overcome some of the controversies, because neither side liked it. The railway brotherhoods did not like it.

The railroads did not like it. But we were trying to work out something. So we agreed that we would undertake to work out this modification or compromise. But when the bill came over from the other body it was tacked on to a bill amending the Longshoreman's and Harbor Workers' Compensation Act which had nothing whatsoever to do with this program. It was an honest attempt to try to get something through, but it was blocked here on the floor of the House. So the whole thing died without anything being done.

At the outset of the present Congress, as chairman of the committee, I reintroduced the bill which became H.R. 1012, the one you heard so much about. We held hearings on that bill. We had executive sessions. The original bill introduced had a retroactive date for both benefit and tax payments to January 1, 1959. But we all knew this could not work, that you cannot go back to January 1 of this year and collect taxes from people who are not now working in the industry. There has been a turnover of something like 20,000 a month that have gone from the railroad industry to some other work, or for some reason are not any longer working for the industry. Therefore, you cannot go back to January 1 and collect taxes from somebody who does not work there any more. So it becomes a practical situation. Therefore, the committee changed the effective date of this bill, so that it would take effect on the first month following 46 days after the date of enactment, which gives the Railroad Retirement Board and the railroad industry a chance to take care of the paperwork in order to make these payments to the employees.

The retirement and taxing provisions of this bill, both the 10 percent increase and the amount of increased payments for both employer and employee, are identical, with the proposal in H.R. 1012 as it was originally proposed.

We have a bill here, H.R. 5610, that in the first place grants another 10 percent increase to the retired employees. That is what most of these people all over the Nation have been writing us about. They are interested in some increase to take care of the increased cost of living. So, therefore, there is no controversy over that phase of it. There is no controversy over amendments to the Railroad Retirement Tax Act because both bills are identical in this respect.

Part 3 of this bill is the part that is in controversy. That part contains the

amendments to the Railroad Unemployment Insurance Act. The committee read the bill paragraph by paragraph and went over a lot of these things that had been brought to the attention of the committee over a period of years and considered to be abuses. The committee has worked its will and considered everyone of these proposals. It has turned down many of them as not being in the best interest, but it did adopt amendments that would affect the unemployment insurance benefits in five principal respects. These are:

First. The committee bill provides for extended, retroactive, temporary unemployment benefits of 13 additional weeks to all employees, regardless of length of service, who had exhausted, during last year's recession, their rights to normal unemployment benefits under present law, which could be as much as 130 compensable days, or 26 weeks in a benefit year. These temporary benefits are the same as those generally provided for all other industries by the Temporary Unemployment Compensation Act of 1958. H.R. 1012 would provide a temporary extension of benefits of 13 additional weeks to employees with less than 10 years of service, a permanent extension of 13 weeks to employees with 10 to 15 years of service, and a permanent extension of 26 weeks to employees with 15 or more years of service, provided they meet certain eligibility conditions specified in the bill.

Second. The committee bill eliminates the payment of maternity benefits, whereas H.R. 1012 does not change existing law which provides for maternity benefits.

Third. The committee bill would disqualify an employee for unemployment and sickness benefits if he leaves his railroad job voluntarily without good cause, and for unemployment benefits if he is discharged or suspended for misconduct related to his work. In the case of voluntary quits or discharges the disqualification would end when he has returned to work for a railroad and has worked at least 20 days. In the case of suspension the disqualification would end when the period of suspension ends.

H.R. 1012 makes no change in existing law which permits an employee who quits voluntarily without good cause to claim unemployment benefits after a 30-day disqualification, and sickness benefits immediately, and permits an employee discharged or suspended for misconduct to claim unemployment benefits immediately.

Fourth. The committee bill provides that an employee cannot claim sickness benefits for any period which is more than 90 days after the day on which he last worked in the railroad industry. Other slight modifications are proposed in the sickness benefit program. H.R. 1012 makes no change in existing law under which an employee who has left the railroad industry may, nevertheless, claim sickness benefits which could be as much as 130 compensable days or 26 weeks during the benefit year.

Fifth. The committee bill does not change existing law which provides that unemployment benefits may be paid for

only 7 out of 14 days in the first registration period (consisting of 14 days) in a new benefit year. H.R. 1012 would provide for 10 compensable days during the first registration period, the same as the law now provides for subsequent registration periods.

Both the committee bill and H.R. 1012 provide for an average increase of 20 percent in the daily benefit rates for unemployment and for sickness.

Both bills provide for a maximum tax rate of 3½ percent of payroll up to \$400 a month for each employee paid only by the railroad industry to finance the unemployment and sickness insurance programs, which is one-half of 1 percent more than is required under present law.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Mississippi.

Mr. WILLIAMS. I think it should be pointed out that the table of unemployment benefits that was written into H.R. 5610 is exactly the same table of benefits that was introduced originally in H.R. 1012; is that not correct?

Mr. HARRIS. Yes; the same table of daily benefit rates that we have had before us now for the last 3 years in trying to resolve this matter.

The committee considered extended benefits, and in view of the fact that all industry in the United States, by the recommendation of the President and the action of this Congress, was given 13 additional weeks of unemployment compensation on a temporary basis, it was decided that everybody in the railroad industry should have the same thing. So, the committee then adopted an amendment that would give 13 additional weeks of unemployment insurance benefits on a temporary basis to those who became unemployed from June 1, 1958, until April of this year. That is precisely the same program that was presented to the employees and for the employees of all other industries throughout the United States.

Now, someone said that is a terrible thing to do to the employees. Let me show you the difference in costs between H.R. 5610 and H.R. 1012. Thirteen additional weeks on a temporary basis, to all unemployed in the railroad industry, would cost approximately \$20 million. In H.R. 1012 the extended unemployment benefit program would cost \$13½ million a year for men with 10 or more years of service and from \$15 million to \$18 million to provide the temporary unemployment benefits for men with less than 10 years of service.

Therefore, we do not feel as some have said in a letter that you have received, that the committee has slaughtered the bill. We do not believe, as was stated in a letter from the railroad industry, the other side, that the committee has slaughtered the industry. We do not feel that at all. We feel that the committee has worked its will and, from all the evidence it heard and the facts established in the record of the committee, has worked out a bill that is fair and reasonable and one that will do some

good. And yet it will get rid of certain abuses.

Now, what are those abuses? In addition to the extended benefit differences that I have explained, there are four other differences in the bill. Ever since the 1948 amendments to the Railroad Unemployment Insurance Act there has been a controversy over what is referred to as maternity benefits. That is a rather delicate subject to discuss, but yet an important one. And I hope no one accuses me or the committee of being against motherhood on this, but we have heard so much about this over a period of time that I think it important to discuss it.

Under the present program adopted in 1949 a woman who is employed in the industry and who becomes pregnant is automatically entitled to a certain number of days prior to the birth and a certain number of days following the birth. That can go up to a maximum of 130 days. There have been all kinds of reports of abuses.

What the committee did was to strike that automatic entitlement and left it in the sickness and benefit program. In other words, if a woman is sick or ill from pregnancy, she gets the benefits she is entitled to have under the sickness program. If after the birth of the child she is ill because of that condition or situation and it is shown in the regular way, then she is entitled to draw that benefit.

Mrs. CHURCH. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am delighted to yield to the distinguished gentlewoman from Illinois.

Mrs. CHURCH. I wonder if the gentleman could give us any idea whether or not the particular types of occupation which the women fill would endanger them, whether they were ill or not, if they were pregnant?

Mr. HARRIS. Usually they are office employees.

Mrs. CHURCH. Can the gentleman tell me the numbers or types of office employees?

Mr. HARRIS. No, I do not believe we had information broken down to show the numbers, as to whether they were typists or bookkeepers or secretaries, and so forth. But I would say that practically all of them would be office employees. There are some 4,000 such cases a year; I believe I am correct in that figure. That is, that number have received such benefits at a cost of approximately \$3.5 million a year.

That is the second of the differences, although I do not call them the major differences. I think there is only one real major difference here, and that is the extended unemployment benefits, whether we are going to give and whether we can afford to provide on a permanent basis at an additional cost of \$13.5 million a year which will have to be financed probably from increased freight rates, which your people and mine are going to have to pay. It has to be made up because only the railroad industry pays it. We are increasing the tax on the railroad industry

from 3 to 3½ percent of the payroll. If we give all of the benefits provided in H.R. 1012, you might as well make up your minds that you are going to have to increase the tax to 4 percent. It will be necessary because the fund is depleted. By June of this year there will not be enough money in that fund to pay the unemployed and sick what they are entitled to have unless we do something about restoring it in some way. So in order to meet that we have provided an amendment here that the Board can borrow from the retirement fund on a temporary basis such funds as are necessary to make those payments for unemployment and sickness claims. That is just how serious it is.

We talk about increased benefits. I am for liberalizing them all we can. I like to see these people get those benefits. But I also feel there is a responsibility for the money being there when they are entitled to have it. If there are no funds to pay for those benefits, you are going to get some of the most stinging rebukes from your constituents for providing an unsound program. To me that is the one big issue, and we just have to face it.

One of the most highly controversial differences in the two bills is the proposal dealing with voluntary quits. Under the present law a person working in the railroad industry can walk off his job, quit, with no intention of ever returning, and that is done on some occasions. He stays out for 30 days, makes his application, and then draws his full maximum unemployment benefits if he remains unemployed. Under the law he is entitled to it, and they do it.

The committee felt that that was a situation that was taking money out of the fund and paying it to people who were not entitled to it as a matter of right. Therefore, the committee suggested in this amendment that if a man quits on his own and walks off the job and does not intend to work any more he is not entitled to unemployment benefits until and unless he goes back to work in the railroad industry and works 20 days. When he does that, then he is restored to his full rights and benefits. If he becomes unemployed for reasons not his own, then he is entitled to those benefits. There is a lot of controversy over that, but there are not, in my opinion, so many involved.

It is not such a great controversy, which should in any way adversely affect this bill as to its adoption and approval by this Congress.

Then there is the so-called misconduct amendment. Under the present law, a man who is guilty of misconduct and is separated from his employment is entitled to unemployment benefits regardless. This amendment would prevent him from receiving such benefits until he returned to work for the railroad industry and worked for at least 20 days.

Mr. Chairman, those are the general provisions of this bill. A more detailed statement and explanation of the committee bill follow.

Mr. Chairman, the committee bill H.R. 5610 provides for certain amendments to the Railroad Retirement Act, the Rail-

road Retirement Tax Act, and the Railroad Unemployment Insurance Act, which would improve and strengthen the retirement and unemployment insurance systems for railroad workers. Before I go into a detailed explanation of these amendments, I think it is important to discuss some background information. This will help the Members better to understand what the committee recommends in the bill and why it makes such recommendations.

INTRODUCTION

Many Members of the House will recall that during the closing days of the 2d session of the 84th Congress, legislation was adopted granting generally a 10-percent increase in railroad retirement and survivor benefits, with some exceptions—Public Law 1013, 84th Congress.

No provision was made for the financing of the cost of these benefits, which amounted to \$83 million a year on a net level cost basis. There already was an existing deficiency at that time in the railroad retirement account of \$86,390,000 a year on a level cost basis. Hence, enactment of this law increased the deficiency to \$169,390,000 a year, or 3.2 percent of taxable payroll on a level cost basis.

The Congress was told that enactment of this legislation was an emergency measure and was necessary to help thousands of retired railroad employees, their wives, and the widows of such employees to meet their day-to-day living expenses. The Congress was assured by members of the Committee on Interstate and Foreign Commerce and by others who were interested in this program that legislation would be considered promptly during the 85th Congress to finance the cost of these benefits. Representatives of railroad labor organizations gave firm assurances that they would propose, at the opening of the 85th Congress, a legislative program to assure adequate financing. The President, in a statement accompanying the signing of Public Law 1013 at that time, stated in part:

It is imperative that satisfactory legislation for this purpose—to assure adequate financing of the railroad retirement system—be proposed and enacted.

In the 85th Congress, this committee held hearings on railroad retirement legislation early in the first session. The principal interest during these hearings centered around H.R. 4353 and other identical and related bills. These bills were sponsored by all the standard railway labor organizations and were comprehensive measures designed to grant additional benefits and to eliminate the deficit in the railroad retirement account. At these hearings the railroads agreed to a tax increase to make up the cost of the increased benefits provided by Public Law 1013 in the 84th Congress.

The committee was prepared to take action on the pending bills but was requested to defer such action, pending the outcome of a separate bill—H.R. 5551, 85th Congress—pending before the Committee on Ways and Means, which provided for the exclusion of employee retirement taxes from gross income for

purposes of the employee's income tax and from withholding at the source. Therefore, no bill was reported by the committee during the 1st session of the 85th Congress.

Recognizing the condition of the railroad retirement account, and the commitments made 2 years previously, the committee reported H.R. 4353 late in the 2d session of the 85th Congress which provided for an increase in retirement and survivor benefits of generally 7 percent and an increase in taxes sufficient to pay for these increases in benefits and to eliminate the actuarial deficit. Amendments were also proposed to the Railroad Unemployment Insurance Act. A rule was not granted on this bill and so it could not be brought up for consideration in the House under the regular procedure.

The Members who were here will also recall that on the last day of the 85th Congress a bill providing for amendments to the Railroad Retirement Act, Railroad Retirement Tax Act, and Railroad Unemployment Insurance Act was referred to the House by the Senate which had passed it only the previous day. These amendments were added to H.R. 12728 of the 85th Congress, a bill providing for amendments to the Longshoremen's and Harbor Workers' Compensation Act. That was a bill not within the jurisdiction of this committee, and the parliamentary procedure was rather unusual. The only way this bill could have been brought up in the House was by unanimous consent, and, as the record shows, there was objection to the unanimous-consent request. And so the legislation died with the adjournment of the 85th Congress.

On the opening day of this session, I as chairman of this committee, introduced H.R. 1012, a bill containing all of the features which had been contained in the Senate amendment to H.R. 12728, 85th Congress. The reported bill, H.R. 5610, is a "clean" bill introduced by me, by direction of the committee and reflects all modifications in H.R. 1012 approved by the committee during its executive consideration of legislation to amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and Railroad Unemployment Insurance Act.

PURPOSE OF REPORTED BILL

The purpose of the reported bill is, generally, to strengthen and place on a sound self-supporting basis the railroad retirement system and the railroad unemployment insurance system. As to the railroad retirement system, this objective is accomplished by first, practically eliminating the present long-range actuarial deficit in the railroad retirement account; second, providing a much-needed 10-percent increase in retirement and survivor benefits; third, eliminating certain inequities in the system; and fourth, providing for the adequate financing of the system. As to the railroad unemployment insurance system this objective is accomplished by first, providing for a much-needed increase in the daily benefit rate for unemployed workers; second, providing for a temporary extension of unemployment

benefits, not exceeding 65 compensable days in registration periods which began on or after June 19, 1958, and before April 1, 1959, for those workers who have exhausted after June 30, 1957 their rights to normal benefits provided under the Railroad Unemployment Insurance Act; third, eliminating certain inequities in the system; and fourth, providing for adequate financing of this system.

PRINCIPAL PROVISIONS OF THE REPORTED BILL

The reported bill would amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act in the following respects:

I. AMENDMENTS TO THE RAILROAD RETIREMENT ACT

First. Ten-percent increase in benefits: Annuities—including spouse and survivor annuities—and pensions would be increased generally by 10 percent. The increase would be slightly more than 10 percent for most employee retirement annuities and survivor annuities which are computed under the regular railroad retirement formula owing to the rounding of the percentage factors used in the computation of such annuities.

These increases would begin to accrue on the effective date of this act which is, except as specifically provided otherwise, the first day of the first calendar month beginning more than 45 days after the date of enactment of this act.

Second. Maximum creditable compensation increased to \$400 per month: The maximum amount of monthly compensation creditable for benefit purposes would be increased from \$350 to \$400 effective with respect to services rendered on or after the first day of the first calendar month which begins more than 45 days after the date of enactment of this act.

Third. Women employees and spouses annuities at age 62: The privilege now available to any male employee with 30 years of service, of electing to receive a reduced annuity at age 60, would be available to a female employee with 10 years of service at age 62. Spouses of annuitants may also elect to receive a reduced annuity at age 62. The reduction in the annuity would be by one one-hundred-and-eightieth for each calendar month the beneficiary is under age 65.

Fourth. Earnings of disability annuitants: The earnings test now applicable to a disability annuitant provides that such annuitant, under age 65, does not receive his annuity for any month in which he is paid more than \$100 in earnings. The reported bill would modify this provision so that if the annuitant's earnings in any calendar year beginning with 1960 do not exceed \$1,200, any monthly annuity which may have been withheld because the individual earned more than \$100 in such month, would become payable. Should the annuitant's earnings exceed \$1,200 in any year, his loss of benefits would not exceed 1 month's annuity for each \$100 or less (providing it is more than \$50) that the annuitant earned in excess of \$1,200.

Earnings from employment with an "employer" as defined in the Railroad

Retirement Act, and earnings from employment with the disability annuitant's last nonrailroad employer before he retired, would not count toward this \$1,200 maximum, since no annuities are payable under section 2(d) of the Railroad Retirement Act to individuals for any month in which such employment occurred.

Fifth. Residual lump sum: The formula for computing the residual lump sum would be amended in conformity with amendments proposed to the Railroad Retirement Tax Act (increasing the tax rate to 6¾ percent and later to 7¼ percent and the tax base to \$400), namely, by increasing the percentage factor applicable to compensation to 7½ percent after the effective date of this act and before 1962 and to 8 percent for later compensation, and by increasing the maximum amount of compensation for any month to which such factors are applicable from \$350 to \$400 for any month after the effective date of this act.

Sixth. Repealing work restriction on survivors working outside United States: Under present law, a deduction is made from the annuity paid to a survivor until the total deductions equal such individual's annuity if such individual worked for 7 or more days in a calendar month in noncovered remunerative activity outside the United States.

The reported bill would make the work restrictions applicable to a survivor who worked outside of the United States the same as for those individuals who work in the United States. This change would permit the survivor to earn as much as \$1,200 a year without loss of retirement benefits.

II. AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

Benefits payable under the Railroad Retirement Act are financed by a payroll tax payable by the employee and the employer, alike, collected under the Railroad Retirement Tax Act. The tax is 6¼ percent of each employee's compensation up to \$350 a month. Each employee representative pays a tax of 12½ percent on his compensation up to \$350 a month.

The reported bill would increase the tax rate on employees and employers from 6¼ percent to 6¾ percent on compensation earned on or after the effective date of this act and before 1962, and to 7¼ percent on compensation earned thereafter and make the tax applicable on the employee's compensation earned up to \$400 in any month beginning on or after the effective date of this act. This tax rate would be increased, on a contingent basis, with respect to compensation paid after December 31, 1964, by the same number of percentage points—or fractions of percentage points—by which the then current social security tax rate exceeds 2¾ percent.

Thus, assuming that the social security tax rate increases as scheduled under present law, the railroad retirement tax rate would increase, under the provisions of the reported bill, to 8 percent

in 1965, 8½ percent in 1966-68, and 9 percent beginning with 1969 and thereafter, on employee and employer alike.

The tax rate on employee representatives would be increased from 12½ percent to 13½ percent on earnings on or after the effective date of this act and before 1962, and to 14½ percent on later earnings, and the monthly limit on taxable compensation would also be raised to \$400 on or after the effective date of this act. The tax rate would also be increased contingently with respect to compensation paid after December 31, 1964, just as in the case of the employer and employee tax rates, but this increase would be by twice the number of percentage points—or fractions of points—that the then current social security tax rate exceeds 2¾ percent.

III. AMENDMENTS TO RAILROAD UNEMPLOYMENT INSURANCE ACT

First. Maximum creditable and taxable compensation: The maximum amount of compensation for a month, for which credit would be given and contributions required, would be increased from \$350 to \$400 a month, effective with respect to compensation paid for service rendered on or after the effective date of this act.

Second. Increased daily benefit rates: A new schedule of increased daily benefit rates for both unemployment and sickness would apply, ranging from a minimum daily benefit rate of \$4.50 for annual compensation of \$500 to \$699.99 to a maximum daily benefit rate of \$10.20 for annual compensation of \$4,000 or more. The proposed daily benefit rates range up to \$1.70 higher than present scheduled rates. The minimum daily rate payable would be increased from the present 50 percent to 60 percent of the daily rate of compensation—with a maximum of \$10.20 per day—for the employee's last employment in which he was engaged for an employer during the base—calendar—year.

These provisions would become effective with respect to benefits accruing for registration periods which begin on or after the effective date of this act, namely, the first day of the first calendar month beginning more than 45 days after the date of enactment of this act.

A comparison of the daily benefit rates under present law and under the reported bill is shown in the following tabulation:

Comparison of benefit rates in schedule under Railroad Unemployment Insurance Act with proposed schedule

Range of base-year compensation	Daily benefit rate		Percent increase
	Present act	Proposed schedule	
\$400 to \$499.....	\$3.50
\$500 to \$699.....	4.00	\$4.50	12.5
\$700 to \$749.....	4.00	5.00	25.0
\$750 to \$999.....	4.50	5.00	11.1
\$1,000 to \$1,299.....	5.00	5.50	10.0
\$1,300 to \$1,599.....	5.50	6.00	9.1
\$1,600 to \$1,899.....	6.00	6.50	8.3
\$1,900 to \$1,999.....	6.00	7.00	16.7
\$2,000 to \$2,199.....	6.50	7.00	7.7
\$2,200 to \$2,499.....	6.50	7.50	15.4
\$2,500 to \$2,799.....	7.00	8.00	14.3

Comparison of benefit rates in schedule under Railroad Unemployment Insurance Act with proposed schedule—Continued

Range of base-year compensation	Daily benefit rate		Percent increase
	Present act	Proposed schedule	
\$2,800 to \$2,999.....	\$7.00	\$8.50	\$21.4
\$3,000 to \$3,099.....	7.50	8.50	13.3
\$3,100 to \$3,499.....	7.50	9.00	20.0
\$3,500 to \$3,999.....	8.00	9.50	18.8
\$4,000 and over.....	8.50	10.20	20.0

NOTE.—Since the compensation ranges of the 2 schedules differ, it was necessary, for this comparison, to divide some rate groups into 2 parts.

Third. Temporary extension of unemployment benefits: Extended unemployment benefit periods beyond the 130 days of normal benefits now allowed by present law would be provided to any employee who has, after June 30, 1957, exhausted his rights to unemployment benefits under present law. Such employee would receive additional temporary unemployment benefits for days of unemployment not exceeding 65 days occurring in registration periods beginning on or after June 19, 1958, and before April 1, 1959. This provision would take effect on the date of enactment of this act.

Fourth. Increasing the minimum qualifying base year compensation: The minimum earnings in a base—calendar—year which would qualify an employee for benefits in a benefit year—year beginning July 1 immediately following the base year—would be increased from \$400 to \$500.

Fifth. Sundays and holidays made compensable days: Under present law, an unemployed railroad worker may not claim a Sunday or a holiday as a day of unemployment unless such day is preceded by and followed by a day of unemployment or unless the Sunday or holiday is the last day of a registration period. In the latter case it need only be preceded by a day of unemployment.

Under the reported bill, Sundays and holidays would be compensable days of unemployment, just as any other day, whether or not such Sundays and holidays are preceded and succeeded by a day of unemployment.

Sixth. Disqualification for unemployment benefits in case of discharge or suspension for misconduct: Under present law an employee discharged or suspended for misconduct can claim unemployment insurance benefits on the same basis as if he were involuntarily unemployed.

Under the reported bill, an employee could not claim any days of unemployment beginning with the day with respect to which the Railroad Retirement Board finds that he was discharged or suspended for misconduct related to his work. In the case of discharge, the disqualification would end with the 20th day thereafter with respect to each of which he shall have earned compensation in the employ of a railroad or another employer covered under the Railroad Unemployment Insurance Act. In the case of suspension the disqualification would end when the period of suspension ends.

Seventh. Disqualification for unemployment benefits for voluntary leaving work and for failure to accept suitable work: Under present law, an employee first, who leaves work voluntarily without good cause; second, who fails, without good cause, to accept suitable work offered to him; or third, who fails to comply with instructions from the Railroad Retirement Board requiring him to apply for suitable work or to report to an employment office, is disqualified from claiming unemployment insurance benefits for a period of 30 days from the date on which the enumerated action occurred.

Under the reported bill, the employee would be disqualified for any of the days beginning with the day on which the above-mentioned enumerated action occurred and ending with the 20th day thereafter with respect to each of which the Railroad Retirement Board finds that he has earned compensation in the employ of a railroad or another employer covered under the Railroad Unemployment Insurance Act.

Eighth. Repealing provisions with respect to maternity benefits: Under present law, maternity benefits are payable to a qualified woman employee for each day of sickness in a maternity period except that, as for unemployment and other sickness benefits, the total amount of maternity benefits cannot exceed the employee's total creditable compensation in the base year. The maternity period begins 57 days before the expected date of the birth of the child and usually extends for 116 days. Under some conditions it can last longer but in these cases no more than 116 days of the maternity period are compensable. The daily benefit rate is the same as for other benefits payable under the Railroad Unemployment Insurance Act. However, benefits are payable at the rate of 1½ times the regular daily benefit rate for the first 14 days of the maternity period and the first 14 days after the birth of the child. Thus the maximum amount of maternity benefits payable is the same as for unemployment or other sickness.

Under the reported bill the above-mentioned provisions with respect to maternity benefits would be repealed. The effect would be that female employees would not be eligible for benefits by reason of maternity, as such, but they could, although pregnant or having given birth to a child, receive sickness benefits to the extent they meet the conditions specified in the Railroad Unemployment Insurance Act.

Ninth. Disqualification for sickness benefits for voluntarily leaving work, for failure to accept suitable work, and so forth: Under present law an employee who is sick can, nevertheless, claim sickness benefits even though, first, he may have quit his job voluntarily without good cause or; second, he may have failed, without good cause, to accept suitable work offered to him or; third, he may have failed to comply with instructions from the Railroad Retirement

Board requiring him to apply for suitable work or to report to an employment office.

Under the reported bill an employee cannot claim sickness benefits for any of the days beginning with the day on which the above-enumerated action occurred and ending with the 20th day thereafter with respect to which the Railroad Retirement Board finds that he has earned compensation in the employ of a railroad or another employer covered by the Railroad Unemployment Insurance Act.

Under present law, a sick employee may claim sickness benefits even though he is unemployed because of an "illegal" strike, that is, a strike commenced in violation of the Railway Labor Act or in violation of the established rules and practices of a bona fide labor organization of which he was a member. The reported bill provides that even though the employee is sick, such day shall not be considered as a day of sickness if, except for the sickness, he would have been unemployed due to an illegal strike. This disqualification would not apply if an employee is not participating in, directly interested in, or helping to finance the strike, and he does not belong to a grade or class of workers which some members are participating in, interested in, or helping to finance the strike.

Under present law an employee can claim sickness benefits up to a maximum of 139 days during a benefit year even though he may have left the railroad industry and established himself in a nonrailroad job. The reported bill provides that an employee would be disqualified for sickness benefits for any day which occurred more than 90 days after the last day with respect to which he earned compensation in the railroad industry. There would be excluded from such 90 days any day in which the Railroad Retirement Board finds that the employee was unemployed due to a stoppage of work as a result of an illegal strike, and any day in such 90 days in a registration period which begins, or in a continuous series of registration periods the first day of which series be-

gins, before the expiration of such 90 days. For this purpose, a "registration period" would be deemed to be continuous with the preceding registration period if established within 10 days after the last day of such preceding registration period.

Tenth. Sickness benefits waiting period: Under present law, sickness benefits are payable for each day of sickness in excess of 7 during the first registration period—consisting of 14 days—within a benefit year in which an employee will have had 7 or more such days of sickness.

The reported bill would make sickness benefits payable for each day of sickness in excess of 9 days during the first registration period. It would also prevent the payment of any sickness benefits for days in a subsequent registration period—now payable after a waiting period of 4 days—by requiring that the employee should have had in that registration period, or in the next preceding 14-day period, not less than 7 days of sickness or unemployment or both. The bill also provides that a day of sickness, to be considered as such, must be a day on which the employee would have been available for work except for the fact that he was sick.

Eleventh. Increase in tax base and tax rate: Funds to support the railroad unemployment and sickness benefit programs are obtained from taxes collected by the Railroad Retirement Board from railroad employers. Employees do not contribute to these funds.

To provide funds for financing the additional benefits recommended in the reported bill, and to take care of existing needs, the bill provides for an increase in the monthly limit on taxable compensation from \$350 to \$400 a month for each employee, effective with respect to compensation paid for services rendered in calendar months which begin on or after the first day of the first calendar month which begins more than 45 days after the date of enactment of this act.

A comparison of the present tax rate schedule and the tax rate schedule proposed by the reported bill is shown below.

Schedule of present contribution rates

If the balance to the credit of the railroad unemployment insurance account as of the close of business on Sept. 30 of any year, as determined by the Board is—	The rate with respect to compensation paid during the next succeeding calendar year shall be—
\$450,000,000 or more	½ percent.
\$400,000,000 or more but less than \$450,000,000	1 percent.
\$350,000,000 or more but less than \$400,000,000	1½ percent.
\$300,000,000 or more but less than \$350,000,000	2 percent.
\$250,000,000 or more but less than \$300,000,000	2½ percent.
Less than \$250,000,000	3 percent.

Schedule of contribution rates proposed by reported bill

If the balance to the credit of the railroad unemployment insurance account as of the close of business on Sept. 30 of any year, as determined by the Board is—	The rate with respect to compensation paid during the next succeeding calendar year shall be—
\$450,000,000 or more	1½ percent.
\$400,000,000 or more but less than \$450,000,000	2 percent.
\$350,000,000 or more but less than \$400,000,000	2½ percent.
\$300,000,000 or more but less than \$350,000,000	3 percent.
Less than \$300,000,000	3½ percent.

The balance in the railroad unemployment insurance account as of September 30, 1958, was \$135,443,000. Therefore, the current tax rate is 3 percent. Upon enactment of this legislation the tax rate would increase to 3½ percent on compensation paid for services rendered on or after the effective date of this act.

Twelfth. Borrowing authority to finance railroad unemployment and sickness insurance programs: The Railroad Retirement Board, railroad management, and railroad labor organizations are in agreement with respect to the need for authority to permit the Board to borrow money from the railroad re-

irement account in order to pay railroad unemployment and sickness benefits. The balance in the railroad unemployment insurance account as of February 28, 1959, was \$50 million, which is a dangerously low level, and the balance may be insufficient to pay the benefits due in the months ahead.

Accordingly, the committee has provided in section 310 of the reported bill authority for the Railroad Retirement Board, whenever it finds that the balance in the railroad unemployment insurance account will be insufficient to pay benefits due, to request the Secretary of the Treasury to transfer from the railroad retirement account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payments of such benefits, and the Secretary of the Treasury is directed to make such transfer. The moneys borrowed would pay 3 percent interest.

This provision of the bill would take effect on the date of enactment of this act.

PRINCIPAL DIFFERENCES BETWEEN H.R. 1012
AND H.R. 5610

The reported bill, H.R. 5610, differs from the bill as introduced, H.R. 1012, in the following major respects:

First. With respect to amendments to the Railroad Retirement Act the only major difference between the two bills is the effective date provision. The reported bill, H.R. 5610, provides that these amendments, with minor exceptions, shall become effective on the first day of the first calendar month which is more than 45 days after the date of enactment. Hence, the effective date would be no less than 46 days but could be as much as 75 days after the date of enactment. H.R. 1012 provides for an effective date of January 1, 1959.

Second. With respect to amendments to the Railroad Retirement Tax Act, the only major difference between the two bills is, again, the effective date provision. This difference is the same as for the Railroad Retirement Act shown in paragraph 1, above.

Third. With respect to amendments to the Railroad Unemployment Insurance Act, the major differences between the two bills are as follows:

(a) The reported bill, H.R. 5610 provides that these amendments, with minor exceptions, shall become effective on the first day of the first calendar month which is more than 45 days after the date of enactment. Hence, the effective date would be no less than 46 days but could be as much as 75 days after the date of enactment. H.R. 1012 provides for an effective date of January 1, 1959.

(b) H.R. 5610 makes no change in existing law with respect to the number of compensable days of unemployment for which unemployment benefits may be paid in the first registration period in a benefit year (i.e., unemployment benefits may be paid for only 7 of the 14 days in the first registration period).

H.R. 1012 provides that the number of compensable days of unemployment

for which unemployment benefits may be paid in the first registration period in a benefit year shall be 10 days.

(c) H.R. 5610 provides that the number of compensable days of sickness benefits for which benefits may be paid in the first registration period—consisting of 14 consecutive days—in a benefit year shall be 5 days. With respect to subsequent registration periods, the number of compensable days for sickness for which benefits would be payable would be 10 days but this payment would be conditioned upon the claimant having no less than 7 days of sickness or unemployment, or both, either in such subsequent registration period or in the 14 days immediately preceding such subsequent registration period.

H.R. 1012 makes no change in existing law with respect to the number of compensable days of sickness for which benefits may be paid. These are 7 days in the first 14-day registration period in a benefit year and 10 days in all subsequent registration periods.

(d) H.R. 5610 provides that all railroad employees who have, after June 30, 1957, exhausted their rights to unemployment benefits under present law, would receive additional temporary unemployment benefits for days of unemployment, not exceeding 65 days, occurring in registration periods beginning on or after June 19, 1958 and before April 1, 1959.

H.R. 1012 provides that such temporary extension of unemployment benefits described above would apply with respect to employees with less than 10 years of railroad service. Employees with 10 but less than 15 years of railroad service, upon exhaustion of their rights under present law to unemployment benefits in a given benefit year would be entitled to an additional 65 days of unemployment benefits in an extended benefit period of 13 weeks. Employees with 15 or more years of service, upon exhaustion of their rights under present law to unemployment benefits in a given benefit year would be entitled to an additional 130 days of unemployment benefits in an extended benefit period of 26 weeks.

(e) H.R. 5610 provides for the repeal of a provision in the Railroad Unemployment Insurance Act having to do with the payment of maternity benefits.

H.R. 1012 makes no change in existing law with respect to the payment of maternity benefits during a maternity period.

(f) H.R. 5610 provides that an employee, in order to be eligible for sickness benefits, must have been available for work except for the fact that he was sick.

H.R. 1012 makes no change in existing law which provides that an employee need not otherwise be available for work in order to obtain sickness benefits.

(g) H.R. 5610 provides that an employee who leaves work voluntarily without good cause, who fails without good cause to accept suitable work offered to him, or who fails to comply with instructions from the Railroad Retirement Board requiring him to apply for suit-

able work, would be disqualified for unemployment or sickness benefits until he has returned to work for a railroad and has worked at least 20 days.

H.R. 1012 makes no change in existing law which disqualifies an employee from claiming unemployment insurance benefits for a period of 30 days from the date on which the above-mentioned action occurred. After the expiration of the 30-day period he can claim unemployment benefits if he is still unemployed. Existing law does not disqualify an employee for sickness benefits even though he leaves work voluntarily without good cause, and so forth.

(h) H.R. 5610 provides that an employee would be disqualified for unemployment, but not for sickness, benefits if he was discharged or suspended for misconduct related to his work. In the case of discharge the disqualification would end when the employee has returned to work for a railroad and has worked at least 20 days. In the case of suspension the disqualification would end when the period of suspension ends.

H.R. 1012 makes no change in existing law under which an employee discharged or suspended for misconduct can claim unemployment insurance benefits on the same basis as if he were voluntarily unemployed.

(i) H.R. 5610 provides that an employee cannot claim sickness benefits if, except for the fact that he was sick, he is unemployed because of a wildcat strike. This disqualification would not apply if he is not participating in, directly interested in, or helping to finance the strike and if he does not belong to a grade or class of workers of which some members are participating in, interested in, or helping to finance the strike.

H.R. 1012 makes no change in existing law under which an employee who is unemployed because of a wildcat strike may, nevertheless, claim sickness benefits if he is sick during this period.

(j) H.R. 5610 provides that an employee cannot claim sickness benefits for any period which is more than 90 days after the day on which he last worked in the railroad industry. There are certain exceptions to this provision.

H.R. 1012 makes no change in existing law under which an employee who has left the railroad industry may, nevertheless, claim sickness benefits during any part of the benefit year if he is otherwise qualified.

(k) H.R. 5610 provides that the Railroad Retirement Board may borrow money from the railroad retirement account for the payment of benefits under the Railroad Unemployment Insurance Act with interest at 3 percent.

H.R. 1012 makes no change in existing law under which there is no authority to borrow money from the railroad retirement account for the payment of benefits under the Railroad Unemployment Insurance Act.

NEED FOR LEGISLATION

The need for increasing retirement and survivor benefits is obvious in the light of the fact that living costs have increased significantly since the last 10-

percent increase in benefits was provided in 1956 in Public Law 1013, 84th Congress. The 10 percent increase recommended in the bill will undoubtedly help to alleviate the hardships of annuitants and pensioners who are trying to live on a fixed income. The committee feels that the increase proposed in the bill is very modest and should be granted.

There was general agreement until recently that the railroad retirement system was virtually without peer among plans of its kind. However, with the passage of the 1950 and later amendments to the Social Security Act, including those enacted in 1958 providing for a general increase in benefits of 7 percent, and the gains made in the past several years by employees in many industries through the adoption of private supplemental pension plans, the railroad retirement system has fallen behind. Recognizing this problem, many Members of Congress have introduced bills proposing to improve the benefits under the Railroad Retirement Act, and this committee has held hearings on these bills and considered them very carefully.

In the consideration of all these bills, however, the committee has placed great emphasis on the effect of the proposed amendments on the financial soundness of the railroad retirement system. The committee is unanimously of the opinion that, regardless of the desirability of certain proposals for the liberalization of benefits under the Railroad Retirement Act, no amendments to the law should be made which would jeopardize the financial soundness of the railroad retirement system. This principle is accepted by all the standard railway labor organizations and by railroad management as well.

This committee has every desire to be helpful to retired railroad workers and their dependents. We are also mindful of our grave responsibility toward the currently active railroad workers and those who will follow and who will retire in the future. We must make certain that when they retire from the railroad industry the reserves in the railroad retirement account plus the income into the system will be adequate to pay the benefits due them.

We must also be mindful of the financial condition of the railroad industry and its ability to share the burden of the increases in taxes which the reported bill would impose upon them. However, we feel that, aside from the temporary decline in business and revenues which the industry has recently experienced but from which the railroads are now recovering, the industry is able to support the modest program proposed in the bill.

The option granted to women employees with less than 30 years of service and to spouses to retire at age 62 on a reduced annuity is similar to the provisions now contained in the Social Security Act. The granting of this option to accept reduced benefits would not add significantly to the cost of the system.

The amendment changing the earnings limitation for disability annuitants to \$1,200 a year instead of \$100 a month is designed to eliminate discrimination between a disability annuitant who may earn a little over \$100 a month in several months and, therefore lose, under present law, his annuity for all such months, and another disability annuitant who may earn the same total amount as the first annuitant but whose earnings pattern may be such that he is required to give up only 1 month's annuity.

The amendment with respect to survivors who work outside of the United States is designed to place such survivors on an equal footing with survivors working in the United States so far as the earnings limitation is concerned.

The amendments proposed to the Railroad Retirement Tax Act—namely, increasing the maximum taxable earnings base to \$400 a month, and increasing the tax rate—are necessary to pay for the retirement benefits proposed by the bill and to eliminate for all practical purposes the existing actuarial deficiency in the railroad retirement account.

The amendments proposed to the Railroad Unemployment Insurance Act are necessary to meet the increase in the cost of living, to provide for a temporary extension of unemployment benefits as in the case of industry generally, to correct certain inequities in the system, and to provide for sound financing.

The increase in daily benefit rates for unemployment and for sickness proposed by the bill ranges from 7.7 percent for the base year compensation range of \$2,000 to \$2,199 to 25 percent for the base year compensation range of \$700 to \$749. The increase is 20 percent for those who have a base year compensation of \$4,000 or more. The minimum daily benefit rate payable would be increased by 20 percent; that is, the eligible employee would be entitled to 60 percent, rather than 50 percent of his daily rate of compensation—with a maximum of \$10.20 per day—for the employee's last employment in which he was engaged for an employer during the base year.

The present schedule of daily benefit rates was enacted in 1954. In view of the rising wages and costs that have occurred during the last 5 years, these rates are inadequate today reasonably to compensate unemployed railroad workers for the loss in wages which result from their unemployment. The committee believes that the schedule of daily benefit rates proposed in the bill is justified and should be enacted.

The temporary extension of unemployment benefits provided in the bill would extend to unemployed railroad workers protection similar to that accorded to unemployed workers outside of the railroad industry pursuant to the Temporary Unemployment Compensation Act of 1958 (Public Law 85-441). Unemployed railroad workers who have exhausted after June 30, 1957, their benefit rights under existing law would be entitled to a temporary extension of their unemployment benefits for unemploy-

ment in the general period included in the legislation for other industry, namely, unemployment occurring in registration periods beginning on or after June 19, 1958, and before April 1, 1959. The maximum number of days for which extended benefits would be paid is 65 days and the daily benefit rates to be paid would be those in effect before the effective date of this act.

Employment in the railroad industry has declined very drastically in recent years, and it has now reached about the lowest level ever recorded. Six years ago there were over 1,200,000 employees working for class I railroads. This number dropped to 986,000 in 1957 and to 810,000 in January 1959.

Some 112,000 unemployed railroad workers received unemployment benefits as of June 30, 1958. The amount of benefits paid during this month was \$16,651,000 and the total amount paid in the first 6 months of 1958 was \$121,224,000. From January 1 through June 1958 approximately 63,000 claimants had exhausted their benefit rights under the Railroad Unemployment Insurance Act. The Railroad Retirement Board estimates that almost as many claimants will have exhausted their benefit rights in the benefit year beginning July 1, 1958, and ending June 30, 1959. The Board has estimated that the total amount which would be payable under the temporary extension of unemployment benefits would be approximately \$20 million.

The amendment providing that Sundays and holidays could be compensable days of unemployment just as any other day, whether or not such Sundays and holidays are preceded and succeeded by a day of unemployment, is necessary to rectify a condition which discriminates against certain categories of employees who, because of the manner in which their employment is scheduled, are unable to qualify for unemployment benefits.

The amendments providing for disqualifications against the payment of unemployment and sickness benefits to employees who are discharged for misconduct related to their work, who leave work voluntarily and who refuse suitable jobs, would merely reflect the principle that an employee should not be insured against wage loss resulting from his own voluntary act. These amendments would make the railroad unemployment insurance system conform to State unemployment insurance systems generally in those respects.

The present Railroad Unemployment Insurance Act does not bar the payment of unemployment benefits to persons who are discharged and may be guilty of misconduct related to their work, such as drinking on the job, pilfering, or otherwise violating rules designed to protect passengers, crew members, the general public, and railroad property and freight.

The disqualification against the payment of unemployment benefits to employees discharged for misconduct related to their work would restore a mis-

conduct provision that was in the original Railroad Unemployment Insurance Act and which was removed by a bill enacted in 1939, at the request of both railroad management and the railway unions. The proposed amendment in the reported bill would vary from the misconduct provision of the original law only in one respect. Instead of the original 45-day period after discharge for which no benefits would have been payable, the period under the amendment provided by this bill would be extended until the discharged employee will again have had 20 days of railroad work.

The disqualification against the payment of unemployment benefits to an employee who leaves railroad work voluntarily without good cause, or fails, without good cause, to accept or to apply for suitable work, is designed to cope with the situation where many employees leave the railroad industry for one reason or another, and after a short waiting period, become eligible to receive unemployment benefits if they are still unemployed. Many of these individuals are women who leave railroad work to keep house. Many younger employees leave to return to school. Under present law all of these ex-employees could claim unemployment benefits if they earn as little as \$400—\$500 under the reported bill—in railroad employment in the appropriate base year. It is important for the effective functioning of the unemployment insurance system that individuals who have voluntarily left the railroad labor market for all practical purposes no longer be eligible to receive unemployment insurance benefits until they have again returned to the railroad industry.

The redefinition of sickness, which provides that a day of sickness shall include only days for which the individual can show that he would have been available for work except for his sickness, is designed to exclude persons who would not be working in the railroad industry and would suffer no loss of railroad wages because of their illness.

The disqualification against the payment of sickness benefits to an individual who has not worked in the railroad industry within the last 90 days prior to his sickness, is designed primarily to exclude an individual who became sick after he has left the railroad industry and has established himself in non-railroad work. This amendment recognizes that individuals previously in railroad work may be out on strike or may be unemployed and registered for railroad work, and these periods are excluded in the computation of the 90 days.

The amendment providing for the discontinuance of maternity benefits would also make the railroad unemployment insurance system conform to provisions of the State unemployment systems generally. The record of our hearings indicates that only Rhode Island pays benefits in maternity periods and in this State the entire cost is paid by employees and such payments are limited to 12 weeks. California and New

Jersey and New York have established sickness benefit programs but not maternity benefit programs, as such.

The Railroad Retirement Board has informed the committee that it needs authority to borrow money from the railroad unemployment insurance account to administer the provisions of the Railroad Unemployment Insurance Act. In support of this position the Board advised that by the end of February 1959 the balance in the railroad unemployment insurance account had fallen to \$50 million. The decline may not continue at such a rapid pace in the next few months because 55,000 unemployment beneficiaries and 15,600 sickness beneficiaries had exhausted benefit rights for the current fiscal year by the end of February. However, it is impossible to predict unemployment precisely and the balance in the account is at such a low point that even a minor dislocation in the railroad industry could cause enough unemployment to use up the available funds.

It is estimated that benefit payments for the current quarter will total about \$70 million. This will be the fifth consecutive quarter in which benefit payments have been substantially above \$50 million, the balance in the account at the end of February. A continuation of such a rate of expenditure would exhaust the funds available for payment of benefits within the next 6 months. Provision of borrowing authority is needed to prevent collapse of the program if this should occur.

IMMEDIATE EFFECT OF PROPOSED AMENDMENTS IN H. R. 5610 TO THE RAILROAD RETIREMENT ACT

The bill proposes to increase retirement and survivor benefits by 10 percent effective on the first day of the calendar month which is more than 45 days after the enactment date. For the purpose of these estimates, the effective date is assumed to be July 1, 1959.

EMPLOYEE ANNUITIES

An estimated 364,000 employee annuities, averaging \$118, in course of payment on July 1, 1959, would be increased by 10 percent to an average of almost \$130.

For an employee retiring on July 1, 1959, the maximum annuity that could be paid would rise from about \$186 to \$205. Subsequently, after the new \$400 ceiling on taxable earnings goes into effect, the maximum would rise slowly up to the end of 1966. Thereafter, the maximum will rise more rapidly since more than 30 years of service will become creditable toward annuities.

An estimated 44,500 retirement annuity awards, averaging about \$140, would be made in fiscal year 1959-60. These figures include about 500 awards to women employees aged 62 to 64 who would elect to accept a reduced annuity.

SPOUSE ANNUITIES

An estimated 133,000 spouses on the rolls on July 1, 1959, would also have their annuities increased by 10 percent. The average spouse annuity in current-

payment status on that date would be increased to about \$57. The estimated 16,000 unreduced spouse annuities to be awarded in fiscal year 1959-60 would average \$58. The new maximum spouse annuity would be \$66.60 in July 1959 and \$69.90 in February 1960.

There are an estimated 36,000 spouses aged 62 to 64 who could elect to receive reduced spouse annuities. In the absence of specific experience and for the purposes of this report, it has been arbitrarily assumed that about three-fourths of them or 27,000 would choose to accept such reduced benefits. The reduced benefits would average about \$51.

PENSIONERS

An estimated 1,200 pensioners on the rolls on July 1, 1959, would receive 10-percent increases, bringing their average benefit to about \$90 compared with the average of \$82 under the present law.

SURVIVOR ANNUITIES

The estimated 244,700 survivor benefits in current-payment status on July 1, 1959, would be increased at least 10 percent. The maximum basic amount possible on July 1, 1959, under the new formula would be \$80, while the maximum family benefits would be \$193.60 and \$279 under the railroad retirement and social security guarantee formulas, respectively.

An estimated 18,000 insurance lump-sum benefits would be paid in fiscal year 1959-60. The average lump sum would be \$560.

DISABILITY WORK CLAUSE

The immediate effect of the change in the disability work clause would be comparatively small. About 1,000 annuities are withheld each month under the present provision and the amount of annuities withheld in a year totals about \$1 million. The proposed change in the disability work clause is estimated to reduce the amount withheld in the first full calendar year after the effective date by about \$200,000.

TOTAL BENEFIT PAYMENTS

Total benefit payments under the provisions of the bill in fiscal year 1959-60 are estimated at about \$928 million, or \$98 million more than would be payable under the present law. Of the additional \$98 million, \$83 million is attributable to the 10 percent increase in monthly and lump-sum benefits and the remaining \$15 million to the new benefits for women employees and spouses aged 60 to 64.

TABULAR SUMMARY

The two following tables illustrate the effect of the proposed amendments. Table 1 shows the effect on benefits in course of payment on July 1, 1959, and table 2 covers benefit awards in fiscal year 1959-60.

Since the bill provides, in effect, a blanket 10-percent increase for all monthly benefits, including those calculated under social security formulas, it does not affect the distribution of monthly benefits awarded or being paid according to the formula under which they are computed.

TABLE 1.—Estimated number of monthly benefits in current-payment status on the effective date,¹ and estimated average monthly amount before and after increases under the bill, by type of benefit

Type of benefit	Benefits in current-payment status				
	Number			Average monthly amount	
	Total	Benefit computed under—		Present law	Proposed bill
		Railroad formula	Social security formula ²		
Total.....	742,900	523,200	219,700		
Retirement:					
Employee annuities.....	364,000	328,000	³ 36,000	\$117.70	\$129.50
Pensions.....	1,200	1,200		81.70	89.90
Spouse annuities.....	133,000	123,000	10,000	51.60	56.80
Monthly survivor:					
Aged widows' annuities.....	187,000	66,000	121,000	57.50	63.30
Widowed mothers' annuities.....	11,300	300	11,000	76.60	84.30
Children's annuities.....	42,200	1,500	40,700	49.80	54.80
Parents' annuities.....	1,103	100	1,000	58.40	64.30
Survivor (option) annuities.....	3,100	3,100		50.50	55.60

ACTUARIAL EFFECTS ON RAILROAD RETIREMENT SYSTEM OF H.R. 5610

The Chief Actuary of the Railroad Retirement Board has estimated that the proposed amendments pertaining to the retirement and survivor programs would increase the cost of benefits by about \$146 million a year on a level basis. It is further estimated that the additional immediate and deferred taxes would bring in about an extra \$57 million in 1959, an average of \$115 million in each of the years 1960 and 1961, and \$174 million a year in 1962-64. In 1969, if the contingent increase in taxes becomes effective, as scheduled after 1964, the amount would reach about \$370 million a year. A year-by-year estimate of the additional taxes on both employers and employees is shown in table 3. Of the \$114 million in additional taxes—\$57 million to be paid by the employers and an equal amount by the employees—in fiscal year 1959-60, \$63 million would be due to taxing compensation between \$350 and \$400 a month at the rate of 12½ percent; and the remaining \$51 million a year would be due to the additional 1 percentage point of tax on the total estimated taxable payroll of \$5.1 billion for the year. The rise in 1962 would result mainly from the additional percentage point in the combined tax rate with similar situations occurring in later years.

¹ Assumed to be July 1, 1959.
² Bill provides minimum benefits equal to 110 percent of the amount under social security formulas.
³ Includes 7,000 disability annuitants aged 50 to 64.

TABLE 2.—Estimated number of awards in first full year,¹ and average benefit under present law and the bill, by type of benefit

Type of benefit	Awards under—			
	Present law		Proposed bill	
	Number	Average amount	Number	Average amount
Retirement:				
Employee annuities.....	43,000	\$127.20	44,000	\$140.00
Reduced age annuities to women.....			² 500	85.00
Reduced spouse annuities.....			² 27,000	51.00
Unreduced spouse annuities.....	22,000	52.50	16,000	57.80
Monthly survivor:				
Aged widows' annuities.....	21,000	67.10	21,000	73.90
Widowed mothers' annuities.....	2,300	85.60	2,300	94.20
Children's annuities.....	5,800	57.90	5,800	63.70
Parents' annuities.....	100	74.50	100	82.00
Survivor (option) annuities.....	50	55.00	50	60.50
Lump-sum payments:				
Insurance benefits.....	18,000	510.00	18,000	560.00
Residual payments.....	6,500	1,700.00	6,500	1,600.00

¹ Assumed to be July 1, 1959, to June 30, 1960.
² There will be an estimated 36,000 spouses of retired employees, and 1,000 women employees with less than 30 years of service, aged 62 to 64, eligible to elect reduced annuities. It is assumed that ¼ of the spouses and ½ of the women employees would make such elections.

activity experienced during the 1957-58 economic recession with a consequent gradual increase in railroad employment and assuming the effective date of the amendments to be July 1, 1959, the effect of the proposed legislation on railroad retirement taxes in fiscal year 1960 would be as follows:

[Millions]		
Item	Present law	Proposed law
1. Taxable payroll.....	\$4,600	\$5,100
2. Taxes at 12.5 percent.....	575	638
3. Taxes at 13.5 percent.....		680
4. Total additional taxes.....		114
(a) Due solely to higher tax base.....		63
(b) Due to higher tax on old base.....		46
(c) Due to higher tax rate on addition to old base.....		5

It should be emphasized that the above figures pertain only to the first year effect of the monthly limit and tax increases. The long-range estimates are shown elsewhere in this report.

Considering both additional outgo and additional income, the estimates indicate that the added revenues would exceed the added disbursements by about \$179 million a year on a level basis, which is equivalent to 3.20 percent of a \$5.6 billion taxable payroll. Since the actuarial deficiency for the present law, calculated as of December 31, 1958, is estimated at 3.81 percent of that payroll—adjusted from 4.18 of a \$5.1 billion payroll—the enactment of the amendments would leave the railroad retirement system with an actuarial deficiency of 0.61 percent of payroll—3.81 minus 3.20—or about \$34 million a year. The derivation of the above actuarial deficiency figure is shown in table 4 together with a breakdown of the major cost figures for the proposed program by source of cost or of savings, as the case may be.

IMMEDIATE EFFECT OF AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

The bill proposes to amend the Railroad Retirement Tax Act, effective on the first day of the calendar month which is more than 45 days after date of enactment, by raising the monthly limit on taxable earnings from \$350 to \$400, and by increasing the combined rate of tax from the present 12½ to 13½ percent from the effective date through calendar year 1961 and to 14½ percent in 1962-64. In addition, the combined rate of tax in 1965 and thereafter would be increased by the excess of future actual social security combined rates over 5½ percent.

Assuming that the railroad industry will be recovering from the low level of

TABLE 3.—Estimated additional tax income under the amendment to the Railroad Retirement Tax Act contained in the bill

Calendar year	Rate of tax (percent)		Taxable payroll for \$350 limit		Additional taxes under bill ¹	
	Employer	Employee	Level assumption	Short-range projection	Level assumption	Short-range projection
	1959 ²	6¾	6¾	\$5,100	\$4,600	\$59
1960.....	6¾	6¾	5,100	4,700	118	114
1961.....	6¾	6¾	5,100	4,900	118	116
1962.....	7¼	7¼	5,100	5,100	174	174
1963.....	7¼	7¼	5,100	5,100	174	174
1964.....	7¼	7¼	5,100	5,100	174	174
1965.....	8	8	5,100	5,200	258	262
1966.....	8½	8½	5,100	5,200	314	319
1967.....	8½	8½	5,100	5,200	314	319
1968.....	8½	8½	5,100	5,200	314	319
1969 and thereafter.....	9	9	5,100	5,200	370	376

¹ Difference between combined employer and employee taxes at proposed rates on taxable payrolls for \$400 limit and 12½ percent of payroll with \$350 limit. The taxable payroll for the \$400 limit is estimated to be \$500 million a year higher than for the \$350 limit on monthly compensation.
² Assuming effective date of July 1, 1959, so that additional taxes will be applicable to one-half of the year.

TABLE 4.—Cost estimate for the railroad retirement program as it would be amended by the bill

[Level cost figures are as of Dec. 31, 1958, and relate to a taxable payroll of \$5.6 billion a year; the effective date is assumed to be July 1, 1959]

Item	Percent of payroll (\$400 limit)	Amount per year (millions)
(a) Gross cost of benefits, total.....	20.89	\$1,170
Employee annuities and pensions.....	14.20	795
Spouses' annuities.....	1.40	78
Aged widows' annuities.....	3.94	221
Other survivor annuities.....	.62	35
Insurance lump sums.....	.20	11
Residual payments.....	.39	22
Administrative expenses.....	.14	8
(b) Deductions from gross costs, total.....	3.08	173
Funds on hand.....	2.96	110
Gains from financial interchange.....	1.12	63
(c) Net cost (a-b).....	17.81	997
(d) Future tax income, total.....	17.20	963
Independent of OASDI rates.....	14.39	806
Additional taxes after 1964 dependent upon OASDI rates.....	2.81	157
(e) Actuarial deficiency (excess of net costs over total future tax income).....	.61	34

¹ Includes 0.08 percent of payroll for benefits payable with respect to dependents of disability annuitants under the social security minimum provision.

² Excludes an estimated \$325,000,000 accrued under the financial interchange for the period July 1957, to December 1958, but not yet received. Had this amount been included, the 1.96 would have been increased to 2.13 and the next figure of 1.12 would have been correspondingly reduced to 0.95.

An analysis of the cost effects of the proposed amendments considered by themselves is presented in table 5. As previously indicated, the total level additional disbursements are estimated at \$146 million a year, or 2.63 percent of payroll.

TABLE 5.—Changes in actuarial deficiency due to the bill

[Taxable payroll of \$5.6 billion a year for \$400 limit on monthly compensation; the effective date is assumed to be July 1, 1959]

Item	Percent of payroll (\$400 limit)	Amount per year (millions)
Actuarial deficiency under law before amendments (as of Dec. 31, 1958).....	3.81	\$213
Benefits at present rates due to higher compensation base.....	+ .71	40
Increase in benefits by 10 percent.....	+1.82	102
Elective reduced benefits to spouses and women employees at age 62.....	+ .03	3
Increase in residual benefit.....	+ .03	
Liberalization of work clause for disability annuitants.....	+ .02	1
Taxes at rate of 12½ percent on additional taxable compensation.....	-1.10	-62
Increase in schedule of taxes independent of OASDI rates.....	-1.90	-106
Additional taxes after 1964 dependent upon OASDI rates.....	-2.81	-157
Actuarial deficiency under law after amendments (as of Dec. 31, 1958).....	.61	-34

¹ Equivalent to 4.18 percent of payroll with a \$350 limit on monthly compensation. In both instances, this is equivalent to \$213 million a year.

IMMEDIATE EFFECT ON BENEFICIARIES OF AMENDMENTS IN H.R. 5610 TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

The immediate effect on beneficiaries of the proposals to amend the Railroad Unemployment Insurance Act may be

illustrated by reference to the effect they would have had on payments for the 1957-58 benefit year. Each of the proposals is discussed in turn.

Comparison of benefit rates in schedule under RUIA with proposed schedule

Range of base-year compensation	Daily benefit rate		Percent increase
	Present RUIA	Proposed schedule	
\$400 to \$499.....	\$3.50
\$500 to \$599.....	4.00	\$4.50	12.5
\$700 to \$749.....	4.00	5.00	25.0
\$750 to \$999.....	4.50	5.00	11.1
\$1,000 to \$1,299.....	5.00	5.50	10.0
\$1,300 to \$1,599.....	5.50	6.00	9.1
\$1,600 to \$1,899.....	6.00	6.50	8.3
\$1,900 to \$1,999.....	6.00	7.00	16.7
\$2,000 to \$2,199.....	6.50	7.00	7.7
\$2,200 to \$2,499.....	6.50	7.50	15.4
\$2,500 to \$2,799.....	7.00	8.00	14.3
\$2,800 to \$2,999.....	7.00	8.50	21.4
\$3,000 to \$3,099.....	7.50	8.50	13.3
\$3,100 to \$3,499.....	7.50	9.00	20.0
\$3,500 to \$3,999.....	8.00	9.50	18.8
\$4,000 and over.....	8.50	10.20	20.0

NOTE.—Since the compensation ranges of the 2 schedules differ, it was necessary, for this comparison, to divide some rate groups into 2 parts.

ELIMINATING OF THE SUNDAY AND HOLIDAY DISQUALIFICATIONS

The removal of the Sunday and holiday disqualification provision in the law would increase the number of compensable claims because, for a man normally working a 5-day week, after benefits have been paid for an initial registration period, any day of unemployment in a workweek could be a compensable day. Thus, in addition to increasing the number of compensable days in some claims, it would make other claims compensable for which no payment could be made under the present law. The wage contracts for nonoperating employees now provide payment for holidays. Nevertheless, in the course of a year there will be a substantial number of employees who will not get paid for one or more holidays for one reason or another. It is estimated that this change would have increased benefits for unemployment in 1957-58 by about \$3,400,000.

DISQUALIFICATIONS FROM UNEMPLOYMENT BENEFITS

The proposed modification of the disqualifications for unemployment benefits in cases of voluntary quits, and failure to accept suitable work or failure to report for work or to an employment office, would have extended the disqualification period of those who were disqualified under sections 4(a-2) (i) and 4(a-2) (ii) in 1957-58 and caused the disqualification of many other beneficiaries. The proposed section 4(a-2) (iv) disqualifying those who were discharged or suspended would have prevented payments to thousands of other beneficiaries. Altogether it is estimated that nearly 20,000 unemployment beneficiaries would have received \$10,800,000 less in 1957-58 if these provisions had been in effect. In the majority of cases all of the payments they received would have been prevented.

TEMPORARY EXTENSION OF DURATION FOR EMPLOYEES

Additional benefits would have been paid to about 60,000 1957-58 beneficiaries

who exhausted benefit rights for that year under the temporary provision extending their duration of benefits a maximum of 13 weeks, but the average amount per beneficiary would be small because if they were unemployed most of them have received benefits in the current year. Nearly as many 1958-59 beneficiaries would also receive additional payments from this change, and these would be more substantial. It is estimated that the total amount payable under the provision would be about \$20 million.

WAITING PERIOD FOR SICKNESS

The change which would pay benefits only for days of sickness over nine in the first sickness registration period instead of all days over seven would have reduced by two the number of compensable days for all beneficiaries who did not exhaust benefit rights. The other change in the sickness benefit formula, which would require that in order to pay benefits for a subsequent registration period there must be at least 7 days of sickness or unemployment in the period or in the 14 preceding days, would have had no significant effect on the benefits paid. Only a small number of claims would have been denied. The combined effect of the two changes would have reduced benefits to 125,000 beneficiaries by about \$1,800,000.

DISQUALIFICATIONS FROM SICKNESS BENEFITS

It is not possible to estimate exactly the effect of the various proposals which would change the eligibility requirements and the disqualification provisions for sickness benefits, since they cover situations with which no experience has been had, such as the requirement of being otherwise available for work in order to get sickness benefits, and the disqualification of employees who have been out of the railroad industry more than 90 days. It is estimated, however, that the combined effect of these, and the application to sickness benefits of the disqualifications that have previously affected only unemployment benefits, would have reduced payments in 1957-58 by more than \$5 million.

ELIMINATION OF MATERNITY BENEFITS

Elimination of maternity benefits would not have prevented the maternity beneficiaries from receiving regular sickness benefits while pregnant if they could have met the eligibility conditions. Thus, sickness benefits would probably have been paid to most of the 3,900 maternity beneficiaries in 1957-58 even though the \$3,707,000 paid for maternity would not have been payable.

It is not clear what effect the various restrictions on payment of sickness benefits would have had on payments to them. For the purpose of these estimates it is assumed that the sickness payments would have been about half of the amount that was paid for maternity. This would have reduced benefits for the year by \$1,800,000.

Estimates of the effect of the different provisions of the bill are summarized in the following table.

Provision	Unemployment		Sickness (including maternity)	
	Amount	Percent	Amount	Percent
Total benefits, present law ¹	\$175,723,000	100.0	\$56,960,000	100.0
Decreases in benefits:				
1. Due to \$500 qualifying earnings.....	1,632,000	.9	191,000	.3
2. Due to changes in disqualifications and eligibility conditions.....	10,800,000	6.1	5,200,000	9.1
3. Due to change in waiting period.....			1,800,000	3.2
4. Due to elimination of maternity benefits.....			1,800,000	3.2
Increases in benefits for eligible employees:				
1. Benefit rate schedule (including effect of \$400 a month maximum creditable earnings).....	14,552,000	8.3	7,948,000	14.0
2. 60 percent benefit rate proviso.....	19,925,000	11.3	4,326,000	7.6
3. Removal of Sunday and holiday disqualifications.....	3,403,000	1.9		
4. Temporary additional duration for employees who exhausted benefit rights.....	(²)	(²)		
Net increase.....	25,448,000	14.5	3,283,000	5.8

¹ Net benefits payable for year, which differ slightly from published figures of actual amounts paid in the year.
² \$20,000,000 in 1 year only; not included in totals, because not a cost factor for later years.

EFFECT ON BALANCE IN THE ACCOUNT

Under the present law, it is expected that the balance in the railroad unemployment insurance account will be reduced to a figure between \$40 million and \$50 million by June 30, 1959. Retroactive payments for the temporary additional duration provided by the bill would reduce this by \$20 million, and if the bill should be enacted immediately, there might be some additional increase in benefits for June claims. Thus, the account would be reduced to a very low level at the end of the benefit year, with perhaps no more than \$20 million remaining.

The effective date for an increased contribution rate would coincide with the effective date for increased benefit rates, but because of the lag in collection of contributions, the higher benefits resulting from the bill would be payable for 3 to 5 months before any added revenue would be received. Moreover, the current quarter, ending March 31, 1959, will be the fifth consecutive quarter in which benefit payments under the present law have been substantially above the balance now in the account—\$50 million. A continuation of such a rate of expenditure would exhaust the funds available for benefits in a few months even without the proposed increase. Thus the borrowing authority provided in the bill is necessary to insure against a possible collapse of the program.

IMMEDIATE COST TO THE RAILROADS

The bill would provide a maximum contribution rate of 3.5 percent and maximum taxable earnings of \$400 a month, both of which would become effective 1½ to 2½ months after enactment. Under present law, which would not be changed, the effective rate for 1959 is based on the balance to the credit of the railroad unemployment insurance account at the close of business on September 30, 1958. Because that balance has already been determined and proclaimed by the Board to be less than \$300 million, the amendment providing that the effective rate would be 3.5 percent when the balance is under \$300 million would apply on the general effective date of the bill. The rate for 1959 is 3 percent under the unamended law. Thus, the increase in rate would be only one-half of 1 percent for compensation paid in the balance of calendar year 1959, start-

ing with the effective date. The average increase in costs accruing for the railroads for the next few years, as shown by the following table, would be over \$40 million a year:

[In millions]

Calendar year	Contributions at 3 percent for present law, total	Contributions at 3½ percent, with \$400 limit on taxable earnings	
		Total	Increase over present law
1959.....	\$138	\$158	\$20
1960.....	141	182	41
1961.....	147	189	42
1962.....	153	196	43

¹ Assuming a July 1, 1959, effective date.

NOTE.—Figures are estimates of contributions that would be payable on compensation paid in these years

Since the estimated future cost of the program, as shown below, is substantially less than the amount that would be provided by a 3.5 percent rate, there should be some future years in which the contribution rate will be 3 percent rather than the maximum of 3.5 percent. In such years, the increase in cost, above the present law, will be limited to the amount of contributions at 3 percent on the increase in taxable payroll resulting from the \$400 limit on taxable earnings, or about \$15 million.

FUTURE COSTS

According to the latest estimates that have been made, benefits under the present provisions of the Railroad Unemployment Insurance Act will average about \$145 million over a period of years, \$94 million for unemployment and \$51 million for sickness, including materni-

If the balance on Sept. 30 in the railroad unemployment insurance account is—	The contribution rate for the next calendar year shall be—
\$450,000,000 or more.....	1½ percent.
\$400,000,000, but less than \$450,000,000.....	2 percent.
\$350,000,000, but less than \$400,000,000.....	2½ percent.
\$300,000,000, but less than \$350,000,000.....	3 percent.
Less than \$300,000,000.....	3½ percent.

The balance in the account on September 30, 1958, was \$135 million. Thus, the maximum rate of 3½ percent would become effective on the general effective date for the bill. It appears, in view of the cost estimates, that the maximum rate of 3½ percent provided by the bill would be adequate to finance the benefits.

I urge the House to pass the committee bill.

ty. The estimate of taxable payrolls is \$5.1 billion a year. Including administrative expenses, the total cost of the present program is estimated at 2.9 percent of the taxable payroll.

For the proposals contained in the bill it appears reasonable, and in accordance with a desire for sound financing, to assume for the future an increase of about one-fifth in the average amount of unemployment benefits and an increase of one-tenth in the amount of sickness benefits. This results in an average annual benefit cost for the future, if the bill should be enacted, of \$170 million, of which \$114 million would be for unemployment and \$56 million for sickness. At the same time, the \$400 limit on creditable earnings would, it is estimated, increase the taxable payroll to \$5.6 billion. Including an allowance of 0.20 percent of payroll for administration and deducting 0.10 percent for interest on the balance in the account, the total cost of the program would then be about 3.15 percent of payroll. Costs for the present law and with the bill are summarized in the following table:

Item	Present law	With proposed changes
Average benefits, total.....	\$145,000,000	\$170,000,000
For unemployment.....	94,000,000	114,000,000
For sickness.....	51,000,000	56,000,000
Taxable payroll.....	5,100,000,000	5,600,000,000
Benefits as percent of payroll.....	2.85	3.05
Administration costs as percent of payroll.....	.15	.20
Allowance for interest on balance in account (minus).....	-.10	-.10
Net total cost as percent of payroll.....	2.90	3.15

These cost figures are, of course, only an approximation based on what appear to be reasonable interpretations of available data, and on forecasts of the future of the railroad industry. With somewhat different assumptions, which may be just as reasonable, a variation of as much as one-fourth of 1 percent of payroll in either direction might be obtained. The figures can thus be interpreted as indicating that the cost of the benefit program under the Railroad Unemployment Insurance Act, if the bill is enacted would be somewhere between 2.9 and 3.4 percent of payroll.

FINANCING

The bill provides the following schedule of contribution rates:

The CHAIRMAN. The gentleman from Arkansas has consumed 38 minutes.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. YOUNGER].

Mr. YOUNGER. Mr. Chairman, our distinguished chairman has given a very lucid explanation of the bill. I do want to cover two or three items which I think are important. I think, first, we ought

to go back into the history of railroad retirement a bit.

First, in 1935, a railroad retirement bill was passed which was later contested and declared unconstitutional. In 1937, the President called the railroads and the brotherhoods together and asked them to agree on a program of retirement which neither of them would contest in the courts. That was done. There was little change made in that program until 1946. Since 1946 we have had nine public laws passed on railroad retirement and unemployment insurance, all of them in the form of increasing the benefits. Undoubtedly, when Railroad Retirement was passed in 1937 there were very few retirement plans in industry, and there was a need for it, and there was a need for putting this program under the Federal Government. However, since then approximately all retirement and unemployment coverage has been granted throughout all industry, and today we find the Federal Government confronted with the program of retirement and unemployment insurance for only one segment of our interstate commerce. We have nothing to do with the airlines, we have nothing to do with the retirement in regard to motor carriers or buses.

Ever since I have been a member of this committee I have felt that the program should be returned to the railroads and to the employees, and that full social security coverage should be given to every railroad employee, and they should negotiate on the fringe benefits and supplemental pensions just the same as employees of other industries.

I say so for this reason: When you look at the history of this program and all of the hearings we have had, you will find that Congress is called upon to sit at the bargaining table between the railroads and the employees. Frankly, Congress is not equipped to do that job. As you know, everything that comes to us—we must be frank about it—is political. It becomes political; it cannot be helped. That is one of the reasons why this program is in the shape that it is today. Unfortunately, my observation is—and I am sorry to repeat this, because I have many very fine friends in the Railway Labor Executives Association—but the tendency is to come to Congress repeatedly and say, "This is the program. Take it or leave it." Legislation, as we know, is not accomplished in that way. No legislation that we pass ever satisfies the extremes on either side. If it does it is not as a rule good legislation. It is always a matter of compromise. We have had this demand repeatedly. We had it last year. They came to us with a program for an increase of 10 percent. The committee had hearings and worked its will. We decided that the increase should be along the social security increase of 7 percent, and the committee passed a 7 percent increase. Immediately we were told "10 percent or nothing." They went to the other body and got a 10 percent bill, and as a result we got nothing.

The chairman has already pointed out the extent to which this retirement fund is in a precarious position. May I say

in my opinion it will be in a precarious condition just so long as the condition exists where the Congress has to make the determination.

I want to correct one of the chairman's figures. I refer now to the testimony of the Chairman of the Railroad Retirement Board in answer to a question by Mr. ROGERS of Texas. He said:

We are operating right now on an actuarial deficiency of about \$213 million a year on a level cost basis.

That is the rate at which the deficit is running right now; it is what the deficit was last year. It increases, of course, every year. Every time you fail to act on this measure you increase the deficit. And may I add that in my opinion that does not tell the whole story, because this tax is based on a million employees in the railroad industry paying into this fund. There is not one piece of evidence in these hearings showing that we can reasonably expect to have 1 million employees back on the railroads. The best estimate that any witnesses gave us—employers, employees, Mr. Schoene, representing the Executives Association—all stated that 900,000 employees was about the maximum anybody could predict; and yet the estimate to bring this fund into an actuarially sound base is predicated on a tax on 1 million employees.

So, in my opinion, even though this fund is increased by raising the employee and employer contribution to 6½ percent each, unless you increase the number of employees on the railroads, you are going to have this same question before the Congress again and you will have to increase the taxes again if you want to make this fund actuarially sound. This year we are confronted again with the same policy of take it or leave it. You too must have had all these telegrams. Every one of them urges your support of the bill H.R. 1012 without amendment. In my opinion that is no way to legislate, and it is no way to approach this problem. I do not care who comes to this Congress with a bill, we as Members of this Congress are entitled to listen to the testimony, to listen to the opinions of others, to the statistics that are given to us and make up our own minds. We certainly have a right to amend these bills. There is nothing sacred about any bill. Any time we have to yield to that kind of propaganda, so far as I am concerned I do not want to be persuaded by such argument or to be a Member of this House under such conditions; and I am sure that you are not going to yield to such pressure, that you are going to support the committee in their action.

Mr. AVERY. Mr. Chairman, will the gentleman yield?

Mr. YOUNGER. I yield to the gentleman from Kansas.

Mr. AVERY. I just heard the gentleman refer to a telegram urging that H.R. 1012 be voted in as a substitute without amendment. I wonder if the gentleman would like to comment just briefly on what would be the result if such a thing were to take place?

In the first place, because of the fact that it is retroactive on some 850,000 em-

ployees, \$12 per employee retroactive tax on every person and assessing an additional comparable retroactive tax against the railroads. This is assuming H.R. 1012 might be effective July 1, 1959.

Further, the unemployment insurance fund as of February 28 was down to \$50 million. There is no provision in H.R. 1012 for the Railroad Retirement Board to transfer retirement funds on a loan basis into the unemployment insurance fund, and I am informed, I think on good authority, that if that fund is exhausted that we will have no more unemployment insurance benefits to any railroad employee. So I am wondering if members signing the minority report really want H.R. 1012 passed without amendment.

Mr. YOUNGER. The gentleman is correct. That was referred to time and again; in our deliberations when we were in executive session considering this legislation. We were implored to pass this bill without amendment. In other words, we were to disregard any judgment that we might exercise after hearing the testimony and the information furnished at the hearings, and the facts that were given to us.

The unemployment insurance feature has troubled me during the hearings and if you will read the questions I asked you will understand my concern from that standpoint.

Mr. Chairman, may I read from a brochure which we all received from the American Enterprise Association commenting on the bill before us:

Railroad employees, like other employees, were initially covered by State unemployment systems. The theory of their coverage under a separate system by Congress in 1938 was to provide protection under a system better adapted to the interstate character of their employment, rather than to provide them higher benefit rates, additional types of protection and other advantages over that afforded by State systems.

That undoubtedly was the intent in 1938. I have great difficulty myself in passing benefits on to employees of railroads which are not benefits given to employees covered under the various State unemployment insurance acts. It was that reasoning which prompted my rating and I think it was somewhat the same reasoning that caused the committee again to exercise its judgment as a result of these hearings and to take out certain benefits that were on the fringe. Bear in mind, if you will go into the committee hearings you will find that on investigation by the Railroad Retirement Board of claims that were filed, 20 percent of them were found to be fraudulent claims. What we are attempting to do here in the committee bill is to take out those marginal items which creates the possibility for all of these various claims that were found to be fraudulent.

Mr. Chairman, the committee has done a good job. It is not the same bill that I would like, it is not the same that the railroads want, it is not the same bill that the railway labor executives want, it is not the same bill that the shippers want. You have heard from all of them. Frankly, I think because of that, we have brought to this floor a bill which is in the keeping of the fine traditions of this House; namely, the committee has

worked its will. We have not satisfied all those concerned, but we have presented a good sound bill that if put into effect will give adequate unemployment compensation and will keep the retirement fund on a more nearly actuarially sound basis than it is at the present time.

I certainly hope that the House will support the committee. There are only 11 of the 31 who have dissented. Twenty-two apparently have said, "OK." I listened rather intently when the vote was cast in committee on this bill—no one asked for a rollcall—and personally I did not hear a negative vote cast against the bill when the vote was taken in committee.

Mr. BAILEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and eight Members are present, a quorum.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. POFF].

Mr. POFF. Mr. Chairman, by reason of the shortness of time available, I cannot at this point undertake to deliver the speech I have prepared in its entirety.

Mr. Chairman, the Members of the Committee of the Whole are confronted with a rather confusing situation. Spokesmen for the railroads have painted an alarming picture concerning their present financial status and future economic prospects and they have registered unqualified opposition to H.R. 1012 which I understand will be offered as a substitute to the committee bill, H.R. 5610.

Spokesmen for the brotherhoods, on the other hand, have registered their unqualified opposition to H.R. 5610. The conflict of conviction would, at this point, appear to be irreconcilable.

It occurs to me that, in the midst of this conflict and confusion, it might be prudent to pause and inquire how those who help finance the railroad retirement fund, namely railroad workers, individually and collectively feel about legislation concerning their fund. If the entire matter were submitted by popular referendum to railroad employees, including those active, retired, and unemployed, how would they vote? In attempting to answer my own question I base my conclusions first on the results of a poll which I conducted last year concerning H.R. 4353—which is substantially identical to the railroad retirement provisions of both H.R. 1012 and H.R. 5610—second, on the sentiments expressed in an unusually heavy volume of daily mail; and third, on personal conversations with a host of railroad workers and their families whom I am privileged to count as personal friends. It would be inaccurate to say that there is unanimous agreement, but it is entirely accurate to say that the great majority of those who have communicated their views to me would favor the following in preference to either of the bills presently under consideration.

First. Unemployed railroad workers feel that they are entitled to an extension of unemployment benefits for a period certainly no shorter than that granted other jobless workers under the temporary unemployment compensation bill recently passed by the House. As of last January there were more than 200,000 railroad workers unemployed involuntarily. Over 40,000 of them had exhausted all of their unemployment benefits. More than 35 percent of those who were unemployed during 1958 were over the age of 45 years, and at that age it is common knowledge that an unemployed worker has virtually no opportunity to obtain employment in any other industry except that in which he is experienced. Surely, this Congress, having already answered the pleas of unemployed workers in other industries, cannot now turn a deaf ear on the pleas of unemployed railroad workers. The burden they suffer is no less acute than that of their neighbors across the street who work for other employers.

Second. Both active and retired railroad workers would, I am convinced, favor a repeal of the antique test period of 1924-1931 and the establishment of the 5-best-years rule, under the application of which the retirement benefits of workers—both active and retired—and their dependents and survivors would be substantially increased. Although the actuaries seem to be in some dispute among themselves, it does not conclusively appear that this method of increasing retirement benefits would be any more expensive than an across-the-board percentage increase.

Third. Most railroad workers currently employed would further favor (a) a reduction in the voluntary retirement age, (b) a repeal of the so-called last-employer clause, under which presently a worker loses his retirement benefits if, at the time he retires, he is holding some little side job—such as secretary or treasurer of a civic or fraternal organization—to earn a little additional income; and (c) repeal of the dual-benefits restriction on wives of retired railroad workers.

Mr. Chairman, railroad workers are reasonable men and women. They realize that any additional benefits awarded by Congress this year will require additional revenue to the fund. They know that the current operating deficit has been aggravated by the steep increase in unemployment. An unemployed worker necessarily can pay nothing into the retirement fund and his employer pays nothing on his behalf so long as he remains unemployed. In summary, the more workers unemployed, the less revenue and the less revenue, the greater the deficit in the fund's operation.

If additional revenue is essential to compensate for the revenue loss resulting from unemployment and if the workers are compelled to choose between an increased tax rate and an increased tax base, I am satisfied that a majority of the workers in my district would choose the former. Although such a plan is unavailable to many railroad workers in other sections of the country, many of the workers in my district are eligible for participation in a supple-

mental railroad retirement program to the extent that their wages exceed the taxable base established in the Railroad Retirement Act. Obviously, every time the taxable base in that act is increased, it adversely affects both eligibility and benefits under the supplemental retirement program. I understand that the increase in the tax base provided in the pending legislation is considered justified under the so-called interchange provisions of the law. That is a debatable argument.

It begins to appear that a monumental parliamentary snarl will develop when debate is concluded and the bill is read for amendment. At this point, it is uncertain which if any of the amendments previously referred to could be favorably considered on the floor. The uncertainty is complicated by the fact that, although independent bills embodying those provisions were pending before the Committee on Interstate and Foreign Commerce that committee failed to incorporate them into the bill which was finally reported. Moreover, rumors are extant to the effect that the adoption of those amendments on the floor would ultimately kill the entire bill unless those amendments collectively became a substitute for instead of additions to the committee bill. As a practical and parliamentary proposition, such a substitution is obviously impossible, and failure to pass any legislation—thereby denying unemployed railroad workers the extension of benefits previously granted workers in other industries—would be unthinkable.

Mr. Chairman, it seems to me that the conflict and confusion surrounding this situation should serve as a valuable object lesson. I believe all will agree that all of the confusion and most of the conflict could have been avoided had retirement legislation on the one hand and railroad unemployment compensation legislation on the other hand been considered as two separate bills. In the present state of things, the only realistic hope the workers have is that somehow during the future legislative process the snarl can be unraveled and agreement can be reached upon a fair compromise acceptable to all parties concerned. Of course, a compromise means that the bill finally voted upon will not completely satisfy any individual Member of Congress. If all of the 436 Members were granted authority to do so, each would write a somewhat different bill. However, those who are disappointed in the final version can take solace in the knowledge that there will always be another day and another opportunity to consider additional and different legislation. Such is the way of our American democratic process of lawmaking.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. NELSEN].

Mr. NELSEN. Mr. Chairman, as a member of the Interstate and Foreign Commerce Committee I must compliment our chairman, the gentleman from Arkansas [Mr. HARRIS], for the conscientious, studious, and honest job that he has done relative to this legislation. I should also like to say that in the many

years that I have served in legislative bodies I have never seen a committee that has worked so conscientiously and carefully, disregarding party lines, to find an answer to a very serious problem.

Mr. Chairman, throughout all of these hearings I have visited with many men concerned with this legislation. Many have been in my office, and I want to compliment them. All of them have been very fine and very fair. However, to each of them I said this: The bill that has resulted from the deliberations of this committee is, in my opinion, the kind of a bill that I would want if I were a railroad worker about to retire. We have what I believe to be a bill that emphasizes the retirement feature, which is of importance, and we have tried to come up with an unemployment feature that is actuarially sound. We have tried to do the best we could with a very complex subject. As has been mentioned, the railroads feel that they were not given the right kind of a bill. There are some railroad workers who feel that they did not get the kind of a bill they wanted. But, we did our best to go down the middle with a bill that has the right economic stability and is in the best interests of those whom we represent.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 15 minutes to the gentleman from Pennsylvania [Mr. VAN ZANDT].

Mr. VAN ZANDT. Mr. Chairman, I arise in support of H.R. 1012 which amends the Railroad Retirement and Railroad Unemployment Insurance Acts.

Frankly, I am reluctant to support H.R. 5610 because it is a modified version of H.R. 1012 which is nearly identical to the bill passed by the Senate last year and which died on the floor of the House in the closing minutes of the 85th Congress.

As many of you know, both the Senate and House committees held extensive hearings in 1957 on H.R. 4353 and Senate bill 1313 and I committed myself to that bill from the day the 85th Congress adjourned last year. I looked forward to fulfilling my promise that I would support similar railroad retirement legislation which is now embodied in the provisions of H.R. 1012.

For the information of the committee, I have received hundreds of letters in support of H.R. 1012 and only five letters in opposition to it.

In this connection, I do not wish to convey the impression that there is not a division within the ranks of active and retired railroaders regarding approval of H.R. 1012 because there is.

However, I am convinced that the great majority of active and retired railroaders in my congressional district favor the provisions of H.R. 1012.

On February 3, 1959 I testified in favor of the enactment of H.R. 1012 before the House Committee on Interstate and Foreign Commerce and again committed myself to work for the approval of such a bill.

Therefore, speaking frankly since I am committed to work and vote for H.R. 1012 I cannot in good conscience accept a watered-down version of H.R. 1012 as represented by H.R. 5610.

Mr. Chairman, I am supporting H.R. 1012 because I think it is a step in the right direction in recognizing the urgent need for amending the Railroad Retirement and Railroad Unemployment Insurance Acts.

It is not my desire to take up the time of the committee in discussing the principal provisions of H.R. 1012 and compare them with the provisions of H.R. 5610 which has been ably done by Chairman HARRIS and other members of the House Committee on Interstate and Foreign Commerce.

It so happens that I represent one of the largest railroad populations in the country both active and retired.

The 10 percent across the board increase in railroad retirement benefits will be very helpful to my people since the increased cost of living when coupled with a 49-cent dollar is working real hardship on them.

Living among these people as I do, the hardships that result from trying to live on a fixed monthly income are well known to me.

In all seriousness, let us ask ourselves if we could live on the average monthly benefits paid to beneficiaries under the railroad retirement system which are as follows:

	Average annuity	Average age
Retirement annuitants.....	\$117.70	71.6
Spouse annuitants.....	51.60	71.0
Pensioners.....	81.70	73.0
Survivor beneficiaries.....	57.50	-----

These figures that I have mentioned represent the amount of monthly benefits that these good Americans are trying to exist on in face of the inflated cost of living.

Should either H.R. 5610 or H.R. 1012 be enacted into law these benefits will be increased by 10 percent.

However, the increase under H.R. 5610 will not become effective until 45 days after the bill becomes a law. On the other hand, under H.R. 1012 the benefits will be retroactive to January 1, 1959.

At this point let me remind the committee that many of us interested in this legislation are committed to the date of January 1, 1959 simply because the 85th Congress increased social security benefits effective on that date.

Mr. Chairman, I would like to comment on the provisions of H.R. 1012 which amends the Railroad Unemployment Insurance Act.

At the present time there are some 7,000 idle railroaders in my congressional district with most of them residing in the communities of Altoona, Tyrone, Du Bois, Clearfield, and Osceola Mills.

Out of this some 7,000 unemployed, about 2,000 have exhausted their eligibility for unemployment insurance benefits and as the months go by others will suffer the same fate.

These unemployed railroaders with years and years of employment in the industry are today depending upon public assistance benefits from the State of Pennsylvania only after they have given the State a lien on any real estate they may own.

In addition, they are forced to liquidate their life savings before they are eligible for public assistance benefits.

Yes, these unemployed railroaders are also trying to exist on surplus commodities and it is a pathetic sight to see enginemen, firemen, and mechanics with many years of seniority in the railroad industry standing in line to receive surplus food.

It may be of interest to the committee to know that 22 percent of the residents of my congressional district are today receiving surplus commodities and many of them are my neighbors and unemployed railroaders.

Many of you will remember the great anxiety demonstrated by Congress last year in extending State unemployment compensation benefits 13 weeks and only a few weeks ago we extended the period of eligibility for such an extension to June 30 of this year.

Meanwhile, no action was taken on extending railroad unemployment insurance benefits although some of us pleaded for such action.

While it is true that H.R. 1012 and H.R. 5610 provide extended unemployment benefits beyond the 130 days of normal benefits now allowed by law, H.R. 5610 differs from H.R. 1012 by drastically restricting unemployment and sickness benefits which have been part of the Railroad Unemployment Insurance Act since their adoption in 1938 and 1946.

In addition H.R. 5610 ignores languages now in H.R. 1012 concerning unemployment benefit periods which would be extended for workers with 10 or more years of service by 65 to 130 days depending on length of service beyond the 130 day maximum provided in the present law.

In a few words, H.R. 5610 while granting the extension of the benefit period to those whose eligibility expired actually takes away certain unemployment and sickness benefits that are now in the law.

Mr. Chairman, in connection with the cost of H.R. 1012 and H.R. 5610 they would both require the same increase in payroll taxes and broadening of the tax base, yet H.R. 1012 is more liberal in its benefits.

Then, in addition, the increased income will place the retirement system on a sound financial basis.

As many of you know, the retirement fund's deficit has been of great concern to everyone since the system is now operating with a serious deficiency of \$213 million per year on a level cost basis.

In connection with financing increased benefits under the Railroad Unemployment Insurance Act, H.R. 5610 increases the present tax now paid entirely by the railroads from 3 percent to 3½ percent, while H.R. 1012 will require an increase of the tax to 4 percent.

When you take into consideration the more liberal benefits provided for H.R. 1012 the one-half of 1 percent differential in tax between H.R. 5610 and H.R. 1012 in my opinion justifies enactment of H.R. 1012.

Mr. Chairman, as I said in the beginning of my remarks I am supporting H.R.

1012 because I committed myself to its provisions last year.

Furthermore, I think H.R. 1012 is a step in the right direction in our efforts to liberalize the Railroad Retirement and Railroad Unemployment Insurance Acts to meet the needs of active and retired railroaders of the Nation.

Mr. AVERY. Mr. Chairman, will the gentleman yield?

Mr. VAN ZANDT. I yield to the gentleman from Kansas.

Mr. AVERY. Did I correctly understand the gentleman to say that there was a half of one percent differential in the tax provisions in the two bills?

Mr. VAN ZANDT. Yes, the difference between 3.5 and 4 percent.

Mr. AVERY. I do not quite believe that is the case. To which bill did the gentleman allocate which percentage provision?

Mr. VAN ZANDT. We are talking now about the Railroad Unemployment Insurance?

Mr. AVERY. Yes.

Mr. VAN ZANDT. And we are talking about the tax.

Mr. AVERY. I believe the gentleman will find the tax requirements are the same in both bills.

Mr. VAN ZANDT. I might put it this way: It is a fact that both bills will increase the tax to 3.5 percent, but, if my memory is correct, the Chairman of the Railroad Retirement Board when appearing before the committee said the 3.5 percent would not finance the increases and it would take 4 percent. That was the basis of my statement.

Mr. AVERY. I quite agree with the gentleman, but the tax rate requirement in the bills are identical.

Mr. VAN ZANDT. The gentleman is correct.

Mr. FLYNT. Mr. Chairman, I yield 10 minutes to the gentleman from West Virginia [Mr. STAGGERS].

Mr. BENNETT of Michigan. Mr. Chairman, I yield 10 minutes to the gentleman from West Virginia.

Mr. FLYNT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and one Members are present, a quorum.

Mr. STAGGERS. Mr. Chairman, first I would like to speak to the gentleman from Kansas [Mr. AVERY] to tell him that when the substitute is offered, the objections that he raised in relation to the tax provision will be taken care of, and that the effective date will be after the enactment of the bill, if that is one of his main objections. I assure the gentleman, it will be taken care of.

Mr. AVERY. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield.

Mr. AVERY. I appreciate the gentleman's statement. It surprises me so because we have had all of these urgencies from the various States and the various districts telling us to vote for H.R. 1012 without amendment, and now the gentleman comes on the floor and says that he is going to vote for it.

Mr. STAGGERS. Did you get all these urgencies or did you hear of them by rumor?

Mr. AVERY. No, sir; I have a lot of them in my office, and I will be glad to show them to the gentleman.

Mr. STAGGERS. Is the gentleman referring to urgencies?

Mr. AVERY. Yes; to vote for H.R. 1012 without amendment.

Mr. STAGGERS. All right; we will not argue about that. By voting for H.R. 1012 with some of these things, you will get a better bill.

Mr. AVERY. I did not say that the gentleman who is now speaking was going to vote for H.R. 1012.

Mr. STAGGERS. I did not think you would be, but I do know that that was one of the things you were interested in in the committee.

Mr. AVERY. That is right.

Mr. STAGGERS. I tried to help the gentleman on that, and it will be taken care of in this bill. Another objection was raised, and I would like to have any objections you gentlemen have to the bill so that we can think about them a little bit—about the ability to borrow which will be included also in H.R. 1012 out of the railroad retirement fund, in emergencies, for purposes of the unemployment and sickness insurance fund.

Mr. AVERY. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield.

Mr. AVERY. Well, it would sound to me as if the gentleman was getting around to the point where he believes the bill, H.R. 5610, is a pretty good bill.

Mr. STAGGERS. With the exception of four of the most vicious things against the working people of the country that I have seen in a long time.

Mr. AVERY. Can we conclude that if the gentleman had a little more time to study the bill, H.R. 5610, he might be in favor of it in its entirety?

Mr. STAGGERS. No; but I believe if the gentleman from Kansas will pay attention for about 10 minutes, he will change his opinion a little bit about H.R. 5610.

Mr. AVERY. I assure the gentleman that I will pay attention.

Mr. STAGGERS. I am sure you will.

Mr. Chairman, I would like to have the Members of the Congress know this, that the railroad workers are treated differently from any other worker in America since and even before the passage of the Railway Labor Act in 1926. I am sorry that more members of the committee are not here, but I do see some who are present that I wanted to hear this because I have been a member of the committee for 9 years, and many things were said in the committee during the consideration of this bill which at that time I took at their face value, and now I wish to explain to the committee that those were just not the true facts—not that anybody, of course, tried to misrepresent the facts, but people just believed a certain way.

I believe that some of the members of the committee will vote differently when we vote on this bill.

I was explaining that the railroad worker is different from other workers in American industry. The railroad in-

dustry is a vital public utility, it is essential to the economic welfare of America, and it is essential to the defense of America in time of war. That has been proved in the past. That was one of the reasons the Railway Labor Act was passed in 1926. That act affected drastically the rights of railway workers to bargain and to strike. The Congress was later asked to legislate on railroad retirement and unemployment insurance matters, and it did legislate in these fields for the railroad worker. Since then they must come to the Congress to tell their story.

The substitute, H.R. 1012, is essentially the same as H.R. 4353 that was voted out of the committee last year and that passed the Senate. Someone said on the floor that the railroad industry could not stand the cost of the increased unemployment benefits. If you will follow the figure in the Senate last year, the committee reported a bill out, S. 1313, that carried twice the unemployment benefits that the Senate actually passed. This bill was approved by a substantial majority of the committee after 4 months of hearings. But because they wanted to get a bill passed, the chairman of the subcommittee came to the House during the Senate debate and talked to the chairman of the committee on this side, and they reached an agreement on the bill that they thought could be passed. They cut the extended unemployment benefits in half, because they tried to get the bill through in the closing days. The Senator in charge of the bill over there stated that such an agreement had been reached.

As has been explained by the chairman, the parliamentary procedure prevented that bill from being brought to the floor for passage.

When the President signed the bill to give increased retirement benefits to railroad workers in 1956 without financing provisions, he requested that legislation be enacted to make up this difference. There is no difference in the benefits or cost of the retirement provisions of H.R. 5610 and H.R. 1012, with the exception of the effective date. This will be taken care of by the substitute bill so that there can be no objection in that regard.

Now we come to the parts of the bill that are in disagreement. That disagreement is on the unemployment and insurance provisions. The chairman told you that in the last 10 years approximately 600,000 railroad workers had been furloughed. I think that figure is a little excessive, but we will take that figure. Now the contention is that by expanding the benefits more men are going to be furloughed and we will drain this fund. I say the workers are furloughed down to the hard core; men who have been in the railroad industry. Before a railroad can hire a new man, according to the prevailing seniority systems, on railroads, they must first rehire their unemployed workers.

One thing that has never been explained about the bill: When a railroad worker was hired by a railroad he was led to believe that part of the pay package would be the unemployment insurance which he would receive if he was

laid off. That has been in the act since 1938. That was part of his pay that he expected to get all through the years.

Here we come now and say, "We are going to cut your pay. Not only that, but you who are employed are going to be taxed to pay for the increased retirement benefits to men who are retired."

Is that fair to the workers of today? Of course not.

Another thing which has not been explained is the way the "benefit" year and the "base" year work. The base year is the calendar year, January to December. And the benefit year in which he can draw benefits deriving from his base year earnings—and these must be at best \$400 for the base year under present laws. He must wait 6 months to be eligible for benefits based on the base year and then only if he has worked for the required minimum earnings. He cannot draw his benefits immediately that first year unless he has a previous base year with qualifying earnings. It has been said in committee that a great many men went to work for 2 or 3 months during the summer, then drew unemployment benefits. That is not so, for they could not get their benefits until July in the year following unless they had an earlier qualifying base year.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield.

Mr. HARRIS. The gentleman has presented a very interesting point that the membership of the House should in my opinion understand.

Mr. STAGGERS. I think it is very important.

Mr. HARRIS. That is the question of the base year which entitles an employee to benefits; then there is your benefit year. Is it not true that if a man is entitled to unemployment insurance during the base year, which might be the year before, and if it is, then he is entitled to benefits at that time in that benefit year.

Mr. STAGGERS. If he has built that up over the past preceding years. I am going on to explain that. It has not been explained before.

Mr. HARRIS. If the gentleman will permit me to continue I will yield him additional time.

Mr. STAGGERS. I thank the gentleman. I yield.

Mr. HARRIS. As a matter of fact, talking about these seasonal employees, that is a matter that has caused a lot of concern in this industry. During certain times of the year it is necessary to have additional employees for certain purposes such as for maintenance of rights-of-way, and so forth. If unemployment occurs, for example, in the year 1957, then beginning in July of 1957 he would be entitled to his unemployment benefit based upon the base year of 1957 and for the earlier part of the year 1957 his benefits would be based on the calendar year 1956. Is that not true?

Mr. STAGGERS. That is true.

Mr. HARRIS. Then after July 1 of 1959 he would be entitled to the benefits that he would get from the previous calendar base year of 1958. Now, that is true; is it not?

Mr. STAGGERS. I was going to go ahead and explain it because it has not been brought out. The railroad workers have been led to believe over the years that unemployment benefits and sickness insurance were part of their pay. The employee certainly does not expect the company to come along later and say it is going to cut down his pay a little. These benefits are what the employees expect as part of their pay; they have worked for it the year preceding; it has built up a "benefit year." It is not right to come along now and say, "We are going to cut you out of part of your pay." I do not see how you can explain that to the railroad workers in this day and age. They have had these unemployment benefits for 20 years and sickness insurance for some 12 years as part of their pay, the benefit of partial compensation during periods of unemployment and sickness. Are we, through this act, going to take away from the railroad workers what has been rightfully theirs?

Cost has been talked about quite a little, that the costs of the amended bill will be \$45 million. Let me tell you that even including the additional extended benefits we are talking about, the bill, as we would amend it, will cost no more than about \$14 million more for unemployment and sickness than H.R. 5610. Certainly the Congress of the United States should act intelligently on this matter.

Then there are some questions of maternity benefits, as well as the matter of firing for cause and voluntary quits. The women railroad workers of this country were hired under certain definite understandings of what they could expect should they get married, or if they were already married and a child should come along. They were to get retirement, unemployment, sickness, and maternity benefits in accordance with existing law, and the railroads knew it. These women have coming to them for periods of maternity leave the 130 days of sickness that every other railroad worker in America has today. Most of the women who are now employed are older women.

Referring back to the extended benefit periods and these seasonal workers who are hired and have no seniority, I point out that the railroads cannot hire these workers until after they take back the people who are on furlough. We are now getting down to the hard core of workers, men and women who have reached the age of 40 and 45 years, with families. They are highly specialized people. They cannot get jobs elsewhere. We have 5 million unemployed in America today. All we are trying to do is to take care of the older ones just a little bit.

We agree it is going to cost a little bit more, but do you know that that additional cost goes into the operating expenses of the railroads and they deduct these costs for income tax purposes. They pay an income tax only on net income. The cost of the unemployment insurance program is, as I say, deducted as a business expense.

I want to be fair to the railroads. Any time any legislation has come up here to

benefit the railroads I have voted for it. There is not a representative of any of the railroads can say differently. I was for the Transportation Act. I talked for it, I argued for it, and I spoke to one or two railroad presidents and asked them what I could do.

Mr. BAILEY. Mr. Chairman, I make the point of order a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred nineteen Members are present, a quorum.

Mr. STAGGERS. Mr. Chairman, in connection with maternity benefits I only want to say one additional thing and I shall close. Most of the women who are employed in the industry today are older women who were hired with the full knowledge of those who employed these women that they were under this act. Now, then, there are those who want to come back and renege upon the understanding had with these women and to say that the contract is void and that Congress should do something about it. They are not younger women who are being employed. They are the older ones, the same as the men who are in the industry.

I do not think we can afford to do what is proposed here. For the bill does not allow to those women who are pregnant the benefits they were led to expect and which should be theirs under the law. There is not any more compensation.

We come, now, to the voluntary quits.

Here are men and here are women who built up, they thought, rights in an unemployment insurance fund and been led to believe through the years to expect to receive a benefit from it. It may be that some quit to take a better job someplace else, and they are told: "Well, you quit; you went over there to take another job." And, probably they did. For the time they work, of course, they are not eligible. But then they are laid off from that new work; maybe they are fired. Under the present law they have every right to believe that they can come back to obtain their share of the unemployment fund that has already been paid for them. The money is already there. And yet under H.R. 5610 they cannot come along now and collect. There are a lot of people who cannot work because of sickness, and when the time comes that they are ready to return, they say "You were not here; you just voluntarily quit, and you are not entitled to sickness compensation." Now, I only want to be honest about this thing and not say anything that is wrong. I have always said that as far as freedom of speech is concerned, any man ought to be able to make a statement that he can defend. Many men make statements that they cannot defend, but I will defend each one I make.

Now, on this proposal to disqualify a worker for unemployment benefits because of a firing for cause. Let me give you a personal example. I worked for the railroad one time. I was a brakeman on the Mountain Division of the B. & O. Railroad, a fine, high type of railroad. I have no quarrel with them. One evening, on a dark and dreary, rainy evening, I was the middle brake-

man. There was an emergency stop. The flagman had to go back a little further than usual in order to protect the train. What the emergency was I do not remember. And, there was a 17-mile grade. And, the engineer blew the whistle and started the train, and I could see the rear flagman running with his lantern in the distance, in the fog and the rain, and he ran as hard as he could to catch up. He kept falling further away. I decided I would get that flagman on. I pulled the air on the air brakes. The conductor had gone to the head of the train to talk to the engineer when it happened. Of course, my action stopped the train. The conductor then came back and told me, "For doing that, I am going to have you fired." And, do you know, I did not ride on the caboose the rest of the time; I rode on the engine. When I got back to my home base he had an investigator come to my home to talk to my mother and dad and did everything he could to show that maybe I was not of age, although the company knew when they hired me that I was not of age.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

Mr. HARRIS. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. STAGGERS. At the caprice of one conductor I could have been fired. But, I was not fired because after that summer I had enough sense to know that I should get on to school and do something else; that railroading was not for me. That is just an incident. I could, however, have been blacklisted from that time on by that railroad and most other railroads if I had been fired because they thought I had done something wrong. I was only doing what was human; here was a man left out 10 miles from civilization, almost, in between the mountains, and I got him aboard. It did not hurt the train a bit. But it hurt the conductor. He said it almost threw him into the firebox. Now, that is an example of a possible firing for cause at the caprice of anybody who does not like you. Maybe you do not walk right or you do not wear the right clothes and they fire you for cause. Of course you have the right of appeal. But that appeal will take some time, maybe 2 years or more. Meanwhile here is a family with five or six children with nothing to eat, and the unemployed worker is trying to fight his case in court. What about his family? Here is a fund that, in effect, he has paid into, although not directly, that he has a right to expect benefits from, and his family has nothing to eat. We would take that right away from him by this bill, H.R. 5610. It is not fair, and I believe you will agree with me that it is not fair.

Mr. AVERY. Mr. Chairman, will the gentleman yield at that point?

Mr. STAGGERS. Yes, I yield.

Mr. AVERY. I recognize the gentleman's sincere interest in the welfare of the railroad employees.

Mr. STAGGERS. Not only the railroad employees, but the railroads and the people of this country.

Mr. AVERY. Yes; of course, it is a public interest.

Mr. STAGGERS. Certainly, it is; it is yours and mine, too.

Mr. AVERY. Of course. Now with respect to the statement the gentleman has made on several occasions, that when a railroad worker goes to work for a railroad, they assure him that his unemployment compensation will be part of his pay—

Mr. STAGGERS. I did not say that. He knows that is part of it. That is the law of the United States. Both understand the law; they do not have to tell him that.

Mr. AVERY. If the gentleman will permit me to ask the question, the gentleman stated on two other occasions this: That the Railroad Unemployment Insurance Fund was part of his money, had been taken out of his pay.

Mr. STAGGERS. I did not say that; I beg the gentleman's pardon. The railroads pay it. They pay it into the fund. I would not have anyone think that I said that any railroad worker pays it directly. The gentleman either was not listening attentively or, if I did say it, I am sorry. If the gentleman will permit me to continue, maybe I can clear that up.

Mr. AVERY. The gentleman has the floor.

Mr. STAGGERS. And then, I shall be glad to yield to the gentleman, if he has any other question.

The only thing the railroad worker pays into directly is the retirement fund. He pays into that equally with the railroad. But the other is paid by the railroad. That is part of the law of the United States. The money is paid into that fund. The money is put into the fund for them, as part of their insurance; unemployment insurance it is called.

Does that answer the question? I want to make that clear. They do not pay it, but the railroad is assessed, when the man works. The railroad says, "We will deposit that into the fund." That is what they do, do they not? They do not wait for years afterward to pay it into the fund.

Mr. AVERY. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield.

Mr. AVERY. This gets to be rather a technical matter. We are directing our remarks to the unemployment insurance fund, is that right?

Mr. STAGGERS. Yes.

Mr. AVERY. The gentleman is aware, I am sure, that there is also a sliding scale. It depends upon what the balance is on September 30 of each year.

Mr. STAGGERS. If the gentleman will let me explain that, I would like to do so.

Mr. AVERY. I think that might clear the matter up.

Mr. STAGGERS. I can explain that. When the balance goes up the tax rate goes down. Did the gentleman know that they declared a moratorium on this fund, I think it was about 1948, and they did not pay more than at the one-half percent rate until about 1955? There was almost \$1 billion in the fund and then we let it go down to a certain point before we started paying again.

Mr. YOUNGER. Mr. Chairman, will the gentleman yield for a correction?

Mr. STAGGERS. I yield.

Mr. YOUNGER. Those figures were some \$950 million, in round figures, and last year it dropped to \$85 million.

Mr. STAGGERS. The railroads had not been paying in at the full rate for a number of years. Now they have found that they have to pay more.

The CHAIRMAN. The time of the gentleman from West Virginia has again expired.

Mr. HARRIS. Mr. Chairman, I yield the gentleman 3 additional minutes, and I would like to ask the gentleman if he will yield for a clarification.

Mr. STAGGERS. Mr. Chairman, I am glad to yield to the Chairman.

Mr. HARRIS. I think this should be well understood.

Mr. STAGGERS. The gentleman knows that I do not want to leave any wrong impression.

Mr. HARRIS. I know the gentleman does not want to do that, and I do not, either.

Mr. STAGGERS. I know the gentleman does not.

Mr. HARRIS. The gentleman was discussing the provision of this bill which says that anyone who is discharged for his own misconduct would not be eligible. Some might get the idea from the discussion today that this bill would make anyone who was discharged for cause ineligible. The committee very meticulously, very carefully distinguished the difference between misconduct and discharge for cause. I am sure the gentleman will agree with reference to the incident that he related a few moments ago, that that discharge would have been for cause, and would not have been prohibited by this bill.

Mr. STAGGERS. I will agree with the gentleman. But who is going to tell him that it is for cause? The men who do the firing. And then it has to go to an appeal. We know what are the whims of men, of human beings. You have to have a rock bed when you are traveling, you have to know what you are doing.

I should like to explain one thing further, and that is this 90 days restriction in H.R. 5610 on sickness benefits, that after a man has been away from his railroad employment for 90 days not counting time for which he is eligible for unemployment and sickness benefits, and then gets sick, he cannot draw sickness pay. Yet I say that is part and parcel of his pay, that when he went to work for the railroad, he began to build up in his working years—the base years—eligibility for sickness pay if he got sick.

The other day, I think it was the bill H.R. 4601, you put back on the retirement rolls, the annuity rolls, hundreds of men in America who had committed acts against this Government and other wrongdoing. You put them back on the rolls and said, "We are going to give you your benefits." You did it almost unanimously, 367 to 9. Are you today going to say to the railroad worker who has been fired, ostensibly for cause, by some man who perhaps does not like him, "We

are going to take away your benefits"? I do not think you are, because the working men of the Nation are just as good as white collar workers you gave back benefits to. He should get the same just dues. Under the "Hiss Act" you took away from these other men these benefits, yet the other day you said you had made a mistake, even though they had done some of the worst things on earth. You let them come back. I am certain you do not want to discriminate just because a man is a railroad worker.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that the gentleman from New Jersey [Mr. RODINO] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. RODINO. Mr. Chairman, I rise in support of the original Harris bill, H.R. 1012. As Members of the House know, a strong effort will be made by a group of members on the Interstate Commerce Committee to substitute this bill for H.R. 5610.

The bill as reported by the committee contains many inequities and would do great damage to the Railroad Retirement and Railroad Unemployment Insurance Systems. I believe strongly that we must not permit retrenchment in the area of retirement legislation. We must continue to improve our programs as our economy expands.

In the years that I have served in Congress I have been proud to support the legitimate efforts of the railroad brotherhoods to make their retirement and unemployment systems more effective. The original Harris bill, H.R. 1012, does exactly that. I believe that a majority of the House will agree with me when I say that we must not enact legislation here today that will take away from railroad employees benefits that they have enjoyed for many years. It is for this reason that I intend to support a move to substitute H.R. 1012 for the committee bill.

Mr. Chairman, our country has become the great Nation it is, respected throughout the world, because it was founded, and has continued to act, on the basic principle that human values come first. We believe in action for the benefit of people, individual human beings, and we believe that the good of the people is superior to that of any special interest.

The choice which now confronts the House between H.R. 5610, the bill reported out by a majority of the committee, and H.R. 1012, the original compromise measure, is, as I see it, a choice between human, social values as represented by the Harris-Bennett bill, and retrogressive, special interest legislation proposed by H.R. 5610. H.R. 1012 proposes to help our needy aged and retired and unemployed and sick railroad workers and members of their families. H.R. 5610, on the other hand, would take away from these people benefits which they have been entitled to since the beginning of the railroad retirement and

railroad unemployment insurance system. H.R. 5610 would take this action, moreover, at a time when unemployed railroad workers are desperately in need of help—not repressive legislation.

Many of you may have been persuaded by the railroads that they are in a poor financial state and that the provisions in H.R. 5610 are therefore necessary. I say without hesitation that this is certainly not the case. In the first place, there is no basic difference in the rates which would be imposed by H.R. 1012 and H.R. 5610. Whatever benefits the railroads would derive from the latter would come solely through the money they would save by denial of unemployment insurance payments to workers who would be denied such benefits because of H.R. 5610's new and stringent limitations up such benefits.

But the railroads now are enjoying a period of net income near their peak earnings. Railroad workers on the other hand are confronted with the worst unemployment crisis their industry has ever seen. The railroads, on the other hand, last year were given substantial help by this Congress. The benefits from this legislation to aid the railroads will continue throughout the years ahead. Railroad employees, however, got no help from Congress last year, although 300,000 of them became unemployed and over 70,000 exhausted all railroad unemployment insurance benefits. The need, at the present time, is for help to the railroad workers.

H.R. 1012 has already been greatly compromised from the original railroad retirement and railroad unemployment insurance legislation which was introduced to meet the problem of higher living costs and record railroad unemployment. I am certain that, in shaping H.R. 1012 to its present form, the fact that the railroads were suffering from a recession last year when this legislation was being drafted resulted in severe cutbacks in the original proposals. The railroads have now recovered from the recession, but their workers are still suffering drastic unemployment. In such circumstances, I remind you of the great tradition of this country that human values must come first. I am confident that, if the Members of this body remember that principle they will be true to it. You will show that the House of Representatives is concerned about the welfare of railroad workers, as human beings, by voting to substitute H.R. 1012 for H.R. 5610. Do not, I beg you, cut the very heart out of these workers who have served the Nation so well by imposing upon them new restrictions upon unemployment insurance at a time when they need the benefits they have earned so desperately.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. COLLIER].

Mr. COLLIER. Mr. Chairman, few major bills, I daresay 1 out of 50, ever gets through committee without amendments. Regardless of how vocal or how adamant the supporters of any bill might become, and regardless of the pressures that are brought to bear either by the proponents or the opponents of any bill,

the members of every legislative committee must maintain their right to exercise their best individual and collective judgment on any legislation it reports to this House. Those who feel there is no room for compromise within these legislative deliberations, those who arbitrarily say, "We are 100 percent right, and we want everything we ask, nothing less," I think are taking an approach that is inclined to be a little destructive of the best interests of the normal legislative process. I submit that this would be the case whether it would be management, labor, or any other group.

The bill before this House today represents many hours of hard work, careful study, and, I am sure, unbiased deliberation on the part of the Committee on Interstate and Foreign Commerce. Let us remember that the amendments adopted in the committee were bipartisan in their nature.

After the majority of the members of this committee, both Republican and Democratic, exercised their best judgment, the committee was accused in a press release and in congressional communications by the railroad labor organizations of callous disregard for the plight of the railroad worker.

Whether or not this charge was in poor taste is of secondary concern, but I do believe it is an affront to the majority of the members of this committee who worked diligently on this bill.

H.R. 5610, the bill we have before us today, provides for a 10 percent increase in the railroad retirement and survivors' benefits.

H.R. 5610 provides for an average increase of 20 percent in the daily benefit rates for unemployment and sickness.

H.R. 5610 provides for a maximum tax rate of 3½ percent of payroll up to \$400 per month for each employee to finance the unemployment and sickness insurance benefit program, which is one-half of 1 percent more than is required under present law.

The tax is paid only by the railroad industry.

If the substitute bill, H.R. 1012, had passed in its original form, as was pointed out previously, it would have been necessary to increase the payroll tax for unemployment insurance and sickness benefits to 4 percent.

In view of these basic provisions in the bill, passed by the committee, can anyone here honestly conclude that it represents a callous disregard of the plight of the railroad workers? Granted, it may not have everything requested in the original bill, but I repeat, it certainly does not represent any callous disregard on the part of any member of the committee. I, and every other member of the committee, are vitally interested in the welfare and well-being of the railroad workers and, particularly, the pensioners across the country. The fact of the matter is that Congress has a responsibility in dealing with the future soundness of the railroad employees and retirees' fund. Congress is also charged with the responsibility of making certain that the railroad retirees of today and tomorrow are given some reasonable guarantee that funds will be

available to meet their anticipated needs. To ignore these basic responsibilities or succumb to demands for sheer expediency would not be prudent nor right, in my opinion. Certainly, we cannot be oblivious to the financial conditions of the railroad industry at the present time nor to the trend that stares the future of the industry squarely in the face. The history of the railroad industry in the past few years is certainly evidence of that. To ignore the fiscal condition of many railroads today is in the long run a reflection of disregard for the railroad workers too.

There are several railroads in the country today that we all know are operating in the red. Is there anyone here who can give me, or any other Member of this Congress, the assurance that these conditions are going to improve in the years ahead?

I would like to tell you a little story of a bus line in my district because I think it is pertinent, and I think certainly if for no other reason, regardless of whether you agree or disagree with the stand I take on this legislation, it is something that we ought to think about. In my district there has been a bus line in operation as a commuter service, for many, many years. For the past several years, it has been operating in the red. They had, and I think in good conscience, attempted to meet the demands of the workers of the bus line, the drivers and the repairmen and so on. But be that as it may, the fiscal condition did not improve. This year, additional demands were made upon the firm. I do not say that the demands may not have been in order, but the fact remains that you cannot get 3 pounds of rice out of a 2-pound bag. So—what happened to the bus line? It folded up lock, stock and barrel. It is no longer in business. There are some 200 bus drivers out of work. I simply present that because I think we may well be faced with the same situation in the railroad industry. Again, I say, no one can offer any guarantee as to whether or not this trend in the railroad industry is going to continue as it has in recent years. I again say we must be certainly conscious of this fact, and we must be aware of these things if we are to look after the best interests of the workers and particularly the pensioners in the years ahead. In conclusion, I submit that this bill is a compromise. It may not be everything we would like it to be, but I do think it is rational and I do think this is a sensible approach to the problem. Certainly, it is not a step backward. I think today we ought to pass the bill which the committee adopted and reported to the House. I think it is a sensible thing. It is certainly not a step backward but instead a step in the right direction.

Mr. Chairman, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. MACK].

Mr. MACK of Illinois. Mr. Chairman, I am somewhat confused as to why we are having this big argument this afternoon. For some 3 years the Committee on Interstate and Foreign Commerce has

been working on this particular railroad retirement and unemployment insurance legislation. During the last Congress our committee reported a bill H.R. 4353 which I believe is identical with H.R. 1012, which was introduced this year, with the exception that H.R. 4353 provided for a 7-percent increase in retirement and survivor benefits instead of a 10-percent increase in such benefits which H.R. 1012 provides. This bill was approved in its entirety last year by our committee. It came out in the closing days of the session and did not have an opportunity to be passed by the House.

During the last Congress the other body reported out a bill almost identical with the bill introduced this year. It was passed by that body and sent to this House in the closing days of the last Congress. I took that to mean that the committee and the Congress last year wholeheartedly approved the provisions, certainly our committee approved of the provisions, of this legislation. So, at the beginning of this year I joined with my distinguished chairman [Mr. HARRIS] and other Members of Congress in reintroducing H.R. 1012. I think it contains all of the results of the activities of the past 3 years. It represents a compromise and a fair bill, and I think it should be considered and adopted. That is the reason I am supporting the bill today and supporting any move to substitute H.R. 1012 for H.R. 5610.

I introduced H.R. 3736 an identical bill to H.R. 1012, and I was joined by several colleagues who felt this was the right approach to this problem. I would like to take the time to read the names of the Members who introduced substantially identical bills this year: Mr. BENNETT of Michigan, Mr. VAN ZANDT of Pennsylvania, Mr. PORTER of Oregon, Mr. ZELENGO of New York, Mr. GEORGE P. MILLER of California, Mr. RHODES of Pennsylvania, Mr. LOSER of Tennessee, Mr. O'NEILL of Massachusetts, Mr. FRIEDEL of Maryland, Mr. STAGGERS of West Virginia, Mr. BAILEY of West Virginia, Mr. FOLEY of Maryland, Mr. McDOWELL of Delaware, Mr. VAN PELT of Wisconsin, Mr. FLYNN of Wisconsin, Mr. BROYHILL of Virginia, Mr. TOLLEFSON of Washington, Mr. JOHNSON of California, Mr. BLATNIK of Minnesota, Mr. MACDONALD of Massachusetts, Mr. REES of Kansas, Mr. CLARK of Pennsylvania, Mr. PERKINS of Kentucky, Mr. MCGOVERN of South Dakota, Mr. BARING of Nevada, Mr. FLOOD of Pennsylvania, Mr. MOORE of West Virginia, and Mr. TELLER of New York.

I think that indicates that there was substantial support for this legislation when it was introduced this year. As I said before, I joined with the chairman in the introduction of this legislation, and I believe the chairman fully supported the bill at the time it was introduced. I understand his position probably has been influenced somewhat by the fact that a majority of the members of our committee amended this bill and reported out H.R. 5610.

I would like to take the time today to let the membership know what we are trying to do for the railroad workers of America. Therefore, I want to quickly

review what is included in H.R. 1012, which I believe will be introduced as a substitute under the 5-minute rule this afternoon. If it is, I think it should be supported and adopted in lieu of H.R. 5610.

Mr. Chairman, H.R. 1012 would amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act. This bill would provide for a 10-percent increase in retirement and survivor annuities. It provides that women and spouses could elect to retire at age 62 at a reduced annuity. It also provides that disabled annuitants would earn up to \$1200 a year instead of \$100 a month under present law. It would increase the creditable compensation from \$350 to \$400 a month.

The Railroad Retirement Tax Act would be amended as follows:

Effective on January 1, 1959, the maximum taxable base would be increased from \$350 to \$400 a month per employee. Beginning with January 1, 1959, and continuing through December 31, 1961, the employer and employee tax rate would be increased from the present 6¼ percent to 6¾ percent each. Beginning with January 1, 1962, the employer and employee tax rate would be increased again to 7¼ percent each. In addition, the employer and employee tax rate is scheduled to increase again after 1964 by a number of percentage points equal at any given time to the number of percentage points by which the rate of tax under the Federal Insurance Contributions Act—for social security purposes—at that time exceeds the rate provided by paragraph (2) of section 3101 of the Federal Insurance Contributions Act as amended by the Social Security Amendments of 1956—such rate being 2¾ percent.

The increase in the tax base and contribution rates proposed by the amendments to the Railroad Retirement Tax Act, I am happy to state, will produce sufficient revenue for the retirement system to pay for the 10-percent increase in benefits proposed by this bill, and to virtually remove the actuarial deficiency which now exists, thereby placing the railroad retirement system in a sound financial condition.

H.R. 1012 would amend the Railroad Unemployment Insurance Act to provide that unemployment benefits be paid for days of unemployment in excess of 4 days in the first registration period in a benefit year. Under the present law these benefits are not payable during the first registration period within any benefit year for days of unemployment in excess of 7. This bill provides for a new schedule of increased daily benefit rates ranging from a minimum daily rate of \$4.50 to a maximum daily benefit rate of \$10.20. The minimum daily rate payable would not be less than 60 percent of the daily rate of compensation for the employee's last employment in which he was engaged for an employer during the base or calendar year, providing this does not exceed the maximum amount of \$10.20 per day.

Extended unemployment benefit periods beyond the 130 days allowed by present law would be provided as follows:

First. An employee with less than 10 years of service who has after June 30, 1957 exhausted his rights to unemployment benefits under present law would receive additional temporary unemployment benefits for days of unemployment not exceeding 65 days which occur in registration periods beginning on or after June 19, 1958 and before April 1, 1959.

Second. An employee with 10 but less than 15 years of service, upon exhaustion of his rights to normal unemployment benefits under present law in a given benefit year would be entitled to an additional 65 days of unemployment benefits in an extended period of 13 weeks on a permanent basis.

Third. An employee with 15 or more years of service, upon exhaustion of his rights to unemployment benefits under present law in a given year would be entitled to an additional 130 days of unemployment benefits an extended period of 26 weeks on a permanent basis.

This bill would provide that Sundays and holidays could be compensable days of unemployment whether or not Sundays and holidays are preceded and succeeded by a day of unemployment.

To finance these increases in unemployment and sickness benefits the tax base would be increased from \$350 to \$400 a month and the tax rate would be changed from a minimum of 1½ percent to a maximum of 3½ percent depending on the balance of the Railroad Unemployment Insurance Account.

Mr. Chairman, this bill, H.R. 1012, which, as I said, will be offered as a substitute this afternoon is being supported by all 11 Members who signed the minority report, and it is being supported by a substantial number of Members who are familiar with the problems of unemployment in the railroad industry.

The unemployment features of this bill are, in fact, identical with the bill approved by the Interstate and Foreign Commerce Committee last year, and they are identical with the features of the bill which was approved by the other body during the last Congress.

Mr. Chairman, I wanted to present the features of H.R. 1012 because I am proud of that bill and I am proud to have associated my name in the introduction of this legislation. I believe it is the right kind of bill to be passed here this afternoon. It is not a discriminatory type of bill. I believe that there are certain features in H.R. 5610 that are unworkable and that would merely sabotage the operation of the unemployment compensation features of this program.

The objectionable points that would cause this difficulty have been mentioned. I know they will all be covered. There is one point on voluntary quits that I would like to mention.

If I am working for a railroad and I have an argument with my boss and he says, "You are fired," and I say, "You can't fire me; I quit," then under H.R. 5610 I would deprive my family of any unemployment compensation. That just should not be.

There is another sleeper in this bill that you want to be concerned about and that you should look into. That is to be found on page 18 of H.R. 5610. You should read this section with considerable caution. You also want to look into the report to see how they tried to explain that section.

Mr. BENNETT of Michigan. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. MACK of Illinois. Mr. Chairman, if you will look at the report which covers this particular section, page 41, you will see that they do not quite explain the provision concerning the 90-day limitation on eligibility for claiming sickness benefits. Here is how that will affect workers in the railroad industry.

This portion of the bill would eliminate any person who tries to do a good job, who tries to comply with the requirements of the Railroad Unemployment Insurance Act by seeking a position in other industries. As you know, they are required to seek employment when they are laid off by the industry before drawing unemployment compensation. If they go ahead and take a job in some other industry, only temporarily, they are penalized. Many employees of a railroad may be laid off, even senior men may be laid off, for extended periods of time in the winter months and during the bad weather seasons. If they are laid off for 3 months and they take a job in another industry and keep that job for 90 days they deny themselves sickness benefits.

What that provision means, in practical effect, is that a railroad employee, of no matter how many years of service, who is displaced permanently from railroad employment will lose all rights to sickness benefits if he works a temporary outside job for 90 days.

The supposed justification for this provision is that the railroad industry should not continue to be responsible for wage losses due to illness of people who have left the industry. But this theory does not fit the facts. We know that today, and for several years past, employees with long years of service are being laid off. If they want to protect their seniority rights they must be available for any railroad work to which they might be recalled. At the same time, they must take any temporary suitable work in other employment that is available to them—otherwise they would be disqualified for unemployment insurance benefits. Now H.R. 5610 would say to them that if they work such a temporary job for 90 days, all rights they have earned by way of protection against loss of wages when sick or injured are gone.

Such a proposal cannot be defended. This is another example of long established benefits destroyed by H.R. 5610.

I say this is only one instance in this bill where you have a sleeper which will sabotage the operation of this whole program. Therefore, I appeal to you to vote for the bill that was considered during the past year, a bill that is supported and sponsored by the railway employees themselves. I hope you will support the move to substitute the bill

H.R. 1012 this afternoon for the present bill.

Mr. BENNETT of Michigan. Mr. Chairman, I ask unanimous consent that the gentleman from Virginia [Mr. BROYHILL] may extend his remarks at this point in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BROYHILL. Mr. Chairman, I rise in support of the need for equitable railroad retirement and unemployment legislation which would be accomplished by the enactment of H.R. 1012 and wish to speak in protest against the grievous wrong this Congress would be committing if it agrees unquestioningly to passage of H.R. 5610, as recently reported by the Committee on Interstate and Foreign Commerce.

This bill, though ostensibly generous in nature, in fact takes us back rather than forward in our attempts to solve the problems which now exist under our railroad retirement and railroad unemployment insurance laws. It represents an unreasonable violation of the rights and needs of a group of our most important citizens.

When Congress passed the Railroad Retirement Act of 1937, now an act of more than 20 years' standing, it assumed responsibility for maintaining an adequate and equitable railroad workers' benefits system. This responsibility is not one we can afford to ignore. Thousands of people—railroad workers and their families—can suffer, or prosper, according to our action.

These people have had reason to believe that we would not let them suffer, that we were alert to their problems and would act to alleviate them. There is little question that appropriate legislation would have passed the 85th Congress if it had not been lost in the scramble for adjournment.

A bill relating to railroad retirement and unemployment insurance was introduced to the 85th Congress at the beginning of the session. This was H.R. 1012 and similar bills, one of which I introduced, which included substantially the same provisions as a bill which passed the Senate last year. It was referred to the Committee on Interstate and Foreign Commerce, and extensive hearings were held on it this spring. I had the privilege of testifying at that time on my bill and H.R. 1012.

The next stage in the history of the bill is well known to all of us. It was relentlessly cut back by amendments adopted by the committee, and has emerged, virtually unrecognizable, as H.R. 5610.

I am happy to say that a large minority of the committee agrees with me that this reported bill is unacceptable, and that it is necessary for us to support instead the passage of H.R. 1012, as originally introduced to the House. Badly as we need legislation in the field of railroad retirement and unemployment insurance, we cannot be swayed by accepting the expediency of passing a badly conceived bill, which is what I consider the reported bill to be.

Both bills contain highly important provisions for 10-percent increases in railroad retirement benefits, and for increasing the tax rate and the tax base for financing these benefits. Both also include provisions for bringing the present railroad legislation into line with recent liberalizations and improvements in the social security system, such as making it possible for women employees of long standing to retire at age 62 with appropriately reduced benefits. Both bills also authorize increases in the daily unemployment and sickness benefit rates, which take into consideration the increased cost of living in recent years.

All of these provisions are desirable and fair. But aside from these similarities, there are critical differences in the bills. As the result of omissions and additions, the character of the reported bill is very different from that of H.R. 1012 as originally presented. Consider, for example, the omission of one vital provision which would extend the duration of unemployment benefits for long-term employees. Under H.R. 1012, railroad workers who had more than 15 years' service would be granted an additional 130 days of unemployment benefits. Workers with more than 10 years of service, but less than 15, would receive an additional 65 days. The bill would thus help to solve one of the major problems in the railroad unemployment insurance program. It would recognize that technological changes are constantly and permanently displacing veteran employees whose opportunities for other employment are severely limited. The existing insurance benefits of 26 weeks are totally insufficient to care for the needs of these workers or to compensate them for years of dedicated service. There can be no doubt that a person who has spent 10, 15, or more years in railroad employment does not remain unemployed through any fault of his own, but through factors peculiar to the railway industry which he cannot control. Under these circumstances, I believe the omission of these proposals in the reported bill is wholly unjustified.

I take issue, too, with the provision in H.R. 5610 which would eliminate benefits for persons who have voluntarily left employment or failed to accept what could be arbitrarily called suitable work. The present law already disqualifies these persons for a reasonable but limited period of 30 days. By this law it is recognized that an employee cannot casually stop or refuse work and expect to draw unemployment benefits instead. But it also recognizes that other pertinent factors may be operating which should not be ignored.

An employee, for example, may quit an apparently suitable job with the prospect of getting another better one. The second job may not materialize, and the employee may be unable to find other suitable employment for a considerable period of time. An employee may find himself physically unable to continue in his present job, although he may not technically be considered unfit or disabled. Under the present law, such contingencies as these are recognized and accounted for. Under the reported bill,

however, there would be a continuing disqualification for all these people until they managed to find another job and worked at least 20 days for a railroad employer. The financial hardship which they and their families may suffer before this time are blissfully ignored.

I venture to say that injustice will also result from the provision in H.R. 5610 which establishes the same 20-day employment requirement for persons who have been discharged for misconduct relating to their work. On the surface, this, like several other proposals in the bill, appears to be a reasonable safeguard against unfair collection of benefits. The problems it will cause are not readily apparent. But consider for a moment what could, and undoubtedly will happen. If discharged employee applies for benefits, the Railroad Retirement Board will have to determine whether he is entitled to receive them by deciding on the propriety of the discharge. If it refuses to pay benefits on the ground that the discharge was for adequate cause—and it is conceivable that this decision could be wrong—then it has virtually condemned the worker from the standpoint of future employment. Thus the Board's opinion becomes decisive not only on the question of limited benefit rights, but emerges as a judgment on the employee's work prospects for the future. This intrusion of the retirement board into the handling of grievances is undesirable for obvious reasons, and was recognized as such when a provision very similar to the one in the reported bill was removed from the original railroad legislation in 1939, at the request not only of labor, but also of management and the Railroad Retirement Board itself.

There are other equally arbitrary provisions in H.R. 5610, particularly on the question of sickness benefits, which I strongly oppose. The bill would eliminate benefits which have existed for many years, and which are clearly necessary and desirable in terms of providing a responsible benefits system. I oppose the elimination of sickness benefits for persons who have voluntarily left their jobs, for the reasons which I have already given. I oppose the elimination of maternity benefits, an area where considerations of health and welfare should be of foremost importance. In short, I oppose all of the amendments which have been superimposed on H.R. 1012 to change it from an equitable and humane bill into one which would work hardship on our railroad workers throughout the country.

These workers are important to all of us. We cannot separate their welfare from considerations of our industrial well-being or from our national security. When we jeopardize their security, we take a fateful, backward step with endless repercussions. I believe the bill which the committee has reported is this kind of backward step. As such, I cannot support it. We do, however, have great need of progressive legislation to improve our railroad retirement and unemployment insurance systems. I believe that H.R. 1012, as presented to this Congress in its opening days, will fill this need.

Mr. BENNETT of Michigan. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I favor the bill H.R. 1012 as it has been amended and which will be offered as a substitute for the committee bill this afternoon. The reason I support it is because it presents a better all around, more equitable, and fair program than the bill which the committee reported to the House. Furthermore, the substitute which will be offered is essentially the same bill that our committee reported practically unanimously toward the end of the last session, with the exception that the bill last year provided a 7 percent increase in retirement benefits, while the bill this year provides for a 10 percent increase in those benefits. Also the substitute is essentially the same as the bill that was reported unanimously by a committee of the other body having charge of this legislation a few days ago. So I think all in all it presents a fair and equitable program and I hope when the substitute is offered at the conclusion of general debate today it will be adopted by the Committee of the Whole. The amendment which will be offered to the bill H.R. 1012 contains the following five changes:

First. Changes in effective dates: (a) The 10 percent increase in retirement and survivor annuities is made effective prospectively, that is, with respect to annuities accruing for months after the month of enactment of this act. The effective date for the 10 percent increase in pensions is changed accordingly; (b) the increase in tax rates for Retirement Act purposes, as well as the increase in the taxable and creditable monthly compensation base, is also made effective prospectively, that is, with respect to compensation paid in months after the month of enactment of this act for services rendered after such month; (c) the increase in lump sum payments is also made effective prospectively, that is, with respect to deaths occurring after the month of enactment of this act.

The effective date with regard to the work restrictions on disability annuitants, and survivor beneficiaries working outside the United States, and the inclusion of social security wages for the purpose of computing survivor benefits, are not changed—effective for calendar years beginning with the calendar year 1959—because they all require computation on an annual basis.

Second. Changes in the maximum contribution rate for unemployment insurance: In view of the testimony in the record of the hearings that the maximum contribution rate provided in H.R. 1012 of 3½ percent would be inadequate to retain the railroad unemployment insurance account on a sound financial basis, the maximum contribution rate in the newly proposed table for unemployment insurance contributions is changed from 3½ to 3¾ percent, but this table, as well as the increase in the monthly taxable base from \$350 to \$400 a month, is made effective with respect to compensation paid in months after the month of enactment of this act for services rendered after such month.

The provisions for increasing and extending benefits under the Unemployment Insurance Act and the effective dates of such increases and extensions are not changed.

Third. Conferring authority upon the Board to borrow money from the railroad retirement account: In view of the low balance in the railroad unemployment insurance account, as shown in the record of the hearings, my amendment includes a new amendment to the Railroad Unemployment Insurance Act which confers upon the Railroad Retirement Board the authority to borrow from the railroad retirement account for the payment of benefits and refunds under the Railroad Unemployment Insurance Act, on a reimbursable, and 3-percent interest basis.

Fourth. Extending to July 1, 1959, the period for the payment of temporary unemployment insurance benefits: The provision in the bill for the payment of temporary unemployment compensation to employees with less than 10 years of service up to a maximum of 65 days, but not later than April 1, 1959, is extended to July 1, 1959, in order to conform, as nearly as possible, to the provisions in Public Law 86-7 which was approved March 31, 1959, extending the Temporary Unemployment Compensation Act of 1958 to July 1, 1959.

Fifth. A technical amendment with regard to subsidiary remuneration: My amendment includes also a technical amendment to section 1(k) of the Railroad Unemployment Insurance Act. Under present law, if an individual's base year's earnings are insufficient to make him a qualified employee but for the inclusion of subsidiary remuneration, no day on which he earns such subsidiary remuneration is a day of unemployment although otherwise it may be. In view of the proposed increase in the qualifying earnings from \$400 to \$500 in the base year, section 1(k) of the Railroad Unemployment Insurance Act is amended by striking out "\$400" and inserting in lieu thereof "\$500".

Mr. WILLIAMS of Mississippi. Mr. Chairman, I yield 10 minutes to the gentleman from Georgia [Mr. FLYNT].

Mr. HEMPHILL. Mr. Chairman, I make the point of order a quorum is not present.

The CHAIRMAN (Mr. FORAND). The Chair will count. [After counting.] One-hundred and seventeen Members are present, a quorum.

Mr. FLYNT. Mr. Chairman, H.R. 5610, a bill to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act so as to provide increases in benefits, is a bill which is designed to increase benefits to retired railroad employees who are presently receiving retirement benefits under this act; it is a bill to establish tables, scales, and rates to be received by railroad employees presently employed who have earned their rights under the bill and will some day retire under the provisions of this act. In order to do this, of course, it is necessary to increase the provisions of the Railroad Retirement Tax Act to provide the revenues and the funds with which to

pay these increased benefits. It makes certain changes in the Railroad Unemployment Insurance Act.

Mr. Chairman, it is well for us to bear in mind and it is well to repeat here that these benefits are paid out of a trust fund; a trust fund, if you please, which has been created over the period of the last 21 and a fraction years during which the railroad employees have paid into it sums amounting to literally billions of dollars in the expectation that this fund would remain solvent and that it would provide the funds and the revenues from which their benefits will be paid, benefits which many of them have earned by as much as 43 to 45 years of continuous employment by the railroads of this country. It would be an easy thing to do; it would, indeed, be the popular thing to do, to double the benefits that are paid to annuitants. It would also be an easy thing to cut the taxes that provide the trust fund from which these benefits are paid half in two. But, Mr. Chairman, if these were done, it would destroy the real benefits which railroad employees have earned over a period of 40 to 45 years.

It would be awfully easy to increase these benefits, to reduce the tax requirements, but at the same time you would break faith with every railroad employee who has ever contributed to this fund in the expectation that the benefits which he or she received upon retirement would provide at least a modicum of that which is necessary to meet increased costs of living.

Mr. Chairman, the real issue in this bill here today is not one of whether we favor the enactment of an increase in railroad retirement benefits. The real issue here is whether it is the purpose of this Committee of the Whole House to preserve inviolate and intact the trust fund which has been created by contributions paid in by railroad employees and by railroad employers alike during the entire period since the Railroad Retirement Act of 1937 was enacted.

Mr. Chairman, I would like to give some figures just to show what is happening to these two trust funds. First, I shall deal with the trust fund which provides for payment of benefits to annuitants, to retired employees, and to surviving spouses of retired railroad employees. The amount that has been paid into the Railroad Retirement Fund since the creation of the fund by the act of 1937 rose at an almost constant rate of between \$250 and \$400 million a year during a period of time that the number of employees of the railroad stood at a higher level than it does today. Today, Mr. Chairman, instead of being increased by that same figure of between \$250 and \$400 million a year, it has reached the point where about all that can be done is to try to stabilize it and to keep it from being reduced from one calendar year to the next.

The Unemployment Compensation Fund, which is the other trust fund administered by the Railroad Retirement Board in accordance with the provisions of the Railroad Retirement Laws at one time stood at a figure in excess of \$958 million, or nearly \$1 billion. On the

1st of February of this year that amount had been depleted from approximately \$1 billion to less than \$50 million. And according to a projection furnished by the Railroad Retirement Board, there is a strong probability that the entire fund will be depleted prior to June 1 in the absence of the borrowing provision which is contained in the committee bill, H.R. 5610.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I am glad to yield.

Mr. STAGGERS. I would like the committee to know in relation to that point that a reduction was made in the tax in 1949 until 1956, and only one-half of 1 percent was paid into this fund, because it had been so high. They wanted to get it down, or at least they did let it get down to where it is now, and the result is that now it is so very low. And that is because they have only been paying one-half of 1 percent for a period of 7 years.

Mr. FLYNT. That is correct. I will say to the gentleman from West Virginia that I hope it will become high again, because I do not ever want to see the time come when a person drawing benefits from this fund will receive a notice from the Railroad Retirement Fund that the money is gone instead of receiving his regular annuity.

Mr. STAGGERS. Will the gentleman agree that if the tax rate in effect prior to 1949 had been continued, the fund would not be down to where it is now?

Mr. FLYNT. I think that is true. And I want to see to it that it never goes down, and is never depleted to where it is in such a precarious position where it will be necessary for the Railroad Retirement Board to send out a notice that the money is all gone.

Mr. AVERY. Mr. Chairman, will the gentleman from Georgia yield to me?

Mr. FLYNT. I yield to the gentleman from Kansas.

Mr. AVERY. I thought it might be well to point out that we should not leave the impression with the members of the committee that this is a matter of option on the part of the employers as to how much money they pay into this fund. The formula is written into the law. The determination based upon that formula is made by the Railroad Retirement Board on the 1st of September each year as to what the percentage will be for the following employment year.

Mr. FLYNT. According to a formula laid down by an act of Congress.

Mr. AVERY. Passed by the Congress of the United States.

Mr. FLYNT. And that the amount paid into the trust fund, from which these unemployment benefits are paid, is determined by the level of the trust fund on September 1 of a given year.

Mr. Chairman, in the absence of provisions which are contained in the committee bill H.R. 5610 it is not only possible, it is very probable, that the entire trust fund, from which unemployment compensation benefits are paid, will be depleted not later than the month of June in this very calendar year.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia.

Mr. FLYNT. Mr. Chairman, it is the purpose of those of us who constituted the numerical majority of the Committee on Interstate and Foreign Commerce in the consideration of the amendments to the Railroad Retirement Act to give, and the committee bill does give, the same 10 percent increase in railroad retirement benefits which would be provided under the substitute, which originally bore the number H.R. 1012. There is a unanimity of opinion that the only difference in the railroad retirement provisions of this bill now under consideration is the effective date these increased benefits will take place. The substitute, which it is reported will be offered, would provide retroactive benefit payments and retroactive tax payments to January 1, 1959, regardless of the date of final enactment and approval of this measure. The committee bill provides that the increased benefits amounting to exactly the same percentage points and exactly the dollar and cents figure will go into effect only after the bill has been finally enacted into law. The reason for that, and I think it is well to set forth the reason for that thinking and logic and reasoning behind the majority of the committee on this point, is that it would be virtually impossible to go back and impose a retroactive tax on employees and employers alike and to collect the taxes due in many instances from people who are no longer for one reason or another employed in the railroad industry.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from West Virginia.

Mr. STAGGERS. The gentleman from Georgia is debating a point which will not be at issue in the substitute.

Mr. FLYNT. Based on what we were told prior to today, that was the only difference in the section relating to retirement and it was the primary issue.

Mr. STAGGERS. One of the great objections I have heard from most Members of Congress, is this very thing. It will be taken care of in the substitute as now written, that will be offered a little bit later today.

Mr. FLYNT. In reply to a few statements made by the distinguished gentleman from West Virginia when he related an incident which happened to him when he was a very young employee of the Mountain Division of the Baltimore & Ohio Railroad, I want to say, and I think he will agree with me, that under the provisions which are contained in the committee bill, H.R. 5610, under no circumstance could the actions described by him have been classified by anybody as misconduct. It might have been listed as cause. The gentleman will recall very clearly the long and extended debate of the committee on the question of whether this language should read "discharged for cause" or "discharged for misconduct." I think the gentleman will bear me out that there was unanimity that the only reason for disqualification from receiving unemployment compensation under any cir-

cumstance of discharge like that was if there should be a discharge for misconduct.

I wish that the word "willful" had been added before the word "misconduct." But, I do believe the solvency and the fiscal soundness of this trust fund, in which all railroad employees have an interest and a right, should be protected against improper invasions and inroads made on it by persons who might be discharged for reasons of drunkenness on the job, or assault and battery on a member of the public or a fellow employee or a supervisor, or for willful destruction or theft of property belonging rightfully to the employer or to a fellow employee.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield.

Mr. STAGGERS. Who is going to determine what is willful misconduct or just cause?

Mr. FLYNT. I think the gentleman knows that there are avenues of appeal where almost invariably in cases where there is any doubt on matters of discharge for misconduct, the question is resolved in favor of the employee.

Mr. STAGGERS. Referring to the question of willful misconduct, does the gentleman know how many employees have been fired for misconduct or just cause, and how many have been reinstated after an appeal has been taken?

Mr. FLYNT. If the gentleman has the information, I would be happy if he would supply it at this time for the information of the committee.

Mr. STAGGERS. A great many of the decisions have been reversed when an appeal was taken, and meanwhile the families that were expecting the unemployment compensation, and who had a right to that unemployment compensation, would be denied that compensation.

Mr. FLYNT. Is it not true that many more employees have been reinstated than have been finally discharged?

Mr. STAGGERS. That is correct.

Mr. FLYNT. Yes; more employees have been reinstated than not reinstated.

Mr. STAGGERS. And we know, taking into consideration the human element, there is a question of who is going to determine what is willful misconduct or just cause.

Mr. FLYNT. I think the last statement made by the gentleman from West Virginia bears out my original statement on this point, that the rights of the employee are protected and held inviolate where there is any basis upon which to sustain the position taken by him.

Mr. Chairman, with reference to the question of maternity benefits, I will devote a few minutes to this question. This is a provision which I sincerely feel is very greatly needed in the readjustment of the provisions of the unemployment compensation insurance provisions of this act, and the sickness benefits under this act. Under the existing law, an employee of the railroad company who becomes pregnant can ordinarily claim 116 days of benefits whether or not there is any disability brought on by the

pregnancy. There is an added provision that during the 14 days immediately prior to the birth of the child and the 14 days immediately following the birth of the child that time and one-half benefits are provided, which in effect give 130 days of maternity benefits to any person filing a claim for benefits under the provisions of this act. That might be all right for a prosperous fund but it is not proper for a rapidly depleting fund.

Mr. Chairman, I would like to close with a statement of the comparative costs of these two proposals which are before the Committee of the Whole today. On the retirement part of H.R. 5610, the added cost is estimated by figures which were available to our committee staff to be \$146 million increase each year on a level basis. Under the provisions of H.R. 1012, the estimated cost is \$147 million. The difference there is almost negligible. The great difference is provided for in the place where we need to reappraise and make a readjustment, if necessary. All this is on pages 18, 23, 92 and 98 of the committee report. Under H.R. 5610, the added cost of the unemployment insurance compensation benefits of the committee bill would be \$25,448,000 annually. The added sickness benefit cost would be \$3,283,000 annually or a total of \$28,731,000 increase by the very terms of the committee bill itself. This does not include an additional \$20 million, payable for 1 year, for the temporary extension of unemployment benefits.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. FLYNT] has again expired.

Mr. WILLIAMS of Mississippi. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. FLYNT. Mr. Chairman, under the provisions of H.R. 1012 the additional cost to unemployment compensation insurance provision would be \$59,172,000. The increased cost for payment of sickness benefits would be \$12,543,000 or a total of \$71,715,000 increased cost, which represents a figure of between \$43 million, the difference in the cost of the two bills. Also the cost of the temporary unemployment benefits under this bill would be an additional \$15 to \$18 million for 1 year. This difference must come from one place and one place only, and that is the trust fund from which every railroad employee has a right to expect that he may receive his unemployment and sickness benefits when he becomes unemployed or sick and the other trust fund from which he may expect retirement benefits when he becomes old enough to retire. It is to protect the earned benefits of annuitants who are presently drawing from this fund, as well as the right of present employees who some day expect to retire, that we, a majority of the committee, seek to maintain the financial fiscal solvency of the retirement fund and of the unemployment insurance fund rather than let them depreciate so that instead of receiving regular benefits provided under the two systems those in charge of these funds will say of one or the other fund: "We are sorry, but the money is all gone."

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

Mr. WILLIAMS. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. MACDONALD].

Mr. MACDONALD. Mr. Chairman, I rise in support of the substitute measure, H.R. 1012. I do so very gladly because I join with my distinguished chairman, the gentleman from Arkansas, who urged the passage of H.R. 1012 back in January. The reason that I do so is very simple. Anyone on either side can talk about the technicalities involved and the estimated costs of the various bills, but there is one thing about which needs no estimate. That is the hard fact that unemployment among railroad workers is here and is here to stay. Two hundred thousand railroad workers were unemployed in January, when more than 160,000 of them were drawing unemployment insurance. Of this number over 40,000 had exhausted all payments available to them under the present Railroad Unemployment Insurance Act during January.

During the fiscal year 1957-1958 more than 300,000 railroad workers, representing 21.2 percent of the qualified work force, drew unemployment compensation. Of that number, 74,100 exhausted their benefit rights. My own State of Massachusetts has been very hard hit. As a matter of fact, New England leads the entire Nation in the dubious distinction of having the highest percentage decrease in railroad employment over the past 10-year period. There has been a 45-percent decrease in employment among railroad workers in New England.

These statistics, of course, cannot begin to indicate all the human suffering that went into their making. Each one of the 74,000 units in last year's total number of exhausted benefit rights represents a human being, plus in most cases at least one or two other members of the family dependent upon his earnings. Each of those human beings, jobless so long that even their inadequate unemployment insurance income was exhausted, means an unemployed railroad worker who has literally come to the end of his rope. Almost every one of those 74,000 human beings behind that statistic represents exhausted savings, foreclosures and repossessions, poverty, even hunger, although these idle workers were part of a labor force which, Labor Department figures show, last year gave its employers the benefit of the greatest rise in output per man-hour of any group of workers in the entire Nation. These are also workers whose outstanding performance enabled the railroads to earn a total net income, after taxes, of over \$600 million in 1958, despite the recession which had such a severe effect throughout American industry.

Although the income of the railroads has rebounded to peak levels in the first quarter of this year, unemployment in the industry in January 1959 fell to 110,675 individuals, the lowest level of employment during the 20th century.

Clearly the soaring productivity of railroad workers since the end of World

War II and the great technological progress of the industry have created a situation in which rail unemployment appears almost certainly destined to remain severe even after railroad earnings again have soared.

We are confronted in the railroad industry with a continuing unemployment crisis, not just a temporary setback that will be overcome through normal business recovery. Ironically, the great increase in efficiency of railroad workers, which has given the railroads a tremendous earning advantage over other industries, is the major cause of the unemployment and suffering now confronting one out of every five of the employees the industry had last year.

Employees with 20 and even 30 years of seniority have found that their skills are no longer needed or that they are needed only in greatly reduced numbers.

Of the more than 300,000 workers unemployed in the railroad industry in 1958, and that is 36 percent of the total working force, were over 45 years of age, and an additional 11½ percent were between 40 and 45. These displaced workers do not find that their special railroad skills can be readily transferred to other industries. Generally, they are not old enough to retire, and their present duration of unemployment benefits is completely inadequate to meet their needs.

In essence it has been voluntarily accepted by the railroads themselves under the Washington job protection agreement, which provides up to 5 years protection to employees displaced as the result of savings the railroads make through merger or consolidation of two or more carriers that these employees should be cared for.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. MACDONALD. Mr. Chairman, can the gentleman from Michigan yield me any time?

Mr. BENNETT of Michigan. Mr. Chairman, I yield the gentleman 4 additional minutes.

Mr. MACDONALD. I thank the gentleman.

Mr. Chairman, when the railroad unions first proposed the legislation we are considering today, they asked that the railroad unemployment insurance benefits for older workers be extended for up to 5 years to veteran workers to conform to this agreement which they had arrived at with the railroads through collective bargaining.

Last year, both the House and Senate committees which considered this legislation agreed that there was a valid and pressing need for extended benefit periods for the long-service employees who are being displaced by technological progress and rising productivity of their colleagues who remain on the job. Both committees, however, sharply reduced the period of protection recommended by the unions. The Senate committee recommended 26 weeks of extended benefits to railroad workers with 10 to 15 years of service and 52 weeks for employees with 15 or more years of service. Our

House committee, however, recommended only half as much; and the Senate, with the clear understanding recorded in the record of the debate that the provision in the House bill would have the committee's support in the House, conformed its bill to the lower recommendations. H.R. 1012 provides only for the extended protection at this minimum.

Surely, under the circumstances, the already greatly reduced provisions of H.R. 1012 in regard to extended benefits are the very minimum protection this House should accept. The plight of veteran railroad employees who have been displaced from their jobs is totally ignored in H.R. 5610, although this measure does not hesitate to propose that workers who are still on the job should assume a much heavier burden in higher retirement taxes to pay the cost of improved benefits to workers already retired. In this connection, it must not be forgotten that railroad workers are already paying a heavy burden of taxes to finance benefits to retired workers who originally were covered by pension plans financed entirely by the railroad industry. When the railroad retirement system was set up, the railroads saved many millions of dollars when their employees agreed to assume payments to cover the converting of such plans into railroad retirement benefits. In addition, the railroads have saved over \$1 billion in unemployment taxes through the railroad unions' agreement to reduce the original railroad unemployment tax when there was no need for this money in days of full employment.

It does not seem unreasonable to ask the railroads to share some of its huge savings with their unemployed employees in the form of extended benefits, now that these workers are facing poverty and need.

It is important to note that the extended protection proposed by H.R. 1012 would operate only while an individual is actually unemployed. If permanent suitable work can be found for him, either in or out of the industry, his benefits cease immediately. Even temporary work would interrupt benefits for the duration of such employment. The provision of the kind proposed would, I believe, serve a useful social purpose by creating an incentive for the railroads to stabilize their employment in order to effect savings in unemployment taxes. In this connection, one must not forget the shocking fact that during this period of chronic unemployment of railroad workers, the carriers have refused for over 2½ years even to bargain on stabilization of unemployment proposals submitted by the railroad unions.

Mr. Chairman, I urge my colleagues in the House to adopt the bill originally introduced by the very distinguished chairman of our committee, the gentleman from Arkansas [Mr. HARRIS], supported by the ranking Republican minority member the gentleman from Michigan [Mr. BENNETT], that will do justice to the many railroad workers of the country.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. KEITH].

Mr. KEITH. Mr. Chairman, first, I would like to commend the previous speakers who have helped us in defining the issues that are before the House this afternoon. I have been particularly attentive to the remarks of my colleagues on the other side of the aisle and I must say that I agree with their leadership but that the old bill 1012 needs the changes that are contained in 5610.

As has been mentioned by the gentleman from Michigan [Mr. BENNETT], I am from Massachusetts and, prior to coming to the Congress, served in its State senate. We went through a similar and very trying session in the adoption of some improvements to our employment insurance laws.

Massachusetts had exactly the same problems on a statewide basis that we are facing here in the railroad industry. By tightening up our unemployment insurance law we in Massachusetts were able to provide the workingmen and women of Massachusetts with one of the most liberal of all unemployment insurance laws in the country. And yet the law we passed in Massachusetts provided benefits that were much more modest than those contemplated in either of those bills which are before us today.

These bills are generous. They must have adequate premiums and they must have sound underwriting. The committee bill, H.R. 5601, has provisions for sound administration of the unemployment insurance program. It will therefore cause less of a drain on the retirement fund and less of a burden on the railroad industry.

This bill is better for the people in my district where we now have a railroad, the Old Colony, which is subsidized by the towns of southeastern Massachusetts. Its deficit would be increased if H.R. 1012 were substituted. The towns would have to pay more of a subsidy or the railroads would have to abandon the service. The employees and the public would be hurt badly by the substitute bill because of excessive cost of paying for these benefits which are way out of line when compared with Massachusetts industries.

We, in the Congress, are in effect trustees for these retirement funds. We should act prudently and protect the general welfare of all of the parties involved. We should support, therefore, the committee report.

Mr. HARRIS. Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. Moss].

Mr. MOSS. Mr. Chairman, this is a very complex piece of legislation. You will find very few provisions where any two reasonable men examining them will come up with the same precise definition or agreement as to the cause or perhaps the effect. The bill, H.R. 5610, however, reported by the committee, is, in my judgment, a long, long step backward.

CALL OF THE HOUSE

Mr. PORTER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] Seventy-nine Members are present, not a quorum.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 32]

Andersen, Minn.	Diggs	Patman
Barden	Dorn, N.Y.	Pillion
Barry	Downing	Powell
Bolling	Durham	Ray
Bonner	Garmatz	Rivers, S.C.
Brademas	Glenn	Rodino
Buckley	Hoffman, Mich.	Tollefson
Bush	Kilburn	Van Pelt
Casey	Lindsay	Weaver
Celler	Metcalf	Westland
Davis, Tenn.	Miller, N.Y.	Whitten
	Multer	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, and finding itself without a quorum, he directed the roll to be called, when 394 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from California [Mr. Moss] has 9 minutes remaining.

Mr. MOSS. Mr. Chairman, I stated that H.R. 5610 is a long step backward. In making that statement I want to point out that in most respects H.R. 1012, the bill originally introduced by the distinguished chairman of the Interstate and Foreign Commerce Committee, the gentleman from Arkansas [Mr. HARRIS], and H.R. 5610 are almost identical; but in at least a half dozen very substantive areas they are sharply different. The fact that there are just approximately these half dozen areas of difference undoubtedly led my colleague, the gentleman from California [Mr. YOUNGER], to observe that in committee he could not recall any negative votes when the bill was reported out. While I do not think that is exactly the fact, nevertheless, whether or not we voted on that point, a number of us expressed our sharp disagreement with amendments which had been included in this bill. I am going to concern myself primarily with two amendments which change very radically the present rights of railroad workers, and in discussing them I am going to direct my discussion to railroad unemployment insurance.

I would suggest that each member of this committee acquaint himself fully with the fact that we are talking about two separate funds, and they are easy to confuse: One is the railroad retirement fund, which is contributed to by the employee and the employer on a fixed rate of contribution. The other is the unemployment insurance fund which is contributed to by the employer at a variable rate depending on a number of important factors. The fact that only the railroad employer contributes in this

instance does not mean that it is its personal property; it is a trust fund to be administered for the benefit of the employees; it is part of the total package of compensation.

The difference is that for the first time we are going to impose on the railroad worker who voluntarily leaves his employment, a permanent disqualification unless he leaves it for good cause. We do not define "good cause," and we do not provide any means of appeal. The provisions of H.R. 5610 are silent as to the type of appeal provided.

The second thing is that we give to the employer almost a right to permanently disqualify any employee who is fired for cause. This was a point of considerable controversy in committee, and the committee acted without knowing what it was doing on at least one occasion.

I would point out that I have before me the original draft of the language saying:

Any of the days beginning with the day with respect to which the Board finds that he was discharged or suspended for misconduct as defined by the uniform code of rules of the railroad industry applying to his work.

The reason we could not adopt this as the final language of the amendment was because we discovered that there is no uniform code of rules. In fact, we do not know what constitutes discharge for misconduct connected with his work. We do know there are a great many railroads in this country that have a number of crafts and a great number of working agreements and that each of these agreements on the various railroads deals with the matter of discharge for cause or misconduct connected with the work of the employee.

Then we have a very complex appeal machinery, starting down between the worker and his employer and working through his union representatives. Ultimately this man's case gets to some governmental board, where it takes about 2 years to get a decision. You can imagine how very different it is going to be if all of the cases involving some kind of disciplinary cause for discharge are referred to an inadequate machinery for determination. There are very few of them considered at the present time, but even those few take up to 2 years to get a decision. Now we are going to increase no one can estimate by how many hundreds or thousands the workload of this appeal machinery.

This is a step back to 1937. The original law provided for substantially the same sort of punitive treatment where a man voluntarily quit or was discharged for cause connected with his work. Before the act became operative, on petition from the railroads and the workers that provision was repealed. It was deemed to be far too cumbersome and too difficult to administer. So this is in fact a real step backward.

I would point out that the substitute which will be offered is going to be modified to overcome the objections as to retroactivity and those of us who support that would point out to the gentleman from Kansas [Mr. AVERY], that we also

supported it in committee as being sound procedurally. So we are not retreating, we are not abandoning principle. We are being consistent.

It improves the bill and we are anxious to improve it. We also improve the provision which would permit one trust fund to borrow from the other over a period of temporary fund shortage. Again this is not an inconsistency, this is not retreating. It is further evidence of the desire of those who signed the minority views to make the bill as good as possible.

But the other differences take away in every single instance. We take away rights which have been a part of this package for many years. In doing that, this committee should consider very carefully the fact that this is a different type of industry. Here most of the employees are not covered by supplemental contracts negotiated with their employer as is typical of most large industrial employee groups today. This is the principal package the railroad employee may look to. He does not have, for instance, any sick benefits, a separately negotiated package apart from the rights covered by law. These are all against. He does not have the supplemental retirement. I mention that even though retirement is not part of the issue or controversy in the discussions between H.R. 1012 and H.R. 5610.

We are dealing with a different type of employee group than characterizes American industry. We are dealing with people who must come to the Congress because of the law under which they operate. We impose by law many requirements on the railroad worker which are not imposed on other groups of employees. We recognize the national interest in whether or not he be permitted to strike and place far more onerous requirements on the employee of the railroad industry before he can finally take his issue on strike and try to bargain to bring about improvements in his working conditions. All of these things should lead you to give careful consideration, and I am sure if you do you will vote for the substitute.

Mr. HARRIS. Mr. Chairman, I yield 7 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I would like to state that I am one of those Members of the House who joined in filing the minority report urging enactment of H.R. 1012 in lieu of the measure reported by the committee, H.R. 5610. There are many reasons for this, and I would refer my colleagues to the minority views which you will find in the back of the committee report.

Now, I would like to first limit the issue briefly. H.R. 1012 is the same measure which our committee reported out last year, with very, very minor exceptions. H.R. 1012 is the same bill, as a matter of fact, that was introduced by the distinguished chairman of our committee. Last year the identical bill was worked out very carefully after conferences involving the railroad brotherhood, Members of the other body, Members of this body, and after some consultation, indeed, with members of the railroad in-

dustry. So, it is not a new bill; it is not a measure which was not carefully thought out.

First, I would like to refer my colleagues to one very important factor. The differences over this measure do not have to do with retirement. They have to do, as my colleague, the gentleman from California [Mr. Moss] said, with the unemployment compensation features of this bill. I would like to dwell on the same points that my colleague from California mentioned to this committee. I would like to treat with the provisions requiring forfeiture of unemployment benefits for those who voluntarily quit and forfeiture of unemployment benefits for those who are fired for cause. And, the first I would like to call to the attention of my colleagues is this: There is no clear definition in either case as to what constitutes voluntary quitting or what constitutes being fired for cause. In no case is there in the bill any procedure for appeal from loss of benefits. These two sections can cost any worker up to \$2,200, with no appeal.

Now, we have heard it said that this business of unemployment compensation is something which is owned or which is contributed to solely by the railroads. This is not true. The railroads in their negotiations with the brotherhoods have at all times regarded the unemployment compensation payments which they make as an additional factor in the hourly wage. It is so computed, and when they sit down and bargain with the brotherhoods they say, "We pay so much basic wage; we pay so much sickness benefits; we pay so much vacation time; and we pay you this much for unemployment compensation and retirement." And, they figure the whole thing out as an hourly wage.

I would refer you to page 18 of the document entitled "Report to the President by the Emergency Board Created December 28, 1953, Pursuant to Section 10 of the Railway Labor Act (N.M.B. Case A-4336)":

In the financial operation of railroads and other types of business, the costs of certain fringe benefits such as paid vacations are included in wages as such. Certain other fringe benefits to the extent they are paid for by the employer normally involve costs in addition to wages as such.

I am sure if you read the transcript of this particular case before the Board you will find that the railroad specifically referred to their contributions into the unemployment compensation fund as additional compensation to the workers. I ask anyone here to define to me or to anyone else what constitutes a voluntary quit or what constitutes firing for cause. Indeed, there will be many differences. Indeed, the two cases will overlap.

We received some estimates that say that the voluntary quit provisions and firing-for-cause features will save the fund some \$6 million a year. That is not a reliable figure. In fact I was advised in the last few days that this saving to the railroads and to the fund will not necessarily equal this amount.

That figure is not based on experience. There is no experience presently available. In the past the law provided that

when a cessation of employment occurred under these circumstances the worker went into a waiting period and at the conclusion of that waiting period he drew his full benefits.

If H.R. 5610 is passed, we will find this is not so, each and every one of these cases will be litigated to the fullest before the Railroad Retirement Board. Remember, the Railroad Retirement Board administers the Railroad Retirement Fund and the funds of the unemployment compensation program for railroad employees. Its administrative costs will be borne by the fund and by the railroads through their contributions. This will require a substantial increase in staff. Experience shows that the other agency which handles adjustment of grievances, the Railroad Adjustment Board, handles cases of this sort over a period usually up to 2 years, but in many cases the period for solving the procedure has taken up to 5 years. Men fired for cause, or allegedly voluntarily quitting, may well wait for 5 years for adjudication of their case.

If these two provisions alone become law, the man who works for the railroad and who either quits or is fired for cause will have to wait to have his problems and to have his interest adjudicated, for a period of up to 2 to 5 years. During this waiting period there will be no income to his family. Subsequently, if, as in many cases it works out, the man is reinstated with wages back, he will still have undergone a substantial period of hardship with no unemployment compensation whatsoever, through no fault of his own.

Let me remind the House of Representatives of one thing—and I want to stress this. These very same provisions were in the original law but were removed within 1 year. And they were removed because the railroads and the brotherhoods agreed that the removal of unemployment compensation benefits for voluntary quitting or for firing for cause was not in the interest either of the railroads, of the brotherhoods, or of the employees; and indeed was not in the interest of the integrity of the fund. They found that cost of the administrative handling of this would be too burdensome to the fund, and that it would be cheaper and better merely to pay unemployment compensation to those voluntarily quitting and being fired for cause than to litigate each case arising under such provisions.

As a result it was removed.

H.R. 1012 should be substituted for H.R. 5610.

I wholeheartedly support the proposal to substitute the original bill, H.R. 1012, in substantially the same form as this legislation passed the Senate last year, for the bill reported out by the committee. It is hard for me to believe that the majority members of the committee were fully aware of the effect and implications of what they were doing in amending H.R. 1012 as they have done. On the one hand, by keeping certain features in the original bill, the majority of the committee have indicated that they, too, recognize the basic need for,

and justice of, improvements at this time in railroad retirement and railroad unemployment insurance. Yet by adopting the amendments to H.R. 1012 which are incorporated in the bill reported to the House they have at the same time struck undeserved and harsh blows at the railroad workers who are or may become the victims of unemployment.

In effect, by adopting H.R. 5610 which retains the proposals for increased unemployment insurance benefits and certain other improvements contained in H.R. 1012, the committee majority has said, "Yes; we recognize that the unemployment situation on the railroads today is worse than at any time since the turn of the century and the workers must have relief." But, then, by adopting the amendments to H.R. 1012 which constitute the committee bill, the committee majority, to all intents and purposes, goes on to add: "Even though railroad workers today have increased their productivity faster than any other group of workers in the Nation and are suffering one of the most severe unemployment problems of any group of workers as a direct result of the greater output they have given to the railroads, nevertheless we are going to reward this outstanding group of workers by taking away from them—while they are unemployed solely because they have helped their employer benefit from their greater output—unemployment insurance protections they have had since the beginning of the railroad unemployment insurance system. More than that, we are going to reward railroad workers further by placing upon them stricter restrictions for eligibility for unemployment insurance than have been placed upon workers in other industries, even though these other workers have by no means benefited their employers as much as the railroad workers have in terms of increased output per man-hour."

That, although the committee report uses different words to express it, is precisely what the amendments in H.R. 5610 would do. Let me cite only one of the provisions in H.R. 5610 which is a case in point. I am particularly concerned about the unreasonable provisions which the committee bill would establish concerning the payment of unemployment benefits to railroad workers who voluntarily quit their jobs or fail to accept suitable work. H.R. 5610 proposes—with no justifiable reason—to apply even stricter disqualification provisions to railroad workers in these categories than are applied to workers in other industries. This fact in itself makes the committee bill sufficiently unfair and unreasonable to merit rejection and the substitution of H.R. 1012. The injustice of this proposal is compounded, and cries out for support of H.R. 1012, by being proposed at the very time when unemployment on the railroads has reached chronic proportions and the unemployed workers of this industry are in desperate need of help, a fact which even the backers of H.R. 5610 do not dispute.

The contradiction of H.R. 5610's retention of H.R. 1012's helpful provisions,

while at the same time it strikes unjust blows at human beings suffering the pangs of hunger and poverty, leads me to believe that the sponsors of this legislation were not aware that the Railroad Unemployment Insurance Act, like most State unemployment compensation laws, already disqualifies an employe for benefits for a reasonable time if he voluntarily quits his job without good cause or fails without good cause to accept available suitable work. This provision, I repeat, is already in the law. Railroad workers are already disqualified for a period of 30 days from drawing unemployment benefits which they have earned from their prior service if they voluntarily leave suitable work, or if they refuse to accept such work when it is offered. This existing provision is generally comparable with similar disqualifications in the State unemployment insurance laws.

These disqualifications recognize that a worker should not have a completely free choice to stop working or to refuse work and draw unemployment insurance benefits instead. On the other hand, by putting a reasonable limit on the period of disqualification, they also recognize that it would be socially unwise and morally unjust to permanently disqualify unemployed workers from benefits they have earned over years of service. Practically all people who depend upon wages for their livelihood want to keep working and to find jobs when they are unemployed. They do not quit jobs or turn down suitable employment opportunities on a mere caprice. Workers quit jobs for many reasons. Perhaps a better job is offered but then does not materialize. Perhaps a worker may find himself physically no longer able to cope with the job he has been holding, although technically he may not be considered disabled for the job. Perhaps his boss does not like him and makes his employment so miserable that he quits. Does a worker who voluntarily quits his job in such circumstances commit so heinous a wrong that Congress now wishes to deprive him, as H.R. 5610 proposes, in many instances permanently, of protections he has earned through his previous work for the railroads? I cannot believe even a strong minority of this great 86th Congress would take so backward a step.

The present provisions, providing for 30 days of disqualification for any benefits, are certainly a reasonable balancing of the various considerations. No case of any kind has been made to support the committee's bill's harsh proposals. H.R. 5610 would establish a continuing disqualification for unemployment benefits applying to all employees who quit work or fail to accept work until they can again get a railroad job and work in it at least 20 days. Given the present high unemployment situation in the industry, this would often have the effect of being a permanent disqualification. This is an entirely unjust penalty, which would often rest upon questionable and dubious interpretations of some government official as to just what constitutes "suitable work" and "without good cause."

H.R. 5610, by proposing such a penalty in the circumstances at hand, loses sight of the basic function and social purposes of unemployment insurance. We must aid the jobless, not deprive them without valid reason of existing benefits they have worked—in the case of currently unemployed railroad workers—for as long as 20 and 30 years, to earn.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. VANIK].

Mr. VANIK. Mr. Chairman, a year ago, upon the combined plea of the railroad industry and railroad labor, I supported the Transportation Act of 1958, under which the railroad industry was provided with broad authority to effect economies and more profitable operation. I supported this legislation with reluctance because I feared an extensive cutback in railroad employment, adding to the national unemployment problem.

Last year the Congress reduced the excise tax on freight transportation. I opposed this legislation because it eliminated a freight excise tax on all forms of freight transport, including truck and pipeline transport and would provide no special assistance to the railroad industry. I feared that the elimination of this tax would result in no reduction in freight rates, no savings to the consumer and a substantial loss to the defunct Federal Treasury. My fears have been well founded. Railroad, truckline, and pipeline managements gained a tax cut bonanza—the public gained an increased tax burden.

Last year we increased social security benefits and provided unemployment compensation extensions. The railroad employees were overlooked. Although it is true that railroad retirement benefits and railroad unemployment benefits are better than those under the social security system, it must be remembered that railroad labor has been in the vanguard with respect to this legislation. Railroad labor has provided the crucible for the testing of improvements and betterment in retirement and unemployment program. Benefits and contributions have been higher to provide a better system. The experiences of railroad legislation are used to establish standards and actuarial experiences for the benefit of all American labor.

We have drastically improved the plight of the American railroads. It is only fitting that we now seek to improve the plight of railroad labor.

Last year the managers of the railroad industry told us that if we enacted legislation improving pensions and unemployment insurance for railroad workers, the carriers would be forced to lay off thousands more of their employees. Although we did not enact this legislation, thousands of railroad employees were laid off anyway. More than 200,000 railroad workers were laid off in the 12-month period ending June 30, 1958. Regardless of what we do here, the railroads will employ as few workers as possible. But there are some basic facts about the financial conditions of the American railroads that we should all know, especially in view of the familiar cry of "poverty" of railroad managements.

RAILROADS MAKE FINE RECOVERY

The railroad industry has made a splendid recovery from the 1957-58 recession. No additional carriers have fallen into receivership. In the final accounting at the close of 1958 only 17 railroads failed to earn their fixed and contingent charges for the year. From September through December 1958 total net railway operating income for all railroads was \$368,932,000, 20 percent above the same period of 1957 and only 6 percent under the same period of the more prosperous year of 1956, when railway net operating income exceeded \$1 billion.

DEBT POSITION IMPROVED

The debt position of the railways has greatly improved. In prewar years, debt constituted about half of total railroad investment. At the end of 1957 it was less than one-third. Prior to the war, interest alone sometimes claimed as much as 18 percent of total yearly railroad revenues. In 1957 interest required less than 4 percent.

Speaking of interest, when this administration instituted its tight-money policy, adding billions of dollars of costs to all of us, including the railroads, we heard no complaint from railroad managements. It is only when employees ask for improved wages or working conditions that carrier managements begin to cry.

RAIL COSTS MOST FAVORABLE

Improvements in the railroads' financial structure have been accompanied by enormous expenditure for additions and betterments. The industry has almost completely converted to economical diesel operation. The overall age of its equipment shows significant improvement over past years. Unit costs of railway operation have not increased in pace with other increases. Since the end of the war, total railway costs per gross ton-mile have increased by only 42.6 percent. In the same period consumers' prices have risen 60.6 percent and the wholesale price index by 73.3 percent. Comparisons based on earlier years reveal similar trends.

Thus, actual costs of providing railway service have risen less than the general price level, in spite of increases in wages and prices of materials and supplies. Again, by their phenomenal increase in productivity, fewer employees producing more revenue, rail employees may take great credit for this significantly favorable position of the railway industry.

IMPROVED RAIL PROFITS

These favorable conditions have paid off in rail profits. Annual operating profits of rail carriers have remained close to \$1 billion throughout the postwar years. Prior to World War II the net railway operating income frequently dropped well below \$500 million. Since 1949 it has not dropped below \$750 million. Net income has also been extremely stable.

A most reliable manner of measuring railway earnings is the return earned in relation to common and preferred stock in the hands of the public. In 1957, the latest year for which figures are available, the railways earned 12.8

percent on their outstanding equity capital. The rate of return on capital stock in the hands of the public, not held by railway companies, in recent years is: 1950, 12.2 percent; 1951, 10.8 percent; 1952, 12.8 percent; 1953, 13.5 percent; 1954, 10.2 percent; 1955, 14.1 percent; 1956, 13.8 percent; 1957, 12.8 percent.

The fact of the matter is that today rail stocks and debentures are among the more promising areas of investment.

FAVORABLE FUTURE PROSPECTS

These vitally important facts give us a right to expect continuing improved conditions. No industry is more responsive to general conditions than the railroads. No production, no transportation. The Regional Shippers Advisory Boards, as reported by the Car Service Division of the Association of American Railroads, estimated a 5.9 percent increase in carloadings for the first quarter of 1959. The efficiency of railway employees is now at its alltime peak; the current rate of productivity progress in the American railroad industry is the highest in its history.

VITAL NATIONAL CONCERN

We must do what we can to keep it that way in this vital "backbone" industry of America. Certainly denying just pension benefits and improvements in the railroad unemployment insurance act is a most ungrateful way to reward such faithful service. Many thousands of these faithful employees have been separated from the industry. Adequate unemployment insurance in this industry is of vital national concern. Many of these employees are in most hazardous occupations. In 1957 there were 12,448 employees killed and injured on American railroads. In 1958, with approximately 144,000 fewer employees, there were 13,086 employees killed and injured on the American railroads. In 1958 American railroads paid \$129,300 in fines for violating Federal safety laws.

It is an urgent necessity that this Congress enact improvements in railroad unemployment and sickness insurance and railroad pensions. We must not break faith with a group of employees who have a notable record of productivity, efficiency and faithfulness. Not only will such legislation fill vital human needs, but it is important to note that in these times when effective mass purchasing power is so desperately needed, pension payments and unemployment and sickness insurance payments immediately find their way into the flow of consumer purchasing power. While increasing the wealth of the Nation, they compensate those among us who are most in need.

Finally, we must consider that increased retirement benefits create important incentives for retirement. Every person induced to retirement from an essential job, releases that job for another. In present times, when the work force faces the massive effect of automation and mechanization along with an increment of one million additional workers each year, job creation becomes a national cause of primary importance. This legislation, as submitted

in the substitute bill, is completely in the national interest. I urge its adoption.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. BROWN].

Mr. BROWN of Missouri. Mr. Chairman, listening to this debate this afternoon, I fear we have strayed far afield from what we set out to do just a year ago. If you will remember, a year ago we were talking about increasing the railroad retirement benefits and extending the period of unemployment insurance benefits to unemployment railroaders.

But the debate this afternoon seems to have become an argument over whether a mother about to have a baby deserves any sickness insurance and whether a man who has been furloughed for 89 days should get any sickness insurance while a man who is furloughed for 90 days should not.

I wonder, Mr. Chairman, if we are not trying to settle too many problems at one time here, or at least are we not trying to settle prematurely some problems that should be aired more thoroughly by the industry itself before the Congress arbitrates.

I respectfully suggest that we get back to the original point. Do we increase railroad retirement benefits and extend unemployment compensation over a longer period for some worthy unemployed railroaders or not?

Apparently, there is a rather general agreement that we should increase railroad retirement benefits. We increased retirement benefits for Federal employees and for social security retirees and everybody else who comes under Federal jurisdiction last year. We are going to vote railroad retirees a 10 percent increase this year. That seems to be agreed.

Now what about extending unemployment benefits for a longer period? Last year we tried to do that for other industries. We said to the unemployed in the textile industry and in the automobile plants and others, "Now, this is an unusual situation. We are going to lend you a helping hand. We are going to help you out by helping the States to provide you unemployment compensation for additional weeks." We did not say to them, "We are going to provide you with additional benefits for additional weeks provided you give up some of the sickness or maternity benefits that you negotiated at the bargaining table." We did not put any proviso or make any sweeping changes in the program at all. We extended it without any strings attached.

But under H.R. 5610, look what a different treatment we are trying to give the railroad industry. If this bill becomes law, we would be using a promise of an increase in retirement and unemployment compensation benefits as a carrot to entice railroad employees to give up certain benefits that they have had since 1938.

That is wrong. That would be adjudicating here, as a part of this matter, controversies that are of long duration and controversies which should be more thor-

oughly aired between management and labor before the Congress arbitrates.

Now, it is said that if we do not make these controversial changes, there will not be money to pay these additional benefits. I think one gentleman took the floor here and said that the original Harris bill will cost some \$45 million more than this Harris bill No. 2, H.R. 5610, if we do not change some of these rules on sickness insurance and unemployment benefits.

Now, just a minute—think about this a second. Actually, how much money will be saved, if you tell the mothers in the railroad industry that they do not get sickness insurance for pregnancy?

How much are you really going to save in the unemployment compensation fund if you say a man who is fired for misconduct cannot have unemployment compensation? How many are there of those? Has the personnel department of the railroad companies made so many mistakes in hiring untrustworthy personnel that there are thousands being fired for misconduct? And how about people who quit voluntarily? How much money are you going to save if you deny them unemployment benefits?

The truth of the business is the Railroad Unemployment Compensation Fund is unsound today and has been for some time, not because of any so-called abuses. The real reasons are these: First, there is a tremendous technological revolution that is going on in this industry; and, second, the railroad industry for many years got real shortsighted about putting money into the fund—adding only one-half of 1 percent per year. They were looking through rose-colored glasses, thought the smaller contribution would be sufficient.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. Brown] has expired.

Mr. YOUNGER. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. BROWN of Missouri. The unemployment insurance fund in the railroad industry would be some \$1 billion sounder today if somebody had not been quite so shortsighted.

The fact is that the railroad industry, in the period 1948 to 1958, paid less money in annual contributions to the unemployment insurance fund than other industries paid into such funds. In fact, for the last 20 years the railroad contributions have averaged 1.85 percent, while other firms have paid 2 percent under the State law.

So, the truth is that a technological revolution and this shortsightedness in contributions into the fund have brought us to this crisis. Let us not kid anybody that it was because some mothers are getting some maternity benefits and that there are some people who are drawing unemployment benefits who were fired for misconduct or who quit voluntarily. I think the chairman was right when he introduced H.R. 1012. I support that bill. He has had some second thoughts about it, I am sure, but I suggest that every Member of this Congress go back to the chairman's original thinking and substitute H.R. 1012 for this boobytrap bill.

Harris bill H.R. 1012 has a pretty good arrangement on extending unemployment compensation benefits, it seems to me. It would differentiate between newcomers and employees who have devoted more than 10 years of their lives to railroading.

The oldtimer who gets laid off has a much harder time making connections with some other industry. He also wants to stay available for any call that might come from the railroad, because he has his seniority at stake. Railroading is his career. He is not trained for anything else and has not enough active years left to learn a new trade or profession. Why not give them special attention in unemployment compensation?

The Interstate and Foreign Commerce Committee agreed to this arrangement last year. Why is it not just as good today as it was then?

In fact, why did not the committee stand by the compromises they hammered out last year all along the line, compromises expressed in Harris bill H.R. 1012? Surely, if it was satisfactory 9 months ago, it could not be so awfully bad now.

Now we are told that the big reason for substituting Harris bill H.R. 5610 for Harris bill H.R. 1012 is that it involves additional cost.

But now Congress should be consistent. Lots of employers and employees are paying increased costs of social security contributions and unemployment insurance today, maybe when they cannot really afford it; because it was decided that it had to be done; and it is the law.

Yet we are told that railroads should be accorded special consideration, different from other industries.

No thinking person wants to be a party to bankrupting anybody or any business.

But tough as it is to pay additional costs, the railroad companies will surely find a way to do it.

I do not mean to imply that they are rich. I know they have had their troubles.

I made a speech on the floor of this House in support of the Smathers bill last year providing loans and relief from regulatory restrictions for suffering railroads. I want a healthy railroad industry; and I feel the Government should make every reasonable effort to help keep it healthy.

Well, we passed the Smathers bill, but the last time I checked, not one railroad had requested a loan under the new law. Obviously, the health of the patient improved dramatically overnight.

In fact, if the figures supplied me are correct, the rebound from the depths of the 1957-58 recession has been startling in most of the railroad companies.

And apparently, business is good enough that many of the companies are increasing salaries for officials and increasing numbers of top-level executives.

Surely, that is a sign of prosperity. And I want to see more signs. I hope every railroad in this country makes more money every year, so their officials

and their employees and stockholders can share in the fruits of a thriving industry.

I believe in the free enterprise system. But any company which can afford sizable raises for officials would surely not plead poverty as a reason for not wanting to provide for its unemployed and retired.

In the period 1955 to 1957, executive salary increases and additional executives jumped the cost of supervision from 8 percent to 124 percent per employee in the railroad industry.

If these increases were within the budget, surely some way could have been found to pay more into the unemployment insurance fund during that period. Then, everybody would have been better off.

But it was not done. Now, we must take emergency action to correct the mistake.

Railroad retirement benefits and unemployment insurance benefits must be modernized. We all agree on that.

Harris bill H.R. 1012 will modernize them the way we modernize them for employees in other industries, with no strings attached, no debatable conditions stipulated, no taking away of rights or privileges hammered out years ago.

Harris bill H.R. 5610 would modernize unemployment insurance programs for railroaders provided certain changes were made in sickness insurance programs, maternity benefits, and so forth—a proviso that Congress asked of no one else in any other industry.

I think the people who make railroading a career deserve, at least, the same treatment Congress has already granted people in other industries. Railroaders are first-class citizens and should not be treated as second class.

I urge the House to pass the original, the genuine Harris bill, and not accept any substitute, especially this boobytrap H.R. 5610.

Mr. AVERY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Missouri. I yield.

Mr. AVERY. I think I just heard the gentleman say that the reason the unemployment compensation fund was different was on account of the shortsightedness of the railroad employers.

Mr. BROWN of Missouri. I said of the industry.

Mr. AVERY. Does the gentleman know just exactly how that is?

Mr. BROWN of Missouri. I am sure that the industry decision involved decisions agreed to by management and employees, and even the Government was a part of it, but it still does not alter the fact that there was shortsightedness. Let us not blame it on the mothers who got some time off just to have a baby.

Mr. AVERY. The Congress of the United States set up that provision. That is in the statute. That is not a matter of negotiation. It is firmly planted there on the basis of the formula set up by the Congress as to what the tax should be. So if there was some shortsightedness it would be on the part of some of the previous sessions of the Congress.

Mr. BROWN of Missouri. It was a combination of the industry and the economy.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. YOUNGER. I yield the gentleman 1 additional minute.

Mr. AVERY. The gentleman has made some reference as to mothers receiving sickness benefits. If the gentleman will read the bill he will find that we have not taken any sickness benefits away, as such. This bill will call for the expenditure of \$3½ million more for sickness benefits. We have deleted some maternity benefits, as such, but I point out that even though the maternity benefits have been eliminated, sickness due to pregnancy will be allowed in the bill.

Mr. BROWN of Missouri. Under this bill, as I read it, any single girl working for the railroad industry must take an oath that she is not pregnant before she can get sickness benefits.

Mr. AVERY. That is not the case.

We even today propose to reduce the benefit by increasing the time to 9 days instead of 7; and there are other instances. This bill goes backward instead of forward.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I have a conflict of interest with respect to this legislation: My dad, after 45 years on the railroads, retired in January. I also have a concurrence of interest because I have, as most of you have, thousands of railroad men, retired and present employees, who are deeply concerned about what we are doing here today.

We are not arguing, I am glad to say, as to whether the benefits should be increased or not. Some of us would hope they could have been increased more, but I have not heard an argument to the effect that they should not be increased. Instead we are arguing about conditions of employment, changes which have been made in the second bill, presumably to correct certain abuses which must have existed for a good while. I want to talk about those presumed abuses and in particular with respect to a letter which was sent to every Member of the House by Daniel P. Loomis, the president of the Association of American Railroads.

Under date of April 9, 1959, Mr. Daniel P. Loomis, president of the Association of American Railroads sent to every Member of the House of Representatives a four-page letter in which he set forth a comparison of H.R. 5610 with H.R. 1012, from the railroads' viewpoint. Mr. Loomis did not hesitate to emphasize and I quote his letter—that from the railroads' point of view "H.R. 5610 is obviously to be preferred over H.R. 1012."

Clearly, where there is a basic difference in viewpoint concerning legislation as marked as that confronting us here, a letter written from such a premise must almost inevitably represent a one-sided analysis which is his privilege. Mr. Loomis' letter, accordingly, cannot be

taken as telling the full story, or even enough of the full story to afford a sound basis upon which to reach a decision with respect to action on the legislation before us.

Actually, analysis of the AAR letter shows that it is little more than a restatement of the arguments which the railroads presented to the House Interstate and Foreign Commerce Committee during the recent hearings on this legislation. Most of those arguments were overwhelmingly rejected by the committee, but the changes it made in reporting out H.R. 5610 show that a majority accepted some of these arguments as the basis of the amendments to H.R. 1012 which are incorporated in the Committee bill.

I do not believe that even the portions of Mr. Loomis' letter which deal with these changes offer sufficient justification for their retention and I commend the minority of the committee for seeing through their flimsy tissue and making the strong fight they are making here today for retention of the original bill.

In their minority report, which is attached to the Committee Report on H.R. 5610, these members of the committee have stated the chief ways in which H.R. 5610 is a backward step in social insurance legislation. I will not repeat those arguments here, but I again bring them to your attention—page 115-122 of the report—as offering what I regard as full and complete refutation to the statements made by the Association of American Railroads in support of the changes made by H.R. 5610.

On the last page of his letter, Mr. Loomis listed six alleged "abuses and unwarranted payments" to unemployed railroad workers which he says H.R. 5610 is intended to correct. I would like to look at each of these, and call to your attention the spurious nature of Mr. Loomis' arguments concerning them.

First, Mr. Loomis says that H.R. 5610 would eliminate the retroactive lump sum payments which H.R. 1012 proposed for past unemployment, sickness and retirement benefits.

Let me point out that no provision for such retroactivity would now be necessary except for the failure of the House to take action last year on the bill passed by the Senate. Had the bill reported out by the committee last year come to a vote, there is little doubt but that such benefits would now be in effect as the law of the land.

We must not, therefore, in justice to the unemployed railroad workers who are presently in need of such help, deprive them of these benefits which they would have received had the House not failed to act on this bill in the closing days of the last Congress.

If retroactive payments of temporary extended unemployment insurance benefits are not made, railroad employees will be deprived of such benefits although the last Congress provided them for employees in other industries. Moreover, when the period for such benefits expired on April 1, this present Congress recently extended them in other industries to July 1, 1959. Thus, if extension of unemployment benefits for rail em-

ployees of over 10 years of service are not also made retroactive, these displaced veteran workers will be discriminated against.

Insofar as retirement benefits are concerned S. 226 has been amended by the Senate Committee to eliminate retroactivity and it is likely that H.R. 1012 also will be conformed to this amendment either on the floor or in conference, so that increased retirement benefits will be paid on a prospective basis only.

Second, Mr. Loomis charges that under H.R. 1012, and I quote him:

Women could receive maternity benefits at fantastic rates of as much as \$51 per week, if unemployed or sick—and sick benefits even while in jail for their misconduct.

This statement, to my mind, is so misleading and distorted that it casts doubt on all of the other of Mr. Loomis' arguments. Actually, H.R. 1012 proposed absolutely no changes whatever in the qualification or duration of maternity benefits which have been in effect under this law for 13 years.

This argument was advanced by the railroads in opposition to the maternity provisions even prior to their enactment 13 years ago, and they are still arguing what theoretically could happen. We have, however, now had over a decade of experience under this law. This practical test shows that the maternity provision in the Railroad Unemployment Insurance Act has worked extremely well in meeting a valid social need.

The railroads have been unable in all this time to produce any evidence that the theoretical abuses Mr. Loomis cites have occurred except rarely, and then certainly not to any extent that would warrant taking this protection away from women railroad workers.

As his third and fourth objections, Mr. Loomis complains that persons who are discharged for cause or who voluntarily quit or refuse railroad jobs can immediately draw unemployment insurance benefits.

Concerning the first of these, his letter does not disclose that the present provision for payment of unemployment insurance benefits to persons discharged for cause are there as the result of a joint recommendation from railroad management and labor.

The fact is that the original act as passed in 1938 provided a disqualification for discharge for causes related to the employee's work, similar to the one which now would be imposed by H.R. 5610. When study showed that it was impractical to administer this provision, which cuts across the procedures set up by the Railway Labor Act for handling grievances, this disqualification was removed in 1939, on the joint recommendation, I repeat, of the Railroad Retirement Board, the railway labor organizations, and railroad management. After 20 years of experience under the present law, H.R. 5610 would put this disqualification back in much more drastic form.

Although Mr. Loomis' letter repeats what the railroads constantly point out, that theoretically a person discharged from work could get sick benefits while

in jail, throughout all the years of testimony on this legislation, no one has produced a single instance of anyone drawing railroad unemployment benefits while in jail.

The other provision to which Mr. Loomis objects, the present disqualification for 30 days for voluntarily quitting a job or refusing to accept suitable work, has been in the Railroad Unemployment Insurance Act since its inception. Moreover, it is substantially comparable to the disqualification in most State unemployment insurance laws. H.R. 5610 would impose a much more stringent disqualification that would, for all practical purposes, permanently disqualify such employees for any benefits. To adopt this provision would further discriminate against railroad workers unfairly and in their hour of greatest need for these protections.

As a fifth objection, Mr. Loomis says that unless H.R. 1012 is amended as proposed by H.R. 5610—

Persons who have not been in railroad work for as long as 2 years could collect sickness benefits from the railroad fund.

Note that word "could" again. This, again, is the railroads' familiar theoretical argument of alleged abuses that possibly could arise under the present act. But the need for this amendment is not borne out by 13 years of experience while the present law has been in effect.

Furthermore, to correct this nonexistent abuse, H.R. 5610 proposes to take away from all employees protection which they have had for 13 years. Under H.R. 5610 a furloughed employee of the railroads, who must be constantly available for recall at any time upon only a moment's notice in order to protect his seniority, but who works at a temporary job in another industry for 90 days and then becomes sick, would be cut off from any benefits for unemployment due to sickness. Such a provision, with its patent injustice, could only encourage employees not to take temporary work in other industries and would be a backward step.

Finally, Mr. Loomis lists the objection that under H.R. 1012 as originally introduced, a retroactive tax would have to be collected, whereas such retroactivity on taxes is eliminated by H.R. 5610. In his letter Mr. Loomis makes much of the unjustifiable effective dates proposed in H.R. 1012. I note that roughly one-quarter of his letter is devoted to this matter. Of course, this is entirely a misleading argument, because the effective date on tax increases is not a major issue here. The Senate committee has amended S. 226 to make all tax increases become effective in the future. Moreover, we may assume that H.R. 1012 would have been conformed in this regard by a majority of the House committee had it been reported out instead of H.R. 5610. Certainly, if this had been the only change made, it would have been accepted by all supporters of H.R. 1012.

In summary, the railroads have shown no valid justification for the new restrictions which H.R. 5610 would impose.

So we have an attempt to correct theoretical abuses in this second bill; we are not arguing about the increase of benefits here, but we are arguing about whether we should change longstanding conditions of employment on the basis of theoretical entirely unproved abuses. In my opinion we should adopt the substitute bill.

Mr. HARRIS. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, I thank the chairman of the committee for yielding this time to me and I want to say that I am in support of the Staggers substitute which will shortly be offered. The amendments which he will also offer as a part of that substitute will bring the two bills closer together.

The reason I am speaking today in the well of the House, and I speak very seldom on legislation, is because the central railroad yards in Los Angeles happen to be in my district. I have many thousands of railroad employees in my district. A number of them have written me letters and they have all been in favor of H.R. 1012. None have supported H.R. 5610.

I have studied to find out the difference between these two bills. I have studied each of them carefully and it seems to me H.R. 1012 retains many of the proven features which are in existing law, while H.R. 5610, the committee bill, takes out some of those proven benefits, fringe benefits which have been considered by the employees to be part of their compensation. In several instances H.R. 5610 cuts down the fringe benefits. That is very important to people who plan their life career on contractual benefits.

We are talking about two things, as I see it, the unemployment fund and retirement benefits. We want to keep in mind the fact that the retirement benefits comes from a fund which is mutually contributed to by the employer and employee. On the other hand, the compensation for unemployment and sickness benefits comes from a separate fund to which only the employer contributes. This is not a factor of benevolence on the part of the employer. That is mandatory under congressional legislation.

And let us keep in mind that the amount that goes into that fund is a part of the basic cost of the operation of the railroad. It is deductible for tax purposes. It is also part of the basic expenses upon which the rate structure is founded. So it is not an action of benevolence on the part of the railroad. It is part of the law, it is part of the rate structure itself.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Indiana.

Mr. HALLECK. The gentleman has touched on what I think is a very interesting point and I would like to make this observation. The fact of the matter is whatever the railroads contribute has to be made up by any rates that the railroads charge. The gentleman said that, if I understood him correctly. Now, who pays those rates?

Mr. HOLIFIELD. The public.

Mr. HALLECK. The shippers using the railroads, the farmers and others and the cost of shipping is determined by those rates. I do not care whether it is contributed by the employee or employer, ultimately it comes out of the pockets of the people who use the railroads.

Mr. HOLIFIELD. That is true.

Mr. HALLECK. That is where the benevolence is.

Mr. HOLIFIELD. We have no quarrel on that point. The gentleman realizes what I have said is a fact. It is a part of the rate structure and the rates are based upon the cost of operation which includes this fund.

Mr. BROWN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Missouri.

Mr. BROWN of Missouri. An interesting point about that, though, is that when the contributions on the part of the companies into the fund were going down the rates to the public were going up.

Mr. HOLIFIELD. Yes. For the approximately 10 years from 1947 to 1956 the percent of contribution to this fund was lowered by act of Congress, undoubtedly with the agreement of both employer and employee. The railroads were given that reduction privilege but it was not reflected in reduced rates. The rates of the railroads have continually gone up.

I supported, as many Members of the House did, some legislation last year which provided some \$600 million of aid to the railroads. Are we going to take it out of the hides of the employees in order to make up the benefits that we extended to the railroads last year?

Mr. HARRIS. Mr. Chairman, I yield myself the remainder of my time.

Mr. YOUNGER. Mr. Chairman, we have no additional requests for time and yield the chairman 5 additional minutes.

Mr. HARRIS. Do I understand that that then concludes debate on your side?

Mr. YOUNGER. Yes. We have no other speakers on this side.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent to extend the remarks I am about to make as well as those I made earlier this afternoon, and I also ask unanimous consent that all Members may be permitted to extend their remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HECHLER. Mr. Chairman, I find a number of things to approve in the committee bill, H.R. 5610, but I hope that we can substitute H.R. 1012. There are provisions for increasing railroad retirement benefits, its necessary adjustment of the tax rates, and the increase in the daily rate of unemployment benefits in H.R. 5610. These things are largely the same as in the original bill introduced by many of us at the beginning of the session.

Where H.R. 5610 goes astray, in my views, is in cutting back on certain existing unemployment and sickness benefits—and, most especially, in dropping the proposal for regular extended unemployment benefits for the many senior employees now laid off by the railroads.

That is why I urge a vote for the substitute motion. Like the original bill that went into the committee, the substitute motion would provide a 13 or 26 week extension of unemployment benefits for these unemployed long-service railroaders.

Mr. Chairman, let us not forget that this is above all a human problem. There can hardly be a Member of this House who does not know at least a few of the railroaders who work in his district. We know the railroaders are good people. They are respected and responsible people. Many are highly skilled men. They have devoted years to acquiring their skills—as locomotive engineer, conductor, brakeman, station agent, telegrapher, signalman, and a score of other occupations.

But many of these skills are not easily transferable to other occupations. And that is part of the tragedy now facing many thousands of veteran railroaders.

For a number of years the railroads have been reducing their forces. In the past 2 years alone, they have let out over 170,000 men. This has particularly hurt our railroad workers in West Virginia. Partly this was due to the general recession. And H.R. 5610 wisely—though tardily—provides temporary emergency benefits to meet that immediate recession crisis.

But, Mr. Chairman, the railroad workers' crisis antedates the recession. It will continue long after the recession is over. We see that when we note how railroad traffic has picked up strongly in recent months, but railroad employment has risen hardly at all.

This continuing crisis can be summed up in one word: automation; or more broadly, technological progress. The Department of Labor announced the other day that productivity per man-hour on the railroads rose by 55 percent between 1947 and 1958. Few other major industries can boast of more.

This record of increased efficiency on the railroads is a proud one. It is good for the railroads. It is good for the country. But what does it mean for the railroaders themselves? In all too many cases it has meant economic tragedy.

Most other industries over the years have found expanding markets. By that means, they have kept their labor force employed over the long run despite the rising productivity. But not so in the coal industry or on the railroads. Their markets, the demand for their service, has lagged behind the rest of the economy. So the railroad employees' increased productivity has meant more layoffs for themselves.

Year after year the railroad layoffs have grown, mounting higher and higher up the seniority rosters. Now we find thousands upon thousands of these highly trained railroaders, men with 10, 15, 20 years of service, discharged from their work and with no hope of regaining it.

Mr. Chairman, the substitute motion, unlike the committee bill, makes some small effort to help these long-service furloughed employees. The help offered is pitifully small, considering what these men have given the railroad industry and considering the readjustments they and their families must now go through. This, surely, is the least we can do for them.

Now, it will be said this is not only a human but also a financial question. And so it is. The few million dollars charged for these extra benefits will be paid by the railroad industry these men have served. Let us look at that aspect a moment.

Last summer, when the committee first reported out a bill like this one, the railroads were hard-pressed financially. The industry certainly let us know about that. And we in Congress acted to help the railroads. But at that same time, this bill as reported out by the committee last summer contained the extended unemployment benefit provision.

Now what do we see? The railroads today are in far better shape. Their operating profits in the last 4 months of 1958 rebounded to a yearly rate of more than a million dollars. So far this year, their profits are if anything still higher.

But what has the committee majority now done to the extended benefits for these hard-hit long service railroaders? It has dropped them. It has dropped them completely.

Last year, when the railroads were pinched, the committee voted for these benefits. This year, when the railroads are flush, the committee drops the benefits.

Mr. Chairman, this does not make sense, either humanly or financially. I urge a vote for the substitute motion, and this means a vote for H.R. 1012—a bill which will do justice to the railroad workers of West Virginia and of America.

Mr. GALLAGHER. Mr. Chairman, I have no doubt that Congress will take some action in the field of railroad retirement and unemployment legislation during this session. I hope very sincerely, however, that the action that is taken will be responsible and fair, and will reflect the careful consideration which our railroad workers deserve.

The bill introduced in the 86th Congress which best reflects this kind of consideration is H.R. 1012, which was introduced in the early days of the session. It is a bill that meets the just needs and demands of our railroad workers, and one which would lead to a well-balanced retirement and unemployment system.

This, to me, is ample reason for favoring passage of H.R. 1012 over H.R. 5610, the bill that has been reported out to us by the House Interstate and Foreign Commerce Committee, against the objection of a sizable minority of the members.

This reported bill, which does take into account certain basic needs of the railroad workers, fails completely in meeting other needs which are just as essential and just as pressing. If H.R. 5610 were passed, the railroad employee could look forward to having increased retirement

benefits in his later years. He could also look forward to having slightly larger benefits when he is unemployed or sick. In these respects, the committee bill does have something to offer him. Unfortunately, this is not the whole picture. The increased unemployment benefits which I have mentioned, for example, can only be drawn for a very brief time. This arrangement may afford some consolation to the person who suffers a very temporary layoff, but it offers little comfort for the longstanding employee who loses his job for a very basic reason, such as technological advancement.

It is this employee, the worker who has devoted 10, 15, or more years of dedicated labor to the railroad industry, who I feel deserves some very special consideration from us. H.R. 5610 does not recognize the problems of the displaced worker. H.R. 1012, however, does have a provision which would help to protect him. The former bill would not grant him one additional day of unemployment benefits, regardless of the fact that long-term unemployment is a recognized problem of the railroad employee, who not only has to face the frightening increases in the cost of living that we all must face, but must also struggle against the insurmountable problem of employment fluctuation which exists in the railroad industry. H.R. 1012, on the other hand, would grant unemployment benefits for an additional 13 weeks for workers with 10 to 15 years of service, and 26 weeks for employees with 15 or more years of service.

There is no question in my own mind that this minimum protection should be given our veteran railroad workers. We owe them this protection, as does the railroad industry, itself. It is only fair that they be compensated in some way for the sacrifices they have made in their years of dedicated effort.

The omission of extended unemployment benefits for employees of long service is, then, a most serious defect of the bill reported to us by the committee. But there are a number of provisions included in the bill which evoke equally indignant criticism. These provisions are unreasonable and inappropriate, and in some cases constitute a 20-year setback for the railroad employee.

I refer especially to the elimination of benefits for persons who voluntarily quit their jobs or fail to accept suitable work, or who are discharged for misconduct related to their work. The supporters of these provisions have found it all too easy to give them a kind of righteous aspect, without really pointing out the grave injustice they may mean for many, many persons. It is clear to me that under H.R. 5610, which requires that an employee earn at least 20 days' compensation in the railroad industry before again becoming eligible for benefits, many workers could be permanently disqualified for benefits through no fault whatsoever of their own.

There are also a number of provisions relating to sickness benefits which are equally objectionable. Under the reported bill the number of compensable days of sickness would be reduced and restricted. The establishment of an ar-

bitrary time limitation on the compensability of days of sickness is another serious injustice in the bill, as is the elimination of maternity benefits and the establishment of several irrelevant and unfair disqualifications for sickness benefits.

I think we might all agree with the great words of Voltaire, who said: "Labor is often the father of pleasure." But whatever the inherent value of work, and regardless of the spiritual satisfaction which it gives us, I believe we must recognize that honest toil deserves its own compensation. I fear that the railroad worker would not be justly compensated, nor his rights sufficiently recognized, if this Congress passes the bill given us by the Interstate and Foreign Commerce Committee. I urge, therefore, prompt and wholehearted support of H.R. 1012.

Mr. ROOSEVELT. Mr. Chairman, I join in support of enactment of the substitute proposal because, after careful consideration of its provisions and those provided in H.R. 5610, I honestly believe it more nearly answers the needs of railroad workers. This is not to imply that there are not similarities in the two approaches, but there are important points of differences.

However, I do not rise to direct my remarks to a comparison of the two proposals, because this is being ably handled by my colleagues who have been associated with the work of the committee.

My purpose in rising is to urge that in the discussion of the specific matter before this body, certain misrepresentations should not be allowed to detract our attention from the issue before us; that is, should or should not benefits to railroad workers be improved? I believe if the discussion is channeled in this direction, and all the facts pertaining thereto are laid on the table, that this body will support improvement which present economic conditions warrant.

It would be unfortunate to entrup our consideration of this legislation before us by some of the extraneous propaganda that has been circulated by those opposed to any improvement in the retirement and unemployment and sickness benefits for employees of the railroad industry.

One would indeed be naive to think it merely coincidence or happenstance that the industry's "featherbedding" charges have been made in recent weeks. Nor should we accept fiction for fact regarding the profits of the railroad industry. By bringing in the claim that its earnings do not warrant increased benefits, I think the spokesmen for the industry will find themselves hoist by their own petard. By stressing this point, they have caused many of us to check into the actual facts, including the salaries and pensions allotted to their top officials.

I shall discuss the profit situation shortly, but at this point I do want to say that, in trying to defeat the legislation we are considering, the railroad in-

dustry latched on to the charge of "featherbedding" by railroad workers.

The Lincoln Star, a Nebraska paper, in refusing to accept as gospel the propaganda about alleged "featherbedding," gets to the heart of the matter. The editor points out that the railroad industry has made much of the "mileage" basis of pay under which "operating" employees can earn a so-called "day's pay" for 100 miles of travel. I now quote the editorial reaction to this:

Mighty unfair, you are likely to surmise. That is the way the railroads would like to make it look.

The editorial goes on to note:

But they neglect to point out that in the course of a week's work at such short runs, a train crew will be away from their families for up to 100 hours a week. Thus, the employee has not given just 8, 10 or 12 hours a week to the railroads, but 100 hours. He does this because his run ends away from home and he remains at this place until he takes a run back home.

And the editorial concludes:

In all, the railroads are not presenting the entire picture or a true picture. Until they do this, their motives in this field of labor relations will and should be held suspect.

Now, as for the matter of profits of the railroad industry, I think it should be emphasized that while the industry claims it cannot afford additional benefits for its workers, management costs per employee have risen. Between 1955 and 1957, 190 new officials—for the industry as a whole—were added, although the number of other employees declined from 1,041,792 to 969,737. During this same period, the total outlay for officials' salaries increased by more than \$21 million, reaching the impressive total of over \$180.9 million annually. These figures are based on the earnings of the top five officials and others earning over \$20,000 a year.

The real burden of the recession has fallen on the workers in the industry. While industry representatives have cited monthly deficits in early 1958, it should be pointed out that in the latter months of that year most of the carriers overcame these deficits and net profits were realized for the entire year. In the final accounting, only 17 railroads failed to earn their fixed and contingent charges for 1958.

The point that should not be overlooked, Mr. Speaker, is that almost all individual railways have shared in the industry-wide comeback since the early months of 1958. Earnings of most carriers are above the last months of 1957 and close to the high of 1956, with some carriers actually surpassing the 1956 level.

Yet, in spite of this pickup, which I certainly do not begrudge, but am pleased to see—we are still faced with heavy layoffs of workers. This makes the need for strengthening the unemployment program for railway workers a most necessary responsibility of this Congress.

Mr. Speaker, I shall not recite the profit figures for the industry because I am aware of the fact that virtually every Member of this body has been furnished, through one source or another, with the statistics. But I shall

attach at the end of these remarks the record of one railroad in my part of the country which speaks for itself.

May I conclude by mentioning that a comparative study shows that the railroad industry's allegation that the Railroad Retirement and Unemployment Insurance Systems are the most generous in any industry and are the most costly to any industry, does not jell with the facts. Mr. Speaker, I believe the facts in the case are on the side of the employees of the railroad industry and I urge my colleagues to support a realistic and justified approach in this matter.

FACTS AND INCOME OF SOUTHERN PACIFIC TRANSPORTATION SYSTEM

The Southern Pacific System had outstanding, as of December 31, 1957, 9,047,122 shares of stock with 71,873 stockholders.

In 1957, the system earned \$5.16 per share and paid in dividends \$27,141,366.

The company had a 2 for 1 stock split, effective August 8, 1952. The dividends paid per share of stock in 1952 after the split was \$1.50; in 1953 and 1954, \$3; in 1955, 1956, and 1957 was \$3, and \$3 in 1958. The price range of the stock in 1957 was a high of \$46 7/8 to a low of \$33.

The system had in 1957 a net income after all charges of \$46,645,377.

Though 1958 was a recession year, the Southern Pacific System had a net income of \$47,100,000; earned \$5.20 per share and paid \$3 dividend per share.

The total assets for the system operating in the United States were in 1951, \$1,973,682,511 and in 1957, the assets had increased to \$2,298,198,134.

The system operated 13,621 miles of track in 1957 and the net income per mile of track was \$3,768, as compared to \$3,102 in 1958.

The net income record for the system for the years 1949 to 1958, inclusive, is as follows:

Year:	Net income	Million
1949-----		\$30.5
1950-----		50.8
1951-----		46.0
1952-----		61.9
1953-----		57.9
1954-----		44.4
1955-----		51.6
1956-----		46.5
1957-----		46.6
1958-----		47.1

The system earned per share of stock in 1949, \$3.61 as compared to \$5.20 in 1958.

The net income for the months of January and February 1959, was \$7,591,880, as compared to \$6,984,233, for the same period in 1958.

Carloadings for 3 months of 1959 are up 10.9 percent over 1958.

In 1957, the system had 645 executives and 53,389 employees; an increase of 32 executives and a decrease of 11,165 employees as compared to 1948.

Income accounts of the Southern Pacific system

Total operating revenue-----	\$663,492,930
Total operating expense-----	532,130,718
Net railway operating revenue-----	131,362,212
Federal income tax-----	5,732,895
Payroll tax-----	23,148,740
Other railway taxes-----	25,798,452
Railway operating income-----	76,682,124
Net equipment and facility rents-----	22,847,119

Income accounts of the Southern Pacific system—Continued

Net railway operating income.....	\$53,835,005
Other income.....	22,368,031
Gross income.....	76,203,036
Miscellaneous rents.....	76,177
Miscellaneous tax accruals.....	1,023,348
Miscellaneous charges.....	3,352,574
Balance for fixed charges.....	71,750,937
Fixed charges:	
Interest on funded and unfunded debt, etc., total fixed charges.....	25,105,560
Net income.....	46,645,377

The total operating expense of \$663,492,930 includes \$37,321,458 depreciation allowance which is charged against operating revenue and is available to company for any purpose.

Mr. GRAY. Mr. Chairman, in rising to urge passage of the substitute motion on H.R. 5610, I want to stress above all one thing: This substitute is a very moderate measure.

It is moderate in the sense that it gives far less than the railway brotherhoods were asking us for last year. It is moderate in comparison with other measures being requested by organized labor. It is moderate in that the railroad industry can surely afford it. It is moderate in the sense of wise statesmanship, of calming in advance what might develop into a cause of industrial strife.

The substitute measure differs chiefly from H.R. 5610, the committee bill, in two things. First, the committee bill rips out or cuts down various long-established benefits in the railroad unemployment and sickness insurance system. The substitute leaves these benefits unchanged.

Second, the committee bill provides for no regular extended unemployment benefits for long-service railroaders. The substitute does so provide. It would give unemployed railroaders with 10 to 15 years of service an extra 13 weeks of benefits, and those with 15 or more years of service an extra 26 weeks—but only, of course, if they have been unable to find work.

In contrast, the bill urged on us by the railway brotherhoods last year would have provided extended benefits for as long as 4½ years in some cases. Thus the present substitute is far more moderate.

Moreover, can anyone among us dispute the real need for such extended benefits? These veteran railroaders laid off due to the technical progress in their industry surely deserve sympathetic attention and help as they and their families strive to find new and different work.

This provision for extended benefits is moderate also, I say, if you compare it with the standards being asked of us by organized labor in the general Federal-State unemployment insurance setup. There, as Members know, the demand is for uniform Federal standards of 39 weeks of benefits for nearly all of the unemployed.

For the railroad workers, this substitute would not provide anything like that. The great bulk of the unemployed

railroaders—those dropped first, the ones with less than 10 years' seniority—would get no regular extended benefits. Only those with 10 to 15 years' seniority would get the regular 39 weeks of unemployment benefits. And only those with 15 years or more of seniority—who tend to be the most desperate cases because of their age, their family responsibilities and their specialized experience—would draw any further benefits beyond that. Thus this substitute measure is tailored to need—and very moderately so.

As for the railroads' ability to pay, I find one thing rather odd. Last summer, when many of the railroads were suffering financially from the recession, the committee reported out this bill with the same extended unemployment benefits now contained in the substitute. Clearly, the committee then felt the railroad industry could afford to pay.

But what do we see now? In recent months, with the economic recovery, the railroads' operating profits have soared to a rate of more than a billion dollars a year. The profits now are far higher than last summer. And these profits, let me remind you, are being made very largely through the same technical advances that have caused the layoff of so many veteran railroaders. Certainly, out of a billion dollars a year profits, the industry can afford to pay the \$25 million or so needed for these extended benefits to their veteran employees.

Let me now turn very briefly to the question of statesmanship. The mark of statesmanship is to look ahead. In the present case, it appears quite clear that if we in this House do nothing about extended unemployment benefits for the railroaders, this issue will inflame labor-management relations in the industry. As we know, the labor contracts on the railroads will be reopened next November 1. I know all of us here hope there will be a peaceful settlement. By our action in this House today, I feel we can in some measure contribute to that.

For all these reasons, I suggest that the course of moderation, of prudence and of justice is to pass the substitute motion.

Mr. O'HARA of Illinois. Mr. Chairman, it was a great disappointment to me when an objection voiced by one Member of this body in the closing hours of the 2d session of the 85th Congress prevented the doing of simple justice to the great army of railroad workers of the United States, those in retirement after long years of service and those still at work.

With many other Members I left the Chamber of the House on the adjournment of the 85th Congress with the firm resolution that come the 86th Congress, and very early in the session, justice and decency would be done these railroad workers.

During recent weeks I have received hundreds of letters on the subject from my constituents, and to each letter I have replied that I regarded it as the decent and the right thing to do when this proposed legislation reached the floor of the House to vote for an amendment substituting H.R. 1012 for H.R. 5610 and then to vote for the bill thus amended.

I am voting for the substitute in the Committee of the Whole. I am certain that the amendment substituting H.R. 1012 will be carried because I think I know the sentiments of the great majority of my colleagues and that it is not in their hearts to turn thumbs down on the men and women who work on our railroads.

Mr. Chairman, this is legislation long overdue. I am certain the Committee will amend the bill as it should be amended and then the House will pass the measure by an overwhelming majority.

Mr. BLATNIK. Mr. Chairman, the needs of the Nation's hardworking and loyal railroad workers have been ignored and shunted off to the side long enough. Today we have the opportunity to make up to them the great disservice done them last year by the failure to enact the type of bill before us today. Failure to increase railroad retirement annuities and extend unemployment benefit payments last year was especially unfair when you take into consideration the fact that social security benefits were increased, regular unemployment compensation benefits extended, and, ironically enough, the railroad industry itself was given substantial assistance under the Transportation Act of 1958.

I recall the many letters, postcards and telegrams I received from laboring railroad men and women in support of legislation to provide assistance for their industry from the Federal Government. They pitched in when they were needed by railroad management and then watched while their own small requests for a better life were ignored and finally defeated. We have a great deal to make up to these people and we can do it today by restoring the original language of H.R. 1012 as a substitute for H.R. 5610.

The argument has been made, and I am sure will be heard again, that the differences between the two bills are slight. The first two sections of the bill are, for the most part, identical, it is true. They both increase annuity benefits by 10 percent. They both increase the wage base to \$400 per month. They both increase the tax rate to finance the system. However, H.R. 1012 makes these increases retroactive back to January 1, 1959. H.R. 5610 contains no such retroactive feature. Actually, Mr. Chairman, I believe these benefit increases should be made retroactive back to the day this House failed to pass a similar bill last year because of the objection of one Member of this large body. Because of a parliamentary maneuver thousands of people were denied increased annuity benefits and extended unemployment benefits which were so badly needed during the winter recession of 1958. Why should they be penalized as they are under H.R. 5610? Three months of additional benefits is not a small thing to many people. By adopting the provisions of H.R. 1012 as a substitute for H.R. 5610 we would assure that the railroad worker would not bear the full brunt of our failure to enact this type of legislation last year.

The main differences between H.R. 5610 and H.R. 1012 occur in section 3, dealing with the unemployment and

sickness insurance programs. The provisions of H.R. 5610 are totally inadequate and callously disregard the needs of the railroad worker. The more liberal provisions of H.R. 1012, on the other hand, represent a realistic attempt to help and improve the lot of the railroad worker. The extension of temporary unemployment benefits of 13 additional weeks to all employees, as provided in H.R. 5610, is totally inadequate. It ignores the problems of automation and the older employees. I agree wholeheartedly with the minority report on H.R. 5610 which states that the provisions of H.R. 1012 with regard to extended periods of unemployment insurance protection "represent the very minimum of extended benefit protection that is required." And this is especially true of the veteran employee with many years of service who suddenly finds, as pointed out in the minority report, that his particular skills are no longer needed or needed only in greatly reduced numbers. The Congress faced the fact that peculiar problems of the railroad industry justify Federal assistance that is not made available to many other industry groups. We must also face the fact that railroad employees, too, have peculiar problems requiring specific treatment by law. H.R. 1012 meets this need by providing a temporary extension of benefits of 13 additional weeks to employees with less than 10 years of service, a permanent extension of 13 weeks to employees with 10 to 15 years of service, and a permanent extension of 26 weeks to employees with 15 or more years of service. This difference between the two bills is another reason why H.R. 1012 should be enacted rather than H.R. 5610.

There are other differences also, Mr. Chairman. The elimination of maternity benefits under H.R. 5610, the reduction in the number of compensable days of unemployment due to sickness and other backward-moving, untimely changes in the Railroad Retirement System which are not contained in H.R. 1012. These differences are substantial. They cannot be passed off as mere minor differences. To adopt H.R. 5610 would be unconscionable. I urge the House instead to substitute in its stead the provisions of H.R. 1012.

Mr. MCGOVERN. Mr. Chairman, I am the sponsor of H.R. 4935, a measure identical to H.R. 1012. It was the original bill before the committee, calling for improved railroad retirement benefits. It is my earnest hope that the Congress will accept this legislation as a substitute for the subsequent committee bill now pending before us. It seems to me that H.R. 1012 and the similar measures introduced by myself and other Members of the Congress will give much-needed protection to the railroad workers of the Nation.

Last year, we moved to give substantial benefits to the railroad industry as a whole. We failed in our efforts to pass needed improvements in the railroad retirement program. I hope that we will delay no longer the passage of this legislation, which is designed to bring a greater measure of security to the working men and women and their families in our railroad industry.

Because of its more realistic and more helpful range of benefits to the men and women of railway labor, I urge the passage of H.R. 1012, the substitute measure now being offered by the gentleman from West Virginia [Mr. STAGGERS].

I am pleased to learn that the other body has acted favorably on similar legislation.

Mr. PUCINSKI. Mr. Chairman, I join with those of my colleagues who are today waging this militant effort to substitute H.R. 1012 for the bill affecting the Railroad Retirement Act recommended by the committee to this Congress.

I have studied the committee's bill, H.R. 5610, and find that it will not bring the desperately needed help which this Nation's thousands upon thousands of railroad workers so urgently need if they are to survive in this great wave of inflation.

I am certain that enactment by this House of H.R. 1012 will go a long way in helping not only the retired railroad worker, but also the thousands of railroad employees whose jobs are being cut out from under them through ever-increasing automation of the railroads.

The arguments of those who oppose H.R. 1012 are most unconvincing when you consider the great misery which is being suffered, particularly by those Americans who are being eliminated from their work by the railroad industry. Opponents of this measure claim that it will bring undue financial hardships on the Nation's railroads, but this claim is not consistent with the profit reports of the Nation's railroads.

I think that we must all face up to the bitter truth that when a railroad employee is severed from his job because of automation, his chances of obtaining employment in other industries is virtually nonexistent. The railroad worker is trained for a specific job in the railroad industry and his chances to find similar employment in other industries are practically nil, particularly since most of those being eliminated from their jobs are older people.

It is for this reason that I strongly urge upon this Congress the extension of unemployment compensation payments provided in H.R. 1012.

Unless we help the retired railroad worker as well as those faced with elimination of their present jobs because of automation, we will be placing a large number of our American citizens into the untenable position of not being able to survive. It is for this reason that I join in supporting the substitution for the committee's recommendation, and urge adoption of H.R. 1012.

Mr. KASEM. Mr. Chairman, I rise in support of the amendment to H.R. 5610 offered by the gentleman from West Virginia [Mr. STAGGERS]. I would like to urge all of my colleagues to heed the extremely discerning remarks of my colleague and good friend, the gentleman from California [Mr. HOLIFIELD] and adopt them as my own.

Mr. RHODES of Pennsylvania. Mr. Chairman, first I want to commend the gentleman from Arkansas for his leadership as Chairman of the Interstate and

Foreign Commerce Committee, which considered this legislation. As a member of that Committee I have always found the gentleman to be fair, considerate and cooperative.

He introduced the original bill on this legislation, H.R. 1012, and I intend to vote for that bill as a substitute for H.R. 5610, which seriously weakened his original proposal.

Mr. Chairman, every Member of this House, I believe, feels that improvements in the Railroad Retirement and Railroad Unemployment Insurance Act are long overdue. Our Committee has held extensive hearings on this problem in recent years.

Evidence presented in the last three Congresses clearly shows that retirement benefits have lagged behind the cost of living, forcing many thousands of retired railroad workers, their spouses, and dependents to reduce their standard of living.

Unemployment in the rail industry has likewise imposed severe economic hardships on railroad employees, many of whom have been unable to obtain even part-time work because of overall unemployment and job discrimination based on age.

Two years ago our committee considered legislation—H.R. 4353—to improve this situation. Spokesmen for the railroad industry opposed enactment of bills to liberalize the present Railroad Retirement and Railroad Unemployment Insurance Acts on the grounds that it would be too costly in view of their weak economic position. Action on H.R. 4353 was delayed by our committee because of certain amendments it would make in the Railroad Retirement Tax Act. These sections were subsequently considered separately by another committee having primary jurisdiction.

Meanwhile, Congress took up the bill to provide Government-guaranteed loans to the railroad industry for capital expenditures and maintenance operations. Amendments to the Interstate Commerce Act were also proposed to help the railroads achieve a better competitive position with other forms of transportation. With the help of railway labor, this measure was enacted as the Transportation Act of 1958. The 3 percent Federal excise tax on freight was also repealed by the 85th Congress to bring direct assistance to the rail industry.

The industry opposed the retirement bill when it was subsequently reconsidered, despite the assistance they received from railroad employee unions and retired railworkers in helping to pass the Transportation Act. The retirement and unemployment insurance bill was killed in the final hours of the last Congress after a series of complex parliamentary moves failed to bring the measure before the House for action.

Early this session new bills were introduced to provide these long needed improvements in the Railroad Retirement and Railroad Unemployment Insurance Acts. Identical bills, H.R. 1012 and S. 226 were introduced and brought to early hearings in both our committee and the Senate committee.

This bill did not cover new ground, nor did they contain provisions beyond the scope of what previous hearings showed was necessary and equitable. It would increase all monthly retirement benefits by 10 percent, retroactive to January 1, 1959. This was the date on which the bill in the last Congress would have become effective. Women employees and the wives of retired railroaders would have the privilege of electing to receive an annuity on a reduced basis at age 62, a provision already in the social security law. Two one-half percent increases in the tax rate on both employers and employees—on January 1, 1959, and January 1, 1962—would assure that the retirement system was continued on a sound actuarial basis.

It would also bring unemployment compensation provisions up to a realistic level by extending duration and benefit rates, while adjusting the tax rate to balance the railroad unemployment insurance account.

Despite their vastly improved economic position, the railroads continue to oppose this legislation. During committee consideration of H.R. 1012 certain amendments were adopted which I feel do grave damage to the present unemployment insurance system. The bill before us today, H.R. 5610, contains these drastic backward steps which eliminate many benefits in effect for many years. It also eliminates the retroactive payment of the increased retirement benefits.

Mr. Chairman, I opposed these weakening amendments in committee and when they prevailed, joined in signing the minority report. H.R. 5610 is not an adequate approach to the needs of retired railroad workers, their families, and survivors. Nor does it treat fairly the unemployed rail workers, who are bearing the brunt of employment cutbacks in the industry. Total employment on class I railroads has dropped from 1,043,477 in 1956 to less than 840,000 today—a decline of some 200,000 workers in little more than 3 years.

Much of the argument against the original bill—H.R. 1012—is based on the alleged "poverty" of rail carriers in this country. But a look at their financial structure in reports to their stockholders shows a much different picture.

An Associated Press story on April 10, 1959, quoted the Association of American Railroads estimate that net income of class I rail carriers for January and February 1959 was \$40 million. The AAR said that in these first 2 months of the year, operating revenues rose 4.1 percent, while operating expenses increased only 0.3 percent.

As was pointed out in testimony before the committee, estimated net income for class I railroads for 1958 was almost \$600 million, despite the lingering effects of the business recession. This is more than their income in 21 of the 38 years since 1920, which, of course, includes the World War II years.

Moreover, the "poverty" plea is more than somewhat dimmed by an analysis of the pyramiding payroll of railroad executives during the 1955-57 period. While the total railroad employment

was declining by 72,000 during this period, railroads were adding more than 200 executives and total management pay increased by almost \$22 million.

The president of one railroad will receive more than \$63,000 a year in pension when he retires. Retired presidents of three other railroads now receive pensions of \$36,851, \$25,000, and \$28,813. All are paid by the carriers. These carriers oppose improvements in the railroad retirement system, although they meet only half the cost of the average yearly benefit of \$1,440 now being paid their employees.

We hear much these days from industry sources to the effect that higher wages or fringe benefits for workers should be accompanied by increased productivity.

Only last week the U.S. Department of Labor released its official findings concerning productivity gains in various industries which show that railroad labor's output has increased faster in recent years than that of workers in any other industry. If increased productivity were the only basis on which improved retirement benefits and unemployment insurance benefits were to be based, the Labor Department report alone is justification for enactment of the original provisions of H.R. 1012.

Mr. Chairman, only by voting to substitute the original language of H.R. 1012 for the bill as reported by our Committee can we keep faith with the retired and unemployed railroad workers of this Nation. I urge my colleagues on both sides of the aisle to support efforts that will be made to substitute H.R. 1012 for the committee bill.

Mr. DULSKI. Mr. Chairman, I rise in opposition to the proposed railroad unemployment insurance program as proposed in H.R. 5610. At this time of heavy unemployment a majority of the House Interstate and Foreign Commerce Committee has seen fit to vote a number of crippling amendments to the Harris-Bennett bill which was introduced at the beginning of the session for the purpose of providing long overdue relief to unemployed and retired railroad workers and their families. Amendments made by the committee have been declared entirely unacceptable by 23 standard railway labor organizations.

I further state that the amendments made by the committee are a radical assault upon basic principles of social insurance which, in some cases, have been accepted as national policy since the enactment of the Railroad Unemployment Insurance Act. Principles which have prevailed for as long as 20 years clearly should not be wiped out without cause and no adequate reason for this action has been advanced.

The need today, when so many railroad workers are unemployed, is for legislation which will improve not decrease aid to the unemployed and ill among railroad employees. Instead the committee proposes to take away from these unfortunate many of the social insurance provision they now have.

The committee bill, I say, will eliminate entirely provisions in H.R. 1012 for

extended unemployment insurance benefits for veteran railroad workers who are being displaced permanently through technological changes and changes in operating methods.

These workers, including many with 10, 20, and even 30 years of service, cannot readily get other employment. The modest proposals made in the Harris-Bennett bill to extend the time they are entitled to unemployment insurance benefits already represents a great compromise on the part of the railway labor organizations which agreed to accept them in the hope of expediting action to relieve the growing distress of railroad workers and their families at this time when record unemployment has hit the industry.

Other provisions of H.R. 5610 would eliminate or drastically restrict existing benefits both with respect to ordinary unemployment and unemployment due to sickness that have been available under existing law for from 13 to 20 years. These retrogressive steps must be prevented so that needy railroad workers will get additional not less help at this time of higher living costs.

H.R. 1012 is the identical bill which passed the Senate last year. It must be remembered that in failing to complete action on this legislation last year, Congress has already unfairly discriminated against the needy of the railroad industry, since it did not neglect to pass special legislation to aid unemployed and retired workers in other industries while voting no aid to railroad workers facing unemployment at one of the highest levels in the history of the industry. This is all the more unjust to these workers because Congress last year did find time to enact legislation giving considerable financial and other aid to the railroads which employ them. We must not forget that people should come first.

The disqualification provision and other changes which the committee wrote into the legislation this year would cost the railroad workers an estimated 30 million annually in benefits provided in H.R. 1012.

Mr. BREEDING. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. BREEDING. Mr. Chairman, there are several sections in the bill before us, H.R. 5610, which I heartily endorse. But there are other sections in this measure which seem to me nothing more than a slap in the face to a group of highly worthy people. I refer to the railroad workers of America.

Turning to the railroad retirement sections of this bill, I think most of us in this Chamber would support them. The increase in benefits are urgently needed by these good folks. The tax aspects will provide the required financing both for the present increase and for an increase voted 3 years ago. These parts of H.R. 5610 are both socially desirable and financially sound.

So too, I believe, are the provisions for raising the ceiling in the daily rate of

unemployment benefits for our railroad men and women. With the general rise in prices and wages in recent years, the existing ceilings have fallen far behind the times.

So much for the good sides of this bill. But what else do we find in it? We find some most extraordinary provisions which would deprive various sick and unemployed railroad men and women of certain benefits they have long enjoyed.

Gentlemen, these benefits have been written into the law in some cases since 1946, in some cases since 1938. Yet the measure here before us would cast them out.

When we look over the length and breadth of our land, when we think each one of us of the fine railroaders we personally know, when we consider that fully 170,000 of these good people have been thrust into unemployment in the past 2 years alone—then can we here truly intend to cut back, to curtail, to abolish certain of their long-held benefits.

Now, it is said abuses are possible under some of these established benefits. Railroad lawyers before the committee presented lots of technical arguments. And who could deny that a few small cases of abuse are possible under any legislation that we here in Congress have passed?

That is not the crucial question here. The crucial question is, Shall we tell railroaders now walking the streets unemployed, "You counted on these benefits. They have been in the law for years. But now you shall not have them"?

No; I urge you, gentlemen, let us not do that. And further, let us do at least something positive for the tens of thousands of long-service railroaders now thrown on the technological scrap heap due to their own industry's progress.

Let us say to the railroad industry: "We salute your technical progress. It is a fine thing. But you should also meet at least a small part of the human cost of this progress by paying reasonable unemployment benefits to your laid-off, long-service employees for a short additional period."

This is a moral charge on the profits of the railroad industry, gentlemen. Should it not be, in some slight degree, a financial charge as well?

It will be said that my friends and I are arguing against these parts of the committee bill. So we are, against this year's committee majority bill. But last year, gentlemen, the committee reported out a bill that did just what we are now urging. Last year's committee bill did not cut back existing benefits. Last year's committee bill did provide for modest extended unemployment benefits, as we now ask.

Yet last year, when that committee bill came out, the railroads were showing sharply lower profits. Recently, in contrast, their operating profits have been running at many more thousands of dollars a year.

I urge upon you that the need is great. Let us here modify H.R. 5610, as I have suggested. Let us help bring joy, not sorrow, to the railroad homes of America.

Mr. KARTH. Mr. Chairman, there can hardly be a Member of this House who does not have at least several hundred railroad workers and railroad families living in his district. Most of us, I think, know personally at least some of those railroad folks back home. They are by and large fine people. They are pillars of their communities. And judging by my mail and that of other Members, I can well believe that 99 percent of these good folk are intensely interested in the legislation before us today.

Why is that? Basically, it is because the railroaders for several years have been undergoing very tough times. Several hundred thousand retired railmen and their wives find themselves ground between their modest retirement annuities and the rising cost of living.

Over the past 2 years more than 170,000 railroaders have been laid off from their jobs—and virtually none have been rehired. Meanwhile, the 860,000 railroaders still at work ask themselves, Will I be next to go? Because the crisis in railroad employment, gentlemen, is not a matter of the recession alone. It is a matter of long-term technological trends. In a word, of automation.

As for the railroad companies, a year ago the profits of many of them were down sharply. They appealed to Congress for help. Congress gave them help. By the end of 1958, however, with rising traffic, the railroads' earnings had rebounded so sharply that their operating profits were running at over a billion dollars a year.

Last year Congress gave help to the railroads. Now finally, with H.R. 5610, we turn to the question of help for the human side of the industry. And how well does H.R. 5610 provide that?

In providing for increased retirement benefits, I think most members will agree that H.R. 5610 does what it should. It also provides the needed retirement financing. Another good aspect, is the long-overdue rise in the daily benefit ceiling for railroad unemployment benefits.

But what about the other things in H.R. 5610? First, we find that it would cut back, curtail, and even abolish certain types of unemployment and sick benefits long written into the law. For example, it would abolish completely the 13-year-old system of maternity benefits for women railroad employees.

Now is that not an astonishing thing? We set out to help the human side of the railroad industry—and believe me, gentlemen, hundreds of thousands of them desperately need our help. But instead this bill proposes to hurt, not help, many of them.

The second astonishing thing I find is something left out of this bill. It was not left out of the bill reported by the committee last year. It was not left out of the bill passed by the other body last year. It is not left out of the bill now being debated, I understand, in the Senate chamber. It is left out of the measure here before us today.

I refer to the provision for a regular extension of unemployment benefits for long-service laid off railroaders, for maximum periods of 13 or 26 weeks.

That provision is no longer in the bill. And it should be. It most certainly should be.

We now have tens of thousands of these veteran railroaders thrown out on the sidewalks. They have no hope of getting back in their industry. They are skilled men, but their skills are railroad skills. These are not the young footloose fellows we are proposing to help. These are not the fellows who may enjoy being jobless a while. These are veterans workers, fathers of families, men with 10, 15, 20 years seniority, trained in the railroad industry. Now they are thrown aside, due to the rising productivity of their own industry. I agree every American is not entitled to inherent economic security, but he is entitled to a job to provide his own economic security.

Do the railroads have no responsibility to help these men in their readjustment? Must the full cost of technical progress be borne solely by the employees?

The railroads do have a responsibility. And they can well afford the slight extra cost of the modest extension of benefits proposed for these discarded veteran railroaders. Only a tiny portion—perhaps \$25 million a year—is involved in this proposal, out of the railroads' billion dollar a year profits.

Let us restore these parts of the bill to the way the committee reported them last year. Even then, the measure would be modest enough. But it would then be a real help, not a disappointment, to the human side of the railroad industry.

If, however, the railroad industry should need additional help—and I agree this is logical and perhaps necessary—I will be most happy to join hands with those who seek to enact reasonable legislation designed to accomplish this end, if it not be at the expense of the employees.

Mr. FLOOD. Mr. Chairman, we are called on to choose between the committee majority's bill, H.R. 5610, and the substitute motion offered by my friend, the gentleman from West Virginia. One of the chief differences between the two measures, as others have pointed out, lies in the question of extended unemployment benefits for long-service railroaders.

The committee bill omits such benefits completely. The substitute would provide them, but in sharply reduced fashion from what our friends in the railway brotherhoods were asking for last year. The railroad workers are not getting all they wanted in this substitute. I would like to bring that out.

The original bill the brotherhoods were asking for in 1957 and 1958 provided extended benefits, for long-service unemployed railroaders, of up to 4½ years. The present substitute provides just 13 weeks of extended benefits for jobless railroaders with 10 to 15 years of service, and just 26 weeks for those with 15 or more years of service. That is quite a comedown from 4½ years. This substitute proposal is a very moderate proposition.

Gentlemen, there is no doubt of the need, the crying need for these benefits. You know and I know what type of men

these long-service railroaders are. They are not the fly-by-night type of young fellow who flits from one job to another. They are fathers of families, homeowners, the solid foundation of our communities around this Nation.

And now scores of thousands of these long-service railroad workers, through no fault of their own, find themselves thrown out of their long-held jobs and with very little prospect of getting them back. Somehow they must readjust. Somehow they must retrain themselves, find other work. If they can do this within 26 weeks, the present maximum for unemployment benefits—why, fine. They then would draw no more benefits in any case.

But where the new job takes longer to find, then we, by this substitute motion, say to the railroad industry that it should pay extended benefits for a short additional period to these jobless men who have served the railroads so long.

Now, there is talk that these extended benefits are nothing more than a disguised form of severance pay. Why do not the railway brotherhoods go to the railroads and bargain for severance pay, as happens in other industries, it is asked.

Let me assure you, these extended benefits are no severance pay. And here are some of the differences: Severance pay is a matter of right, on leaving a job. The worker gets it no matter what he does afterward. It does not depend on his finding or not finding another job. But these unemployment benefits cease the moment the recipient finds new work.

Second, severance pay is usually paid out in a lump sum. Unemployment benefits are paid from week to week. Third, severance pay is tied to service with one company and is paid directly by that company. Unemployment benefits are not. There are other differences, too. But these major distinctions make it plain that the extended unemployment benefits in this motion have nothing to do with severance pay.

Now, what about this advice that the railroads apply directly to their own industry for these extended benefits? Superficially, this is a plausible idea. Unions in the auto industry, the steel industry, and others have won supplemental unemployment benefits by doing that very thing. But how did those unions win their benefits? By a strike, or the threat of a strike.

In the railroad industry, on the contrary, it has been the policy of Congress to put special blocks in the way of railroad strikes ever since we passed the Railway Labor Act back in 1926. We have imposed on the railway brotherhoods a whole series of special delays, meditations, emergency factfinding boards and so on, to avoid railroad strikes. We have imposed these restrictions on economic conflict in the railroad industry for a good reason. We know a nationwide railroad strike would soon slow our economy to a standstill.

What would it mean, then, if we now say to the railroad workers: Do not look to Congress to give you any extended unemployment benefits. Imitate your brothers in autos, in steel. Go after

these benefits directly from your industry.

Gentlemen, that would be nothing less than an invitation to a railroad strike. It would be a reversal of our whole national policy for 33 years. Because it is most abundantly clear that the railroad industry would resist such a demand. They are resisting it here in this House. They would resist it over the bargaining table.

This substitute motion, I repeat, is a very modest measure. It gives no more than simple justice. Indeed, it gives less. It is a measure of the wisest policy. I urge its adoption.

Mr. WEAVER. Mr. Chairman, to some few in America inflation is still a meaningless thing talked about by economists and politicians. By some, inflation is used for personal or partisan advantage as a political football. To a great many thinking Americans, inflation presents a potential danger to their Nation's future. But, Mr. Speaker, to a small group, those who must live on a fixed income, inflation is a terrible burden which accompanies them to bed at night and causes a restless sleep, which awaits them upon awakening and which sits beside them throughout the dreary days. To these, inflation is a nightmarish reality, and one which presses them close to the point of desperation.

It is for these people, or, at least a portion of these people, that we act today. It is for these people who have lived with inflation, or, perhaps I should better say, who have existed with inflation, I plead today.

The men and women who, for most of their useful lives, have worked on our railroads, and who retired some years ago to enjoy their declining years, need our help. The money which has so long been set aside under the Railroad Retirement Act is no longer adequate to care for their needs.

These people have come to us to ask our help. The railroads which employed them have agreed unanimously that their need is desperate and should be considered. I have not heard one man, either working on the side of management or on the side of the railroad workers, say that there is no need for a pension increase. Only the vehicle by which it was to be provided has come under question. Those questions, for better or worse, are now resolved. The only question remaining before us is whether or not to provide the 10 percent increase in pensions these men and women need and so fully deserve.

I ask all Members of this House to support this legislation. I most strongly urge its passage.

Mr. HARRIS. Mr. Chairman, I think we have had a very hearty and helpful discussion on this subject. As I tried to point out earlier, it is a highly complicated problem to understand. I appreciate the way that this debate has been carried on. Only in one or two instances has there been just barely a small flare-up. It has been a very healthy debate on the subject.

Mr. Chairman, I do not think that we could say that any Member of this Congress wants to take anything away from

anybody. I think the effort has been made by most everybody to try to work out something that will give benefits to those railroad workers who are entitled to them. I point out again that there is no controversy over the retirement provisions. Everyone is agreed on those. I do not know just what the substitute is going to include. I did not seem to get much out of the debate thus far, but the best information I have is that the retirement benefits and the increase in the amounts to be paid by employer and employee into the retirement fund are generally in accord. So, that leaves only in controversy the unemployment features of the bill. Now, I tried to point out to you earlier the five principal differences between what the original bill, H.R. 1012, included and what this bill, H.R. 5610, includes. The committee turned down, I suppose, some 12 or 15 rather important and major amendments that were proposed at that time. So, I think it is a very healthy thing that we have this matter narrowed down to this point. Each one of us has to decide in our own mind what we think is right. It is your own conscience and mine as to what we decide on this particular problem. We have to decide whether or not we are going to increase, again, the unemployment taxes to be paid by the railroad industry and thus, ultimately, by the people of the country. To me there is a limit. If you look at the experience of the unemployment insurance fund in the last few years you will, as I, have a very uneasy feeling that something is about to happen.

As I tried to point out this morning there is less than \$50 million in the fund now and I understand the fund will have between \$30 and \$40 million within a very short time at the rate at which it is being depleted.

In the estimates given us it is said that the situation is stabilizing now. I do not know whether that is so or not. The experience is a turnover in employment of 20,000 a month. Just as surely as I am speaking now, we will not have enough money in this unemployment fund to meet the demands on it unless something is done. That is my concern, Mr. Chairman. I do not want it said, when the unemployed find that the money is not there, that, "You were responsible for the fact I could not get my money." That is the issue. We put it up to you today, and it is your decision to make.

Mr. CARTER. Mr. Chairman, to a country boy from Iowa all this oratory could be a wee mite confusing. It seems to me mighty significant if we check the record to see who the friends of H.R. 5610 and H.R. 1012 really are. It is easily apparent from what has been said here today that the employers, the Republican policy committee, and their agents here are supporting H.R. 5610. A few moments ago, the president of the Republican policy committee admitted that a confidential report had been issued to all the Republican Members subsequent to the meeting in the White House in which the Republican policy committee reports that the administration and the Republican Party are supporting H.R. 5610.

On the other hand, it is clearly apparent that the employees of the railroads, together with their supporters here, are definitely for H.R. 1012.

This might not be so significant if the arguments that they are using were valid. However, through the whole tone of the arguments presented by the opponents to H.R. 1012 this afternoon are the same arguments that were put forth by the railroad employers 13 years ago, when the employees first sought the benefits which H.R. 5610 takes away from them. These arguments are the same kind of arguments that were advanced when the first employees sought a fairer share of the benefits from our economic power in the days of Samuel Gompers. These arguments leave me cold, and I want to announce here and now that I am going to vote for H.R. 1012.

There have been five amendments to H.R. 1012 which make it identical with the bill that has just passed in the Senate and which take all the wind out of the sails of those who are supporting H.R. 5610 and opposing H.R. 1012. The first four amendments to H.R. 1012 as now being submitted are in H.R. 5610. They are:

First. The first amendment provides that the 10-percent increase in the retirement annuity applies only to annuities that accrue after the month of enactment of this act. This is the feature of the original H.R. 1012 which increased the cost to the railroads to \$45 million and created the most objectionable feature.

Second. The increases in the retirement tax will not take place until a month after the enactment of this bill.

Third. The increase in the lump-sum payments is made only with regard to deaths occurring after the month of the passage of the bill.

Fourth. The maximum rate of contributions into the fund were increased from 3.50 percent to 3.75 percent.

Fifth. The Retirement Board during this emergency period in which we had so much unemployment is given power to borrow from the retirement fund for unemployment and sickness payments, and it will be repaid to the retirement fund, together with 3 percent interest.

H.R. 1012 with these amendments retains the present benefits that have been granted to the employees and at the same time grants them the increases to which they are entitled.

In comparing the fringe benefits to be received by the 700,000 employees of the railroads of America under this law with the fringe benefits being obtained by the employees in other transportation areas not covered by the law but obtained by contract, we find that the railroad employees still are not receiving as much as they should have. In view of all these considerations, it is easy to see why I am going to support the substitute bill, H.R. 1012, and vote in behalf of the workingmen of this great country. It is between you and your conscience whether you shall support the employers or the workingman, but there isn't any particular point in your claiming that by supporting H.R. 5610 you are sup-

porting the workingman, because that bill takes the benefits away from the working people that they now have.

Mr. MORRIS of Oklahoma. Mr. Chairman, I first wish to say that I have a very high regard and sincere respect for the great committee handling this bill, including of course its great chairman, the distinguished gentleman from Arkansas [Mr. HARRIS], but I believe that the Staggers substitute which in substance is H.R. 1012, is preferable to the committee bill, H.R. 5610, for the reason that although both bills provide for certain benefits for railroad employees and retirees, yet the committee bill would, as I view it, deprive them of certain other benefits that are protected in the Staggers amendment or substitute.

The arguments that have been made that these benefits that are retained for them in the Staggers bill will put too great a burden on the railroads, I believe, is not good reasoning to justify passage of the committee bill in preference to the Staggers bill.

I realize fully that the railroads are essential to the welfare of our Nation, and I certainly am willing and anxious to do every proper and reasonable thing I can as a Member of Congress to help pass legislation that will give the railroads a fair and reasonable opportunity to operate efficiently and enjoy just and fair profits, and I am perfectly willing to help pass further sound and reasonable legislation if necessary toward this end. But I do not believe that the railroads should be helped at the expense and burden of the employees and retirees alone as provided in the committee bill, but that such burden if justified should fall on all the public and not just on this comparatively small group. I therefore will vote for the Staggers amendment.

The CHAIRMAN. All time has expired. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Railroad Employees Benefits Act of 1959."

Mr. STAGGERS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

"SECTION 1. (a) Section 2(a)3 of the Railroad Retirement Act of 1937 is amended to read as follows:

"3. Individuals who will have attained the age of sixty and will have completed thirty years of service or, in the case of women, who will have attained the age of sixty-two and will have completed less than thirty years of service, but the annuity of such individual shall be reduced by one one-hundred-and-eightieth for each calendar month that he or she is under age sixty-five when the annuity begins to accrue."

"(b) Section 2(d) of such Act is amended by adding at the end thereof the following new sentence: 'If pursuant to the third sentence of this subsection an annuity was not paid to an individual with respect to one or more months in any calendar year,

and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in the first sentence of this subsection) did not exceed \$1,200, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the fifth sentence of this subsection, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in the first sentence of this subsection) is in excess of \$1,200, the number of months in such year with respect to which an annuity is not payable by reason of such third and fifth sentences shall not exceed one month for each \$100 of such excess, treating the last \$50 or more of such excess as \$100; and if the amount of the annuity has changed during such year, any payments of annuity which become payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.'

"(c) Section 2(e) of such Act is amended by striking out 'than an amount' and inserting in lieu thereof 'than 110 per centum of an amount'.

"(d) Section 2(g) of such Act is amended by inserting after 'wife under age 65' the following: '(other than a wife who is receiving such annuity by reason of an election under subsection (h))'.

"(e) Section 2 of such Act is further amended by adding at the end thereof the following new subsection:

"(h) A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue'.

"Sec. 2. (a) Section 3(a) of the Railroad Retirement Act of 1937 is amended (1) by striking out '3.04', '2.28', and '1.52' and inserting in lieu thereof '3.35', '2.51', and '1.67', respectively; and (2) by striking out '\$200' and inserting in lieu thereof '\$250'.

"(b) Section 3(c) of such Act is amended by inserting after 'or in excess of \$350 for any month after June 30, 1954,' the following: 'and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended,'.

"(c) Section 3(e) of such Act is amended (1) by striking out '\$4.55', '\$75.90', and 'his monthly compensation' and inserting in lieu thereof '\$5.00', '\$83.50' and '110 per centum of his monthly compensation', respectively; (2) by striking out 'is less than the amount, or the additional amount' and inserting in lieu thereof 'is less than 110 per centum of the amount, or 110 per centum of the additional amount'; (3) by inserting after 'age sixty-five,' the following: 'women entitled to spouses' annuities pursuant to elections made under subsection (h) of section 2 to be entitled to wife's insurance benefits determined under section 202(q) of the Social Security Act'; and (4) by striking out 'such amount or such additional amount' and inserting in lieu thereof '110 per centum of such amount or 110 per centum of such additional amount'.

"Sec. 3. (a) Section 5(f) (2) of the Railroad Retirement Act of 1937 is amended by striking out 'and 7 per centum of his or her compensation after December 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month before July 1, 1954, and in the latter case in excess of \$350

for any month after June 30, 1954), and by inserting in lieu thereof the following: 'plus 7 per centum of his or her compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of his or her compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and in excess of \$400 for any month after the month in which this Act was so amended),'

"(b) Section 5(h) of such Act is amended by striking out '\$33', '\$176', and '\$15.40' wherever they appear and inserting in lieu thereof '\$36.30', '\$193.60', and '\$16.95', respectively.

"(c) Section 5(1)(1) of such Act is amended by striking out 'or in which month he engaged on seven or more different calendar days in noncovered remunerative activity outside the United States (as defined in section 203(k) of the Social Security Act)' and inserting in lieu thereof the following: 'or, having engaged in any activity outside the United States, would be charged under such section 203(e) with any earnings derived from such activity if it had been an activity within the United States.'

"(d) Clause (A)(1) of section 5(1)(9) of such Act is amended by striking out the word 'and' appearing after 'July 1, 1954,' and by inserting after 'June 30, 1954,' the following: 'and before the calendar month next following the month in which this Act was amended in 1959, and any excess over \$400 for any calendar month after the month in which this Act was so amended.'

"(e) Clause (A)(1) of section 5(1)(9) of such Act is amended (1) by inserting 'and before 1959' after '1954' where it first appears; (2) by inserting after '\$4,200' where it first appears the following: ', or for any calendar year after 1958 is less than \$4,800,'; (3) by striking out '\$350' and inserting in lieu thereof '\$400'; and (4) by striking out 'and \$4,200 for years after 1954, by' and inserting in lieu thereof the following: ', \$4,200 for years after 1954 and before 1959, and \$4,800 for years after 1958, by'.

"(f) Section 5(1)(10) of such Act is amended by striking out '44', '11', '\$350', '\$15.40', '\$36.66', '\$27.50', and '\$14.66' wherever they appear and inserting in lieu thereof '49', '12', '\$400', '\$16.95', '\$40.33', '\$30.25', and '\$16.13', respectively.

"Sec. 4. All pensions under section 6 of the Railroad Retirement Act of 1937, all joint and survivor annuities and survivor annuities deriving from joint and survivor annuities under that Act awarded before the month next following the month of enactment of this Act all widows' and widowers' insurance annuities which began to accrue before the second calendar month next following the month of such enactment, and which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937, are payable in the amount of the spouse's annuity to which the widow or widower was entitled, and all annuities under the Railroad Retirement Act of 1935, are increased by 10 per centum.

"Sec. 5. (a) The amendments made by section 1 (other than subsection (b) thereof), by subsections (a) and (c) of section 2, and by subsection (b) of section 3 shall be effective only with respect to annuities (not including annuities to which section 4 applies) accruing for months after the month of enactment of this Act. The amendment made by subsection (b) of section 1 and by

subsection (c) of section 3 shall be effective with respect to annuities accruing during the calendar year 1959 and subsequent calendar years. The amendment made by subsection (a) of section 3 shall be effective only with respect to lump-sum payments (under section 5(f)(2) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. The amendments made by subsection (f) of section 3 shall be effective only with respect to annuities accruing for months after the month of enactment of this Act and lump-sum payments (under section 5(f)(1) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. Section 4 shall be effective only with respect to pensions due in calendar months after the month next following the month of enactment of this Act and annuities accruing for months after the month of enactment of this Act.

"(b) All recertifications required by reason of the amendments made by this part shall be made by the Railroad Retirement Board without application therefor.

"PART II—AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

"Sec. 201. (a) Section 3201 of the Railroad Retirement Tax Act is amended to read as follows:

"Sec. 3201. Rate of Tax.

"In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to—

"(1) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1961, as is not in excess of \$400 for any calendar month: *Provided*, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.'

"(b) Section 3202(a) of the Railroad Retirement Tax Act is amended (1) by striking out 'after December 31, 1954' wherever it appears and inserting in lieu thereof 'after the month in which this provision was amended in 1959'; (2) by striking out '\$350' wherever it appears and inserting in lieu thereof '\$400'; (3) by striking out 'after 1954' and inserting in lieu thereof 'after the month in which this provision was amended in 1959'.

"(c) Section 3211 of the Railroad Retirement Tax Act is amended to read as follows:

"Sec. 3211. Rate of Tax.

"In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to—

"(1) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961,

as is not in excess of \$400 for any calendar month: *Provided*, That the rate of tax imposed by this section shall be increased, with

respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by Social Security Amendments of 1956.'

"(d) (1) Section 3221 of the Railroad Retirement Tax Act is amended by striking out 'In addition to' and all that follows down through '\$350' the first time it appears, and inserting in lieu thereof the following:

"(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to—

"(1) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1961, as is, with respect to any employee for any calendar month, not in excess of \$400.'

"(2) Such section 3221 is further amended (A) by striking out 'after December 31, 1954' and 'after 1954' wherever they appear in that section and inserting in lieu thereof 'after the month in which this provision was amended in 1959'; (B) by striking out '\$350' wherever else it appears in that section and inserting in lieu thereof '\$400'; and (C) by adding at the end thereof the following new subsection:

"(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3111 at such time exceeds the rate provided by paragraph (2) of such section 3111 as amended by the Social Security Amendments of 1956.'

"Sec. 202. The amendments made by section 201 shall, except as otherwise provided in such amendments, be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid after the month of such enactment, for services rendered after such month of enactment.

"PART III—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

"Sec. 301. (a) Section 1(1) of the Railroad Unemployment Insurance Act is amended by striking out the proviso in the first sentence and inserting in lieu thereof: '*Provided, however*, That in computing the compensation paid to any employee, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended, shall be recognized'.

"(b) The first proviso of section 1(k) of the Railroad Unemployment Insurance Act is amended by striking out "\$400" and inserting in lieu thereof "\$500".'

"Sec. 302. (a) Section 2(a) of the Railroad Unemployment Insurance Act is amended by striking out the language between '(1)' and '(1)' and inserting in lieu thereof the following: 'for each day of unemployment in excess of four during any registration period, and'.

"(b) Section 2(a) of such Act is further amended by striking out columns I and II and inserting in lieu thereof the following:

Column I Total Compensation	Column II Daily Benefit Rate
\$500 to \$699.99	\$4.50
700 to 999.99	5.00
1,000 to 1,299.99	5.50
1,300 to 1,599.99	6.00
1,600 to 1,899.99	6.50
1,900 to 2,199.99	7.00
2,200 to 2,499.99	7.50
2,500 to 2,799.99	8.00
2,800 to 3,099.99	8.50
3,100 to 3,499.99	9.00
3,500 to 3,999.99	9.50
4,000 and over	10.20

"(c) The proviso in such section 2(a) is amended by striking out '50' and '\$8.50' and inserting in lieu thereof '60' and '\$10.20', respectively.

"Sec. 303. (a) Section 2(c) of the Railroad Unemployment Insurance Act is amended by striking out the period at the end thereof and inserting in lieu of such period a colon and the following: 'And provided further, That, with respect to an employee who has ten or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, who did not voluntarily leave work without good cause or voluntarily retire, and who had current rights to normal benefits for days of unemployment in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under the following schedule, and the maximum number of days of, and amount of payment for, unemployment within such benefit year for which benefits may be paid to the employee shall be enlarged to include all compensable days of unemployment within such extended benefit period:

The extended benefit period shall begin on the first day of unemployment following the day on which the employee exhausted his then current rights to normal benefits for days of unemployment and shall continue for successive fourteen-day periods (each of which period shall constitute a registration period) until the number of such fourteen-day periods totals—	13
*If the employee's "years of service" total—	7 (but not more than 65 days)
10 and less than 15	7 (but not more than 65 days)
15 and over	13

but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 of this Act on the basis of compensation earned after the first of such successive fourteen-day periods has begun. For an employee who has ten or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, who has fourteen or more consecutive days of unemployment, and who is not a "qualified employee" for the general benefit year current when such unemployment commences but is or becomes a "qualified employee" for the next succeeding general benefit year, such succeeding benefit year shall, in his case, begin on the

first day of the month in which such unemployment commences.'

"(b) An employee who has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, and who has after June 30, 1957, and before April 1, 1959, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his rights to unemployment benefits, shall be paid unemployment benefits for days of unemployment, not exceeding sixty-five, which occur in registration periods beginning on or after June 19, 1958, and before July 1, 1959, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act, except that an employee who has filed, and established, a first claim for benefits under the Temporary Unemployment Compensation Act of 1958 may not thereafter establish a claim under this subsection, and an employee who has registered for, and established a claim for benefits under this subsection may not thereafter establish a claim under the Temporary Unemployment Compensation Act of 1958. Except to the extent inconsistent with this subsection, the provisions of the Railroad Unemployment Insurance Act shall be applicable in the administration of this subsection.

"(c) The Secretary of Labor, upon request, shall furnish the Board information deemed necessary by the Board for the administration of the provisions of subsection (b) hereof, and the Board, upon request, shall furnish the Secretary of Labor information deemed necessary by the Secretary for the administration of the Temporary Unemployment Compensation Act of 1958.

"Sec. 304. Section 3 of the Railroad Unemployment Insurance Act is amended by striking out '\$400' and inserting in lieu thereof '\$500'.

"Sec. 305. Section 4(a-2) of the Railroad Unemployment Insurance Act is amended by striking out subdivision (iv), and by striking out the semicolon at the end of subdivision (iii) and inserting in lieu thereof a period.

"Sec. 306. Section 8(a) of the Railroad Unemployment Insurance Act is amended (1) by inserting after 'June 30, 1954' where it first appears the following: ', and before the calendar month next following the month in which this Act was amended in 1959, and is not in excess of \$400 for any calendar month paid by him to any employee for services rendered to him after the month in which this Act was so amended'; (2) by inserting after 'June 30, 1954' where it appears for the second time the following: ', and before the calendar month next following the month in which this Act was amended in 1959, and to not more than \$400 for any month after the month in which this Act was so amended'; (3) by inserting after 'June 30, 1954' where it appears for the third time the following: ', and before the calendar month next following the month in which this Act was amended in 1959, or less than \$400 if such month is after the month in which this Act was so amended'; (4) by striking out 'December 31, 1947' in paragraph 2 and inserting in lieu thereof 'the month in which this Act was amended in 1959'; and (5) by striking out the table (except the column headings) in such paragraph 2 and inserting in lieu thereof the following:

	Percent
"\$450,000,000 or more	1½
\$400,000,000 or more but less than \$450,000,000	2
\$350,000,000 or more but less than \$400,000,000	2½
\$300,000,000 or more but less than \$350,000,000	3
Less than \$300,000,000	3¾

"Sec. 307. Section 8(b) of the Railroad Unemployment Insurance Act is amended (1) by striking out '3 per centum' and inserting in lieu thereof '3¾ per centum'; and (2) by inserting before the period at the end of the first sentence the following: ', and before the calendar month next following the month in which this Act was amended in 1959, and as is not in excess of \$400 paid to him for services rendered as an employee representative in any calendar month after the month in which this Act was so amended'.

"Sec. 308. (a) Subsection (d) of section 10 of the Railroad Unemployment Insurance Act be amended to read as follows:

"(d) Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at the rate of 3 per centum per annum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a) of this Act, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded.'

"(b) The amendment made by this section shall take effect on the date of enactment of this Act.

"Sec. 309. The amendments made by section 301(b) shall be effective with respect to days in registration periods beginning after June 30, 1959. The amendments made by sections 302, 303(a), and 305 shall be effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, and in extended benefit periods which begin after December 31, 1957. The amendment made by section 304 shall be effective with respect to base years after the base year ending December 31, 1957. The amendments made by clauses (4) and (5) of section 306 and clause (1) of section 307 shall be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid for services rendered in calendar months after the month in which this Act was enacted."

Mr. STAGGERS (interrupting the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and inserted in full in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. FLYNT. Mr. Chairman, reserving the right to object, I should like to

ask the author of the substitute if this is identical with H.R. 1012, and if copies are available.

Mr. STAGGERS. It certainly is not. There are five amendments which I shall explain, which have been talked about in the committee. I think there will be no question about them.

Mr. FLYNT. Mr. Chairman, reserving the right to object, would the gentleman consider—

Mr. STAGGERS. It is all right with me to have the amendment read.

Mr. FLYNT. I am not suggesting that the amendment be read, but I was going to ask a question so that the members of the committee will know what the amendments are.

Mr. STAGGERS. I am going to explain them; they are very short. I have already talked about them.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. MOULDER. Mr. Chairman, I ask unanimous consent that the gentleman from West Virginia [Mr. STAGGERS] be recognized for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. MASON. Mr. Chairman, I object to any extensions.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, before I explain the amendments, I would like to say this. This bill is identical with a bill which will be considered this afternoon, I understand, in the other body, and probably will pass. It came out of the Senate committee by a vote of 14 to 0. It is the same bill which passed the Senate last year with a vote of 80 to 2, and if brought to this floor would have passed, I am sure.

Before going into an explanation of the amendments, I would like to say, as I said when I started my talk, that I have voted for every bill that was intended to be helpful to the railroads. The time now has come to help the railroad employees. I voted for the Transportation Act of 1958. It came out of my committee. I worked for it and helped to get it through. It helped the railroads of the country. Money was made available to help the railroads of the country.

Last year I was one of those who voted to repeal the excise tax on freight rates. This helped the railroads.

Mr. BYRNES of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. No; I want to explain my amendments. I will not have enough time to yield unless the gentleman withdraws his objection to my getting extra time.

Mr. BYRNES of Wisconsin. Will the gentleman yield just for a correction?

Mr. STAGGERS. No.

The first amendment would be that the 10-percent increase in the retirement annuity is not made retroactive; that is, the increase applies only to annuities that accrue after the month of enactment of this act. The increase will not take effect until the month following the enactment of this act.

With relation to the retirement tax, the increases in tax will not take place until the month after the enactment of the act. The question of effective date of the tax has been one of the points of opposition to the substitute bill. We are eliminating that.

The increase in the lump-sum payments is made only with regard to deaths occurring after the month of passage of this bill.

The chairman, in his last appeal, said he did not want the unemployment fund to be destroyed. We are increasing the maximum rate of contributions into the fund by the amount that the actuaries suggested before our committee would make the system sound. That is to 3.75 percent. We are putting the maximum rate at 3.75 percent, one-quarter of 1 percent more than H.R. 5610.

Also, we are giving power to the Retirement Board in this emergency period in which we have had so much unemployment to borrow from the retirement fund for the unemployment and sickness payments. It will be with interest being charged; there will be no controversy on that.

Those are the five perfecting amendments which makes this substitute bill the same as the bill the Senate is considering, which passed out of the committee by a vote of 14 to 0. I am sure it will pass the Senate this afternoon or tomorrow. It passed the Senate last year.

There has been some talk about these extended unemployment benefits. I should like to read for the benefit of the House the Washington agreements which were entered into by the railroads and the unions in 1936, under which men thrown out of work because of mergers or coordination of railroad facilities would be given coordination allowance, that is, unemployment compensation. The younger men, who had been employed for a period of 1 year, would be given a special allowance, with the allowances and periods covered increased by steps, depending on the amount of service. Men with as much as 20 years' service for instance, would be given regular coordination allowances—unemployment pay—for as much as 5 years. All this was accomplished by mutual agreement between the railroad and the employees. We are asking here only to extend unemployment payments for 13 weeks for those older men that have worked between 10 and 15 years, and to extend them for 26 weeks for men with 15 years' service or more. Older men in the railroad industry have a hard time getting jobs elsewhere because of the lack of need for their special experience. The ranking Republican member of the committee last year, Mr. Wolverton, was for those amendments and worked for them, and an agreement was made at that time for extended benefit provisions such as the substitute bill contains.

I believe this bill is fair to the working people of the Nation, I believe it is fair to the railroads, and I believe it is only keeping an agreement which the Congress made 20 years ago, keeping faith with the working railroadmen of America. If we do not pass this bill, we are taking away some benefits we gave

20 years ago. I see some of the Members are shaking their heads as if they do not believe that.

Mr. YOUNGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have here a very typical example of what happens when you try to write a technical bill on the floor. I know the gentleman from West Virginia did not intend to say it but he did say that the tax which was cut from 20 to 10 percent gave a rebate to the railroads. He knows that that was no rebate to the railroads just as well as the rest of us know it. All that happens is that the railroads will not collect as much taxes for the Government as they did before.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. YOUNGER. No; I cannot yield.

It would seem to me that the fair and the wise thing to do in the case of legislation of this kind of a technical nature is to go to conference. You have the bill from the other body which is similar to H.R. 1012. Take H.R. 5610 and let our conference committee sit down with the members of the conference committee of the other body and in a deliberate and sane way try to write a technical bill. But, if you are going to try to write this bill on the floor of the House with some new amendments, which you may or may not understand, we are going to make mistakes and you are going to conference with a bill that the majority of the committee does not want to go to conference with. I would say that if you were to do anything with the bill, the best thing to do would be to send it back to the committee and let them work it over again rather than to try to eliminate items here which the committee has, after their deliberations, agreed upon and which they can take to the conference table and work out with H.R. 1012, which is a bill, as I understand it, which the other body has and will in all probability pass. To me, that seems to be the sane and intelligent way to approach this problem. Again I appeal to you that the committee has worked over these various amendments. We have a bill here which a great majority—two to one—agreed on in the committee. They heard all of the testimony for several weeks. Now let us go to conference with that bill so that we can have a proper adjustment with the ideas that the committee has. Then, if something needs to be worked out along the line of H.R. 1012, I have confidence enough in our chairman that we will see to it that those ideas are worked out in conference and worked out intelligently with the advice of counsel, which cannot be done by adopting amendments on the floor of the House in a technical bill of this kind. You have here a tax bill. Had this bill come out of the Committee on Ways and Means, you would not have been able to amend it and, yet, you have a tax bill which is just as technical as a tax bill that comes out of the Committee on Ways and Means. I think we ought to go to conference and I do not think we ought to attempt to write a bill of this nature here on the floor of the House.

Mr. WILLIAMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I understand it, the substitute which has been offered for the committee bill is essentially H.R. 1012, as it was originally introduced.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield.

Mr. HARRIS. I would like to point out that the gentleman, the author of the substitute, has just announced to the House that the substitute that he has offered is virtually the bill that has been reported by the committee of the other body which is different from H.R. 1012 in five instances.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield.

Mr. STAGGERS. There has been a great deal of talk of differences. Four of the amendments that I offered are in the bill H.R. 5610. There is no doubt about that. The gentleman from California made quite a to-do about a lot of amendments that are different. They are in H.R. 5610. The reason we have this is because there have been a lot of objections, and we put them in to make it a better bill. We think we have a far better bill.

Mr. WILLIAMS. May I ask the gentleman this question, and this is the point I am getting at—how much more would the gentleman's bill cost as compared to H.R. 5610?

Mr. STAGGERS. There have been different estimates on that. I do not believe anybody can definitely say. According to my figuring, I say it would be \$13 million or \$13 million and some odd for the extended benefits and \$400,000 for the sickness benefits.

Mr. WILLIAMS. On what does the gentleman base that estimate?

Mr. HARRIS. Mr. Chairman, if the gentleman would yield, I think we had better understand what we are doing here. The gentleman said what it would cost and just now he has presented me with a recapitulation sheet, and according to that it would increase the amount of the payroll tax which the railroad industry would pay from 3.5 percent to 3.75 percent and, therefore, it is one-fourth of 1 percent of the payroll tax of the railroad industry.

Mr. STAGGERS. I am talking about known factors. I am trying to make it actuarially sound, one-fourth of 1 percent.

Mr. WILLIAMS. H.R. 1012 would be offered, I was told, as a substitute for the committee bill. I am certain that those who have given consideration to the possibility of supporting H.R. 1012 will be surprised to find that they will not have an opportunity to choose one of the two alternatives we have been told would be presented to us.

Mr. AVERY. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield.

Mr. AVERY. If the bill of the gentleman from West Virginia is fundamentally the same as H.R. 1012, then there would be about \$50 million difference in the cost.

Mr. WILLIAMS. Going on that assumption, it would appear to me to be

an unwise thing to tax the railroads an additional \$45 million at a time when they are finding it necessary, because of their present economic situation, to abandon stations and services all over the United States and to lay off employees to keep themselves operating. It just seems to me that to increase this tax all out of proportion to the committee bill would certainly be detrimental to the public interest.

Now when the committee began to hold hearings on H.R. 1012 it soon became apparent that the tax provided in that bill would not be sufficient to defray the expenses of the additional outlay provided in the bill, particularly with respect to the unemployment insurance feature. The committee readily accepted the provisions of the retirement sections of the bill, and very properly so, but when we reached the unemployment compensation section we found that we were faced with several alternatives, if we were to apply any degree of fiscal responsibility, and be completely fair with the railroad employees by keeping the insurance fund solvent.

We found it would be necessary to increase the tax above that provided in H.R. 1012, if we were to grant the extra benefits, and preserve the integrity of the fund.

In lieu of increasing the tax so as to provide the necessary additional revenues, of course, the committee might have reduced the schedule of increased benefit payments to bring them into conformity with the anticipated revenues. Another alternative would have been to disregard our legislative responsibilities, follow the easy road and enact the bill as originally proposed and permit the fund to be depleted.

Instead, the majority of the committee felt that it would be much better, and fairer to the employees and the program to eliminate, instead, some of the abuses that had been written into the unemployment insurance program over the years, and to use these savings to ensure the soundness of the fund.

Now, we have heard a lot of arguments to the effect that the committee bill takes away many of the hard won rights of the employees, and that seems to be the chief issue between the two bills.

Both bills provide for the same increases in retirement benefits; both bills provide for the same increases in unemployment payment rates.

Just what are these things that H.R. 1012 confers and the committee bill denies? It has already been explained that the committee bill, rather than reducing the level of payments in the sickness and unemployment categories, actually provides the same percentage increases as are provided in H.R. 1012. However, the committee bill does amend the unemployment law by rendering ineligible for benefits those who voluntarily walk off the job, and those who are discharged because of their own personal misconduct.

If I understand the philosophy of our unemployment compensation program, its purpose is to provide a measure of assistance for those employees whose employment is terminated through no

fault of their own, and under circumstances over which the individual has no control. Here, it should be remembered that the employee contributes not a dime to his unemployment benefits, and these benefits are, in this sense, at least, a gratuity paid exclusively by his employers.

As a matter of simple justice to the railroads, as well as those who become unemployed through layoffs and for other reasons over which they have no control, it appears to me to be proper that the employee be expected to exercise some responsibility over his own welfare. Have we reached the point in this country where a person's employer must be held accountable to his employee for the employee's decisions with respect to his own welfare? Surely, when an employee is caught stealing from his employer and is discharged as a result, there is no moral obligation on his employer to pay him a bonus in unemployment compensation as a reward for his own misconduct. Yet that is one of the so-called rights that supporters of the Staggers substitute bill hope to restore.

Mr. Chairman, when a person separates himself from his employment by his own choice and through his own volition, it must be assumed that he knows what he is doing. Is it unfair to expect him to do so at his own peril? Or must we hold his employer responsible for it, and penalize his employer for it? Here, again, is one of the rights that supporters of H.R. 1012 hope to restore.

The committee has considered this legislation very thoroughly and meticulously, and has worked its will on this legislation. It has not acceded to pressures from outside, but has worked diligently and with a serious sense of responsibility toward the end that a fair, equitable, sensible, and reasonable bill could be passed, which would provide very necessary increases in retirement and unemployment benefits to the railroad workers of America. It has kept in mind the fiscal soundness of both funds, and has written legislation designed to grant these necessary increases in benefits and, at the same time, to preserve the integrity of the respective funds. It has discharged its legislative responsibility, and should the House decide to act otherwise, the committee cannot be held accountable for what might ensue.

Mr. Chairman, I hope the House will act with wisdom and responsibility, and not yield to the pressures of high powered lobbying tactics, intended to obscure the true issues involved here. In the interest of nearly a million railroad employees—many of whom may become unemployed during the next few years—I hope the House and the Congress will act to keep the fund sound and solvent by adopting the committee bill and rejecting the substitute.

The CHAIRMAN. The time of the gentleman from Mississippi [Mr. WILLIAMS] has expired.

Mr. WILLIAMS of Mississippi. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection?

Mr. MASON. Mr. Chairman, I must object.

Mr. MOSS. Mr. Chairman, I rise in support of the amendment.

I said during the general debate, Mr. Chairman, that this is one of those complex bills where few men will agree on any of the claimed facts in connection with it. I think the debate as it goes along will support that contention.

I would like to deal with the statement made by the distinguished gentleman from Mississippi [Mr. WILLIAMS] that if we adopt the substitute we are going to bring about widespread layoffs. That is not so. The people who run the railroads are good managers. They will employ every man they need to do the job, and not one more. If they do less than that they would not be discharging their duties to their stockholders. So let us not say it will result in less jobs. It will not stop the passenger trains running across the country. The Congress gave the Interstate Commerce Commission jurisdiction last year. Nevertheless, these trends will continue. There is nothing in this resolution which will accelerate it.

Now, as to what it costs: This is one of those areas of controversy. It costs whatever the immediate statistician or actuary comes up with as a figure; that is what it costs. It actually costs one quarter of 1 percent more on the total payroll of the employer under H.R. 1012 as amended.

In reference to the remarks of my colleague from California [Mr. YOUNGER] I submit that every man is subject to some responsibility. The responsibility of legislating is enjoyed by the few who may be privileged to sit as Members of the Congress. I do not think it is proper to say this is a difficult subject and therefore being too complex for my understanding I am going to delegate my responsibility to a conference. Let us face up to it, we still have to ratify the action of a conference although it is a little more difficult to isolate the discussion, but it is still our responsibility.

If the test of sound hearing is approval here I would point out that after the complete committee concluded its hearings it made substantive changes, far-reaching changes, in this legislation without granting any public hearings to those who would be most affected. It did not give any opportunity for hearing to the employees who are going to be permanently barred from rights they have long regarded as part of their legitimate entitlement in their overall contract with their employer. We did not give them hearings.

Also, I point out one instance where the committee acted without sufficient facts to make a sound judgment. I read you one example of that action where we adopted an amendment and had to come back and rescind our action because we referred to a code of rules which was nonexistent. We went on the assumption that there was a uniform code governing the question of disqualification for cause and we were amazed to discover that there were not such rules at all.

We are dealing with variables here; it is a cumbersome piece of legislation we are trying to replace with one which

was the only compromise we could arrive at. The chairman of the committee introduced H.R. 1012 as a result of a compromise, a good bill.

There were two statements a few moments ago, and I would like the chairman to listen very carefully. This bill will not cause the fund to be any more insolvent than it is at the present time.

Both H.R. 5610 and the substitute authorize the unemployment fund to borrow from the retirement fund, and authorize its repayment with interest. That in all probability is just what is going to occur and is going to be necessary regardless of what we do today.

Sure, it is going to cost more. I am not here to tell you it will cost less. As the minority leader pointed out, this is something the people are going to have to pay, the users of the railroads. They pay every item of expense; they pay for the private pension funds for the officials of the railroads; they pay every benefit which the railroad has to underwrite. The only place the railroad can go for its revenues is to the public, just as the only place we can go for revenue is to the taxpayers.

Mr. AVERY. Mr. Chairman, I rise in opposition to the amendment.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield for a short statement?

Mr. AVERY. Reluctantly, I will yield for a 30-second statement.

Mr. STAGGERS. I thank the gentleman from Kansas.

On the question of the matter of cost, counsel for the committee computes that to make this fund actuarially sound it will cost \$14 million.

I also want to say that what we are trying to do is to keep faith with something we have done through the years.

Mr. AVERY. Mr. Chairman, I do not know that we have changed any votes during the debate here this afternoon, but I do think that many Members will know more about the Railroad Retirement Act than they have known for some time.

There are 4 particular points I want to address myself to in this debate today. The first point is that the Railroad Retirement System and Railroad Unemployment Compensation program are the most liberal of any in the industries in the United States. I might add, as an illustration of that fact, that the high pay for unemployment compensation under any of the States systems is \$6.13 a day, compared with \$8.15 under the present Railroad Unemployment Insurance schedule, which will go up to \$9.40 under 5610 that is before the Committee this afternoon. In addition, may I say that the highest rate of any State is in the State of New York where the rate of unemployment compensation is \$6.92 per day.

One of the items in this bill that I know had the sincere interest of the members of the committee signing the minority report was the section that gave preferential unemployment compensation benefits to senior employees of the railroad systems. I might add that I asked every witness who appeared before the committee if there was any

precedent in any industry whereby an employee that was temporarily furloughed would receive unemployment compensation based on the length of his employment, and not one witness could respond that there was any such precedent or any pattern for such in any of the industries that had unemployment compensation programs.

With respect to voluntary quits and discharges for cause, may I say that it was discussed in the committee as to what was fair and we agreed what was right could be patterned on what the employees have done for themselves, what the brotherhoods have done for themselves in writing seniority agreements with the railroads. We used in that connection a pattern established by the Brotherhoods governing seniority rights.

With respect to rules, the gentleman from California said there were no rules in existence, no pattern of agreements on appeals on decisions of the railroads for discharge. There are many rules created by agreements. I might say that these seniority rules are primarily established by the brotherhoods themselves and are not negotiated.

Under the rules in a matter of a voluntary quit, the railroad employee immediately loses all of his seniority. So, actually, we are treating him better under this bill for unemployment compensation, because when he quits all he has to do is to return to work for 20 days and his full unemployment compensation is restored to him. About the same thing applies when it involves a discharge for cause. That is about the same as any suspension. These rules that have been drawn up, largely by the Brotherhoods, provide that if an employee is suspended for cause and if his suspension is not upheld by the Railroad Retirement Board, the railroad company, his employer, must compensate him for full pay while he was under suspension. Unless suspension is rescinded within a stated time, he loses his seniority.

Mr. MACDONALD. Mr. Chairman, will the gentleman yield?

Mr. AVERY. I yield to the gentleman from Massachusetts.

Mr. MACDONALD. Are the rules governing the employment of people prescribed by the railroads?

Mr. AVERY. It is my understanding that as far as seniority is concerned that is pretty much a matter for the Brotherhoods.

Mr. MACDONALD. Do the railroad companies have any say in that matter?

Mr. AVERY. As far as the claims of an individual employee, based on seniority, they have only a responsibility to abide by the rules to which they agree.

Mr. MACDONALD. I know that the gentleman is waiving what he says are rules or regulations. Are those agreements not collectively arrived at between the unions and the railroads?

Mr. AVERY. After they are agreements they become rules.

Mr. MACDONALD. Is it not a fact that the railroads have something to say as to what is to be done?

Mr. AVERY. They have on certain matters, but as far as seniority is concerned, that is left to the Brotherhoods

as to how they would prefer to establish relative seniority.

In almost any legislation that comes on the floor of the House there are three legislative positions. There are usually two economic groups with opposing viewpoints and then there is a much broader viewpoint that is frequently overlooked and that is the public viewpoint. It was in support of the public viewpoint that the committee wrote certain provisions into H.R. 5610 that is before the House today. Although no opposition to 5610 was recorded on final passage in the committee, we are presented today with some adamant opposition to the measure.

In my legislative experience, it has been my observation that except in extreme cases no one gets everything they want. And further, it is only natural for any economic group to ask for more than they expect to finally receive. This legislation is an example of a legislative compromise that is the normal result of a democratic procedure.

The basic objective of the committee bill is to reasonably improve the economic security for the bona fide and regular railroad employee and to eliminate fringe benefits that had been available to the casual, part-time, and itinerant railroad worker.

What about this compromise?

There are 17 changes to the basic act, the Railroad Retirement Act of 1937. The railroad industry was basically opposed to 16 of the 17 amendments. The industry did agree that the imbalance in railroad retirement fund created by the 10-percent increase in annuities granted by the 84th Congress should be corrected. The retirement fund is presently out of balance by \$213 million annually. By contrast, the Railroad Brotherhoods proposed that the 17 changes contained in 1012 to improve the economic status of the railroad worker should be endorsed by the committee without amendment and almost without question. The committee went along with the recommendation of the Brotherhoods on the provisions they had placed in top priority, that of a straight 10-percent increase in annuities to retired railroad employees and an increase up to 20 percent in unemployment compensation and 10 other changes. There is disagreement on four provisions. If members of the committee will reflect on their mail they have received over the past 2 years, those are the items mentioned, particularly the item of increased annuities.

To my knowledge there is no opposition to part I of the bill which provides the needed increase in annuities that are estimated to increase the benefit cost of the retirement program by \$147 million per year to the 364,000 annuitants, 133,000 spouses, 1,200 pensioners, 244,700 survivor beneficiaries. There is an immediate increase of the retirement tax of one-half of 1 percent to 6¼ percent on both employer and employee and then to 7¼ percent in 1962, and would increase by the same percentage points as social security after that date.

On part II of the bill, there are several points in controversy. Let me re-

mind the Members that here again the item of top priority by the brotherhoods is included in the committee bill, that of raising the rate of unemployment compensation from 12½ percent in the lower brackets to 20 percent in the higher brackets. This increases cost to railroads for unemployment insurance by \$25½ million. There is no opposition of record to this section although some members of the committee wonder if the low-pay bracket employee should not have received the larger percent of increase and the high-bracket employee the smaller percent if we are going to apply the rule of need in establishing entitlement rates for unemployment. In this respect, however, we accepted the formula of the Brotherhoods.

There are five principal provisions of disagreement in the bill.

Probably the strongest objection among the members signing the minority report is based on the committee's decision to eliminate a rather complex formula contained in the original bill to provide additional unemployment benefits for employees based upon years of service. In addition to the 130 days of unemployment compensation allowable under present law, 1012 had proposed an additional permanent benefit extension of 13 weeks to employees with over 10 years of service and then still an additional 13 weeks to the employee with over 15 years of service. The objective of this provision is meritorious but there was no evidence presented to the committee to support such a proposal, either by precedent in the railroad industry or by comparison with other industries. Such a provision would cost the Railroad Unemployment Compensation Fund an additional \$13½ million per year in addition to the \$175¼ million for unemployment benefits.

Railroad unemployment benefits are now higher than in any other industry and we are raising them in this bill, the committee bill, by 20 percent. We felt that was as far as we could go in increasing benefits to unemployed railroad workers. In September 1958, the average daily unemployment benefit under State law was \$6.13 a day compared to \$8.15 average daily benefit to railroad workers. Under this bill the average rate will be \$9.40 for unemployment daily benefit. The highest paid by any of the States was \$6.92, paid by the State of New York.

There was no evidence presented to the Committee that there was any precedent in any industry preferential treatment among employees for unemployment benefits.

To balance this program with other unemployment insurance programs, the committee did add the 13 weeks temporary benefits to treat railroad employees the same as other employees were treated by the Congress in 1958. These benefits will apply retroactively and will cost the railroad approximately \$20 million paid to approximately 60,000 employees.

Another provision in controversy is the elimination of unemployment benefits for voluntary quits, discharge for

cause, failure to accept suitable work, or failure to report for work. It is estimated that 20,000 beneficiaries would have received \$10 million less in benefits if this provision had been in effect. Present law provides an employee would be suspended for 30 days and would then be eligible for unemployment compensation.

It was the belief of the committee that employees out of work for those reasons should not be eligible for unemployment compensation. In adopting that provision it is in keeping with provisions in labor agreements between the railroads and the various brotherhoods. These are the agreements largely written by the brotherhoods themselves, especially the provision governing seniority. These agreements generally provide that a worker voluntarily leaving the employment of the railroad forfeits his seniority rights. That is in effect what we are saying in this bill. The agreements further provide that if an employee is suspended, his seniority shall be restored if he is reinstated in 1 year's time. We are saying if he comes back to work for 20 days, his unemployment benefits shall be restored even if he was discharged for cause or voluntarily left the employ of the railroad.

The third difference is disqualification for sickness benefits. The committee felt some limitation should be placed on this provision since it is possible under present law for a casual employee of the railroad to be employed in another industry for a year and still draw sickness benefits from his previous employment by the railroad. Since the railroad bears all the cost of this program, a reasonable limitation seemed in order. The average cost of a sickness benefit under this bill is \$9.74 per day. The committee bill provides that employee must have been employed within the last 90 days to be eligible. Under present law, for example, a college student may work for a railroad for summer employment and receive free medical care up to the amount of his earnings 1½ years later.

The employee would also be disqualified for sickness benefits if he leaves railroad employment voluntarily, fails without good cause to accept suitable employment, or fails to report to employment office. His sickness benefits may be re-established after he has returned to work for the railroad for a period of 20 days, the same as unemployment insurance.

Sickness benefits are not denied an employee who is discharged for cause.

A further difference is in maternity benefits. Maternity benefits as such are eliminated from the bill, but sickness benefits are still payable to a pregnant female if she is sick and otherwise available for work. Despite elimination of maternity benefits, the cost of sickness benefits in the committee bill is increased over present law by \$3¼ million.

The remaining difference in controversy in the two bills is the waiting period for sickness benefits.

H.R. 5610 provides that the number of compensable days of sickness benefits for which benefits may be paid in the first

registration period—consisting of 14 consecutive days—in a benefit year shall be 5 days. With respect to subsequent registration periods, the number of compensable days for sickness for which benefits would be payable would be 10 days but this payment would be conditioned upon the claimant having no less than 7 days of sickness or unemployment, or both, either in such subsequent registration period or in the 14 days immediately preceding such subsequent registration period.

H.R. 1012 makes no change in existing law with respect to the number of compensable days of sickness for which benefits may be paid. These are 7 days in the first 14-day registration period in a benefit year and 10 days in all subsequent registration periods.

It was the feeling of the committee that the employee should bear the cost of the first week of sickness.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. MOULDER. Mr. Chairman, I rise in support of the substitute.

Mr. BROWN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MOULDER. I yield to the gentleman from Missouri.

Mr. BROWN of Missouri. Is the substitute presented by the gentleman from West Virginia essentially the compromise bill that this committee hammered out during the closing days of the last session?

Mr. MOULDER. That is correct.

Mr. BROWN of Missouri. At the close of the last session was not the railroad industry experiencing the 1958 recession?

Mr. MOULDER. That is true, in my opinion.

Mr. BROWN of Missouri. If the railroad industry could afford this compromise measure at that time, does the gentleman feel that the financial condition of the industry today makes it more able to afford it now?

Mr. MOULDER. I think the financial reports show they are far more able today than they were at that time.

Mr. BROWN of Missouri. Is this substitute not essentially the original Harris bill, introduced at this session of the Congress?

Mr. MOULDER. It is, yes.

Mr. BROWN of Missouri. I thank the gentleman.

Mr. MOULDER. Mr. Chairman, I rise in support of H.R. 1012. As stated by my distinguished colleague the gentleman from Missouri [Mr. Brown], this is the original Harris bill. I want to pay tribute to our distinguished chairman for his outstanding ability in the presentation of this bill during the hearings before our committee. At all times throughout the hearings before the committee he vigorously opposed all of the changes that are now included in H.R. 5610. He gave support to his own bill and loyally and effectively opposed many amendments that were proposed. I am in favor of the substitute bill for many reasons. First, because I am aware of the fact railroad unemployment is still at the most severe level in history, although railroad business and profits have rebounded from the recession even faster

than most other industries and are now approaching a new all-time peak. In such a situation, it seems to me clear that justice requires that Congress act to aid the hundreds of thousands of railroad workers and their families who are now suffering untold demoralization, hunger, and poverty as the result of technological advances which have enabled the railroad industry to maintain a high level of profits even during the severe 1957-58 recession we have just weathered.

I do not believe that any Member of this Congress would deliberately put corporation profits before aid to the Nation's railroad workers. Yet last year, when the railroads came to us and said that they were on the verge of bankruptcy, Congress responded by voting immediate aid, amounting to hundreds of millions of dollars in annual benefits. At the same time, railroad workers, who came to us and asked for legislation to aid their needy retired and unemployed brothers, did not have their request passed by this body. What we have before us today, therefore, is legislation to complete a two-step program which all of us envisioned when we voted aid for the railroads themselves. We must act today to help the workers of the industry which we helped so well last year.

I say that we helped the railroads very well when we enacted the Transportation Act of 1958, as is clearly shown by their earnings records since that time. The aid which we gave the railroads last year is continuing, and it will provide them material benefits in the years to come. In the last 4 months of 1958, the railroads of this country reported earnings at the rate of more than \$1 billion a year in net railway operating income, which I remind you represents the operating profits after taxes.

Meanwhile, in the first 4 months of 1959, railroad profits have continued to rise and are rising today. Now, this is not a line of argument as to the merits of the legislation, but it does clearly show that the hue and cry that the railroads are on the verge of bankruptcy and cannot continue to participate in this program of aid to their workers who created these profits is not a sound argument.

Recently the Wall Street Journal conducted a survey of how the big corporations of this Nation were recovering from the slump. It showed that railroad profits had rebounded faster than those of other industries. Profits of major firms in other industries in the last quarter of 1958 were found to run about 2 percent above those of a year earlier, but class I railroads reported their profits had increased by 23 percent.

Clearly, the railroads no longer are in need of emergency help. In saying that, I do not mean to rule out further aid to restore their competitive position with other forms of transport, should the need for such legislation be demonstrated, but I want only to stress that the railroads today are not in the relatively poor financial position they were in when H.R. 1012 was first drafted. Their condition at that time unquestionably was taken into account and H.R.

1012 represents a compromise that included severe cutbacks in the original proposals based upon the economic condition of the railroads when the bill was being prepared.

Even in those days, let me point out, neither committee of the Congress which considered this legislation in both the House and the Senate regarded any of the retrogressive amendments proposed by H.R. 5610 as either necessary or desirable. Yet today, when railroad earnings are running at a higher level than in most of the post-war years, H.R. 5610 proposes to take away from railroad workers—who, I remind you, have not benefited by the railroads' economic recovery but are still suffering from record highs in unemployment—benefits they have earned and received for as long as 20 years under the present act.

The railroads can well afford the modest increase in benefits which H.R. 1012 proposes—and proposes, incidentally, at the identical tax rate contained in H.R. 5610—without the need for chopping away piecemeal at the existing benefits through the imposition of new restrictions and limitations proposed by the committee bill.

Other speakers have already told you of the statistics of railroad unemployment and the hardships they represent for workers in an industry which today is prosperous, with favorable prospects of continued prosperity for many years to come. Fortunately, today, the earnings picture of the railroads is such that we no longer are confronted with the need to make a choice between profits and human need. The railroads clearly will have their profits, at near-record or new record levels, even after the enactment of H.R. 1012. What confronts us now, therefore, is a choice between fair, progressive aid to unemployed railroad workers, as provided by H.R. 1012, or backward-moving and retrogressive cutbacks in benefits to those workers in their time of greatest need. That is why I am opposed to most of the provisions of H.R. 5610 and urge the substitution and adoption of H.R. 1012 which was approved by the committee last year and which was approved by the Senate by an overwhelming vote and, I understand, will be approved by the Senate today.

Mr. HALLECK. Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, I served on the Committee on Interstate and Foreign Commerce for a long time. When I became majority leader in the 80th Congress I was second on the committee and gave up my position on it at that time. I think it is one of the greatest committees in the House. I have never seen partisanship divide that committee. I am sure it is not dividing it now and by my speech here I would not want anyone to assume that I was injecting any partisanship into this discussion.

Reference has been made to some of the actions of the committee in executive session. I have sat for days and days and days in executive sessions of that committee when there have been hammered out the provisions of these

complicated measures, and I have always felt that when that great committee reached a conclusion, particularly by a vote of 2 to 1, the House of Representatives could well follow its direction.

Having said that about my service on the committee, let me go on to a few other matters. Something was said here about the recession of last year and the bill that was alleged to have been worked out at that time. I would just like to remind the Members that if the additional charges proposed by that bill had been put upon the railroads at that time, many of them here in the East would have been going into receivership, and you could have triggered one of the greatest depressions this country ever saw. That is the reason the bill was not acted on. That is the reason we moved to provide some relief for the railroads.

I happen to believe that we need the railroads. But I must say to you that when I discover that the Monon Railroad, that runs from Chicago to Indianapolis, which, when I was a boy, had passenger train after passenger train moving every day, now has abandoned them all; when I see the two other roads running from Chicago to Indianapolis petitioning for the abandonment of their trains, I say to you the railroads are in trouble.

The committee has hammered out a bill that everyone admits will add additional costs to the railroads in the sum of over \$100 million a year. According to the people on the committee who ought to know say, the substitute bill will add something like \$45 or \$50 million additional. Why is it not fair to go along with the committee with the benefits that are provided in the committee bill? The matter is always within the bosom of the Congress. Any time anything further needs to be done, it can be done. But I must say that once you reach a fair position then that ought to be enough.

A couple of years ago a responsible transportation official predicted confidently that in 10 years there would not be a single passenger train left in the country except commuter trains. I could not believe it. But the happenings of the last 2 years have made me wonder if that might not become true.

Last summer we moved to help the railroads. May I say to you that there are great railroads right here in the East who were confronted with a very difficult situation at that time.

You talk about technological advancement in the railroad industry. The abandonment of these trains is not merely a matter of technological advancement. It is largely a matter of competition that is putting them out of business, competition from other types of transportation.

So if the Congress in its wisdom sees fit to make some provisions that will enable the railroads to improve their position, why do that with your right hand and then turn around and with your left hand take all of the benefits away?

Now, Mr. Chairman, let me say further that in my service on the Commit-

tee on Interstate and Foreign Commerce and here in the House of Representatives I have voted time after time after time for legislation of benefit to the railway employees.

I know the men and women who work on the railroads in my district. Let no one say I am not solicitous for their welfare, because I am, and I have proved that year after year by my record. But I say to you that in this matter, even as in many other matters involving the very vital economy of the country, we ought to stop, look, and listen before we go too far. In my opinion, the committee bill goes far enough at this time and ought to be adopted by this committee and by the House of Representatives.

Mr. HEMPHILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. HARRIS. Mr. Chairman, if the gentleman from South Carolina will yield, I should like to get some indication about how much time may be necessary on this substitute amendment.

Mr. Chairman, I ask unanimous consent that all debate on this substitute amendment conclude at 5:15.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HEMPHILL. Mr. Chairman, the reason I rise today is that, like so many Members here, especially those of us who have not previously been on the committee, this year was my first time to have any acquaintance with the railroad retirement law. I know that is true of many of the new Members of Congress, who have been besieged in recent weeks by certain propaganda.

Mr. Chairman, I did not know anything about railroad retirement until this committee began to have hearings. After we had the hearings, this committee very carefully went into the railroad retirement law, because in 1956 there had been an obligation to fund it up, and there were certain improvements which we felt were necessary. But lo and behold, after we had come out with a railroad retirement bill with all the good features in it we were propagandized by not only railway labor but railway management saying the Retirement Act was slaughtering them.

Who has been slaughtered, and who has been kicking about it? Stand up and be counted. By refusing a retroactive feature which would cause a tax situation unfair and which could not be administered, who has been slaughtered? Then by putting on a necessary tax so that the funds can be balanced, who has been slaughtered? No, the only possibility of slaughter is for you to vote for this amendment instead of for the work of the committee.

Let me tell you why. We seek to remove, because we think it will make unround the unemployment compensation features and cost the railroads more than they can financially stand, the 52-week permanent extended benefits. Who has been slaughtered when those who expect to get the benefits are protected by the work of this committee, realizing that the railroads cannot stand the rate unless the public expects to pay more for

the freight? Are you going to sacrifice the public—are you going to stand up to your obligations here in the Congress?

Then we put a provision in that a man who says, "I won't work, I voluntarily quit," shall be like every other American worker. Every other American worker that voluntarily quits has to suffer some penalty, and well he might, because in the employment relation when a man just gets up and says, "I won't work and I don't want to," how in the world are we going to justify giving him any money? There are today millions of Americans paying taxes to support a program where men voluntarily quit, many with neither intention nor desire to go back to work. They are working—he owes them some obligation.

The Good Book says that a man must work for his bread. Heaven knows, in America today we do not need to encourage idleness. We went one step further. We said, "If you are guilty of misconduct—if you are drunk, if you violate the rules, if you do something to a passenger or to somebody else, you cannot draw your money." Do we not owe some obligation to the American people? Do we not owe some obligation to say that if a man is drunk on public transportation, he has to suffer some penalty? Heaven knows, I would hate for some of my family to be exposed to somebody who is drunk on any form of public transportation—railroads, airplanes, bus, or any other type.

If the employee is guilty of violating the rules, which have to do with the safety factor, which we expect in our transportation, is there anything wrong with saying, "If you cannot live by the rules, there must be something that you can expect?"

No, my friends, what you are being asked to do today is not even to vote for H.R. 1012 that they propagandized you about. You are being asked to vote for a substitute and you do not even know what is in it because the gentleman who proposed it a few moments ago, the distinguished and wonderful gentleman from West Virginia, himself, did not have time to explain it and it has not been explained. And, yet, you do not even know what you are voting for.

The able gentleman from West Virginia is to be complimented not only on his knowledge of this legislation, and his sincere preparation and knowledge of the substitute, but on a magnificent example of leadership. He—Mr. STAGGERS—is a skillful advocate of his cause, and his heart is in it.

I want to compliment my chairman, the great and lovable gentleman from Arkansas [Mr. HARRIS] for the great labor and effort he has put into getting a good bill. The American people are fortunate in having him head this great committee. He is the fairest man in or out of committee, for he gives head and time to the opposition at all times.

For some reason very few people contacted me on this legislation. Some retirees came and asked only that I vote the retirement. This I am doing. Some few workers asked that the cost to them be considered, and it was. Nobody has

said they were unwilling to have the inequities of the unemployment compensation adjusted. I just want to be sure the railroad employees are protected, and they are better protected by H.R. 5610.

Now remember, we are not voting on H.R. 1012, as the substitute is not H.R. 1012. Will you vote in the dark?

The railroad industry is a great industry. Already it is suffering from too much unemployment. Last year we had to bail them out of one hole. If they cannot afford the 52 weeks, who will bail them out, who will insure employees the compensation they will expect if we pass the substitute? Three hundred and eight thousand drew unemployment compensation in 1958. Multiply that by 52 weeks and then by an average of \$30 per week. See page 121 of the hearings to verify that figure.

H.R. 5610 is good for everybody. It is good for employees, labor and management. It is best for the American people—that is why I am for it.

I urge the defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa [Mr. COAD].

Mr. COAD. Mr. Chairman, I regret taking even the 3½ minutes that have been allotted to each Member at this time. The hour is late and I know we have a great deal to do. But, I would like to answer or at least try to reply to the gentleman from Indiana [Mr. HALLECK] who came to the well of the House a few moments ago and was pleading generously on behalf of the American railroads because of the fact that they were taking so many trains off of the railroads, and he was speaking in particular about passenger trains. I would like to relate what has happened to my entire psychology and thinking in regard to the American railway system. I have a very soft spot in my heart for the American railway system—first of all, because of the need of it for our national defense; and second, for the benefit of our welfare. But, I would like to say this. In my hometown, we have the main line of one of the strongest, or at least in former years it was one of the strongest of all the railway systems in the United States. We used to have many passenger trains coming through there every day. But, the management of this line has taken off passenger train after passenger train—not because there was an actual decrease in the number of people who were riding the trains, but because it was a deliberate policy on the part of the management to do away with the passenger-train service. I personally pleaded with the president of this railway company to leave at least one train on this line a day that had a pullman car. But my plea was to no avail. I understand now even the mail car is going to be taken off. There is now only one, single passenger train a day on the tracks of the Chicago, North Western Railroad which extends from Chicago to Omaha. This train is a night train but it has no sleeping car. So after the pullman car was taken off, one night I rode all night in a passenger car from Boone, Iowa, to Chicago, Ill., and when

I arrived in Chicago I felt exactly as if I were destined for the livestock market as a result of the kind of service I received on that train.

I say it is this kind of thing that has taken away travel on American railroads. It is the determination of the management of these railways that they want to do away with passenger service.

Not long ago I was snowbound at Fort Dodge, Iowa. I knew because of the storm that the planes would not take off. The highways were blocked, and I have been so schooled in the idea that there is no passenger-train service that it was 9 o'clock that night before it dawned on me that there was still a railway that did have a pullman car on it so that I could get to Chicago. The Illinois Central Railway had a night train with a sleeper and I took it because I had to return to Washington without delay.

This kind of public attitude is detrimental to the American railway system but the railways have brought it on themselves. There are many people in this country who do not want to fly. They get sick when they fly. But what kind of service are the American railroads giving to this clientele? I say the American railroads can do much if they will improve their service.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, there has been some question as to the precise nature of the substitute offered by the gentleman from West Virginia [Mr. STAGGERS]. For the purpose of clearing up the record, I want to state categorically the provisions of the substitute offered by the gentleman from West Virginia are precisely the same as H.R. 1012. Anyone in this House who wishes to support H.R. 1012 may support the provisions of the substitute offered by the gentleman from West Virginia without any qualms whatsoever.

The two provisions are in all ways identical except for the following changes which I will mention to you. Each of the changes embodied in the proposal of Mr. STAGGERS are included in H.R. 5610, but each of those changes are in no way incompatible with the views of those who have joined in signing the minority report on this bill, urging substitution of H.R. 1012 for 5610.

The tax feature for payment into the unemployment compensation fund is raised from 3½ to 3¾ to conform with the actuarial needs of the fund, as recognized by the committee and as embodied in H.R. 5610.

Second, the Staggers substitute provides for the borrowing power for the unemployment compensation fund as included in H.R. 5610 to tide it over the anticipated rough spots which will occur during August and September of this year as a result of the railroads having taken a free ride on the unemployment compensation fund for 5 or 10 years.

Third, it will permit railroad employees to take advantage of the temporary unemployment compensation law changes which were just enacted by this

House and the Senate and signed by the President since the Easter holidays.

The last change embodied in the Staggers proposals is purely a technical change which will raise the figure for computing the base year from four to five hundred a year. Those are the only changes which are made. Aside from this, H.R. 1012 is offered to you to vote on at the time the vote will be cast on the Staggers substitute. The Staggers substitute is H.R. 1012, with the exception of those simple changes.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Michigan [Mr. BENNETT].

Mr. BENNETT of Michigan. Mr. Chairman, I yield to the gentleman from California [Mr. BALDWIN].

Mr. BALDWIN. Mr. Chairman, I rise in support of the substitute bill. In my opinion this substitute provides better protection of the rights and benefits of railroad employees and retired railroad employees. I therefore urge that the substitute bill be adopted.

I am glad that both the substitute and the committee bill provide for a 10 percent increase in railroad retirement benefits. This increase is urgently needed by the thousands of retired railroad employees throughout this country.

Mr. BENNETT of Michigan. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. WIDNALL].

Mr. WIDNALL. Mr. Chairman, I rise in support of H.R. 1012 and urge rejection of the amended form of this bill which was reported to the floor by a majority of the Interstate and Foreign Commerce Committee.

I regret that I must take this stand, because I respect the action of a committee of the House on the principle that its members have given the matter before it extensive study and have, therefore, based their recommendations on detailed knowledge of the provisions of a legislative measure. Therefore they usually are in a better position to judge the merits of what is proposed than most Members of the House. In the case of H.R. 5610—the railroad retirement and unemployment insurance amendments now before us—however, I do not believe that this situation applies.

In the first place, H.R. 1012 is not new legislation, in the customary sense, but rather it is a long-studied and much-overdue measure that in itself represents major revisions and cutbacks in the proposals originally brought before the Congress. Last year, the Senate passed a bill that was almost identical to H.R. 1012, and the record of debate shows that it did so with the clear understanding that the legislation, in this compromised form, which conformed to the wishes of the House committee, would be acceptable to that committee. All of us who served in the last Congress need to remember this fact, I think, because there was little room for doubt that if the bill in this compromised form had been put to a vote, it would have passed this body by an overwhelming margin.

H.R. 1012 as introduced this year is basically the same legislation. I can

see no reason why legislation that was acceptable last year should be any less acceptable now. Remember that in shaping this legislation into the form of H.R. 1012, the last Congress held even more extensive hearings than those held this year, since the original hearings were on the original and much broader proposals. No need for the changes proposed by H.R. 5610 was shown to exist at this earlier date, and, in my judgment, no need has been shown by the hearings held this year. Rather, developments since the original proposals were introduced seem to me to all point logically in the other direction.

When the bill we now know as H.R. 1012 took shape last year, the financial condition of the railroad industry was certainly more precarious than it is today. The railroads have recovered at least as fast as any other industry from the effects of the recession which prevailed when this legislation was first proposed. In the last 4 months of 1958, net railroad operating earnings averaged over \$1 billion a year—a rate better than they earned in most postwar years and close to their top earnings during this period. This pickup in business has carried over into 1959, so that today the railroads' net earnings are running well ahead of 1958. Part of their high earnings, let us not forget, have been made possible by the help which Congress gave to them by adopting the provisions of the Transportation Act of 1958 last year. I voted for that assistance to the railroads. The railroads clearly are in a much better shape financially to afford the provisions of H.R. 1012 than they were when this legislation was originally prepared.

On the other hand, although business has picked up on the railroads, unemployment among railroad workers remains excessively high and a serious national problem. Over 200,000 railroad workers were unemployed in January of this year, when total employment in the industry dropped to 810,000, the lowest point since the turn of the century. More than 40,000 of these unemployed railworkers had exhausted all railroad unemployment insurance benefits. Because of technological advances and the big increase in the productivity of railroad workers in recent months, the prospect is only for continued high unemployment of extensive duration and many exhaustions of benefits among railroad employees who become unemployed. The critical nature of this unemployment is dramatized by the fact that workers with 20 and even 30 years of service have lost their jobs. Such workers, possessing skills not readily transferred to other industries, are truly today's dispossessed, and unfortunately, they are victims of the great increase in output per man-hour which railroad workers are now contributing to their industry.

In such circumstances, it seems to me to be both inexcusable and socially unwise to kick the workers who have helped their industry the most in terms of man-hour output at the very time they are in need of help. H.R. 5610, by proposing new restrictions upon unemployment in-

surance which these workers have earned for as long as 13 to 20 years, does just that.

If there were no need for such restrictions last year, when the railroads were much worse off financially, there is certainly no need for them now. The railroads needed help last year, and Congress gave them that help. Railroad employees also needed help critically last year, but Congress postponed final action until now. In my judgment, this delay in acting to meet the needs of railroad workers was, in light of action to aid the industry, inexcusable and in itself an unfair penalty. To now add further to this injustice by weakening the unemployment insurance protections these workers have enjoyed since the beginning of the act, as H.R. 5610 would do, seems to me to be an unconscionable proposal. I therefore urge substitution of the original compromise measure, H.R. 1012, for the unfair and unjustifiable provisions contained in H.R. 5610.

Mr. BENNETT of Michigan. Mr. Chairman, I rise in support of the amendment. As I said earlier, it is a reasonable measure. It is one which was passed by a practically unanimous vote in the committee, after long consideration during the last session of Congress, with the exception of the present increased retirement part of the bill. Otherwise, the measure which was passed at that time without hardly a dissenting vote is before the committee at the present time in the form of this substitute.

The difference in overall cost between the substitute and the committee bill is not great. The major difference between the two bills lies in whether you wish to recognize seniority and grant additional permanent unemployment benefits to people who have worked faithfully for railroads 10 years or more.

I hope, Mr. Chairman, that the substitute will be adopted because, as I say, it is a perfectly reasonable and fair bill taken in its entirety. It does justice to the retired railroad workers of this country and their dependents.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. MACDONALD].

Mr. MACDONALD. Actually, Mr. Chairman, I asked for this time to direct a question to the gentleman from Indiana [Mr. HALLECK], who spoke of there being no politics in this matter. I see the gentleman from Illinois [Mr. ARENDS], who represents the Republican policy committee, at this moment leaving. May I direct a question to the gentleman from Illinois [Mr. ARENDS]? Does the gentleman support the position of his leader who states that there is no politics involved in Republican support of this bill?

Mr. ARENDS. Will the gentleman repeat his question?

Mr. MACDONALD. I shall be happy to. I ask if you support the gentleman from Indiana in his statement which he made here in the well of the House that there is no political implication, there are no political overtones, to either the defeat or passage of this bill?

Mr. ARENDS. I did not hear the gentleman from Indiana make the state-

ment, but I would support him in that statement if he made it.

Mr. MACDONALD. Then may I ask you this question: Has the Republican policy committee put out any order about support or passage of this bill?

Mr. ARENDS. No; unfortunately, we cannot order our people around.

Mr. MACDONALD. May I rephrase that and ask if you put out a "quote—confidential—unquote" report which purportedly puts forward the position of the policy committee made on April 22, 1959?

Mr. ARENDS. I do not know if that was put out or not. I did not get one if it was, but if it was an official report, then that is that.

Mr. MACDONALD. Will the gentleman inquire of Mr. HALLECK—

Mr. ARENDS. As I said a moment ago, I will ask him when he comes back.

Mr. MACDONALD. This information is in what purports to be a confidential report dated April 22, 1959.

Mr. ARENDS. Where did the gentleman get it?

Mr. MACDONALD. That I will be happy to tell you. Labeled "Confidential report," dated April 23, 1959, it says:

Policy committee meeting, April 22, 1959.
(1) Report on White House leadership meeting of April 22, 1959:

(2) Railroad retirement and unemployment insurance, H.R. 5610.

Action taken by policy committee:

(1) Railroad retirement and unemployment insurance: Favors H.R. 5610 as reported by committee.

I see the gentleman from Wisconsin [Mr. BYRNES] is on his feet, and as his name appears on the heading of this document along with the gentleman from Indiana [Mr. HALLECK], he probably can furnish me the information.

Mr. ARENDS. We will let the gentleman from Wisconsin answer it, then. Will you tell me just where you got the letter?

Mr. MACDONALD. I will be happy to tell you. Obviously it came from a member of the Republican Party to whom it was sent, and incidentally not a member of the Interstate and Foreign Commerce Committee.

The CHAIRMAN. The Chair at this time recognizes the gentleman from Pennsylvania [Mr. RHODES].

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. RHODES of Pennsylvania. I yield.

Mr. STAGGERS. I would like to announce to the House right now that the Senate has just now passed an identical bill. I think perhaps the messenger from the Senate has just brought it over, as he is standing back there. This is the bill we are considering now, the substitute that I am offering. If I am right this identical bill has been passed by the Senate and is now waiting to be announced to the House. It is the very substitute I am offering here. It was passed by a voice vote with no opposition from either side of the aisle.

Mr. RHODES of Pennsylvania. Mr. Chairman, I want to thank the gentleman from West Virginia. I ask the support of this committee for the substitute bill introduced by the gentleman from

West Virginia [Mr. STAGGERS] to the committee bill. H.R. 5610 is a revision of the bill agreed to last year.

Standing alone, this might not seem too important. However, the form of H.R. 5610 poses a completely new and difficult problem for this House. In addition to drastically revising the bill that was agreed to last year, the majority of our committee has attacked principles of social insurance that in some instances have been operable for over 20 years. The problem of persons who voluntarily leave their employment, and of persons discharged for cause by their employer, are handled, in my judgment, in a very poor manner by the committee bill. I believe that if the committee bill became law chaos would result in the railroad industry. I am convinced that our offices would be flooded with protests, and rightfully so, from railroad workers unfairly discriminated against because of the provisions of H.R. 5610 if they are permitted to stand. In many other areas the committee bill is inadequate. It does not provide the understanding treatment of unemployment that is so badly needed in this great industry. It is discriminatory and unfair.

I believe that the only fair thing that this House can do in justice to the railroad employees and to the great railroad industry, is to adopt the Stagers substitute.

I am sure, Mr. Chairman, if we just gave a little bit of consideration to the human values recognized in the substitute, it would pass unanimously.

I hope the substitute will be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, in the closing hours of this debate before we take a vote on the substitute amendment, as amended by the gentleman from West Virginia [Mr. STAGGERS], may I say that it is a timely thing that the other body has passed a bill that not only includes amendments to the original 1012 by the gentleman from West Virginia [Mr. STAGGERS], but it also includes the 3¼ contribution, raised one quarter of 1 percent, which will make the fund a good fund and not a fund that cannot pay its bills.

Of course this House has to act upon its own responsibility. Every Member of this House respects the chairman of the committee and the members of the committee who took either side of this particular question. However, you are faced today with your own responsibility to 700,000 railroad workers in the United States who have signed negotiated contracts with their employers in connection with these fringe benefits. If the committee bill is agreed to, a number of fringe benefits will be taken away.

Do you want to go ahead with the Stagers substitute, which is the same as the committee bill in regard to the increase of 10 percent in retirement benefits, which is in line with action we have taken in other retirement funds, and is in line with the need for additional money to meet the purchasing power problems of the American people? Do you want to take away from them,

while you are giving them a 10 percent increase, some of their unemployment compensation benefits they have had for as long as 13 years? Do you want to take away their sickness benefits? Do you want to make the period longer by 2 days in order for them to retain fringe benefits they have enjoyed for the past 13 or more years?

Those are the questions before the House today. We have our own responsibility. The other body has acted. This body should act responsibly, too, for the benefit of the 700,000 employees of the railroads of America.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. VANIK].

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would like to say this, that one Member of the House said that I did not know what I was talking about. I would like to tell the House this, that if there is any man in this House that knows any more about this legislation than I do, I do not know who it is. I have studied night after night in my office until 9 o'clock and then took the books with me to the hotel and studied until 12. I will not say I am the best informed man to answer all questions that may be propounded about railroad legislation. I believe the chairman of our committee is one of the best informed men on the Hill on railroad legislation, and I respect him for that. I think he has been entirely fair, and I certainly do not want to disagree with him. You know, it has been intimated that according to my statement they cannot fire a man. The only thing we insist is that he must have these unemployment benefits coming to him. We do not want any men working on the job when they are drunk. If he is drinking, he ought to be fired. But, if he has paid into this fund over the years and is unemployed, he should be able to look forward to getting the benefits of it. All we are trying to do is to keep faith with the men and women who work. Here we are trying to take away those rights. And, I say, we have to keep faith with them. And, before you vote to take away some of these things, you should examine the bill a little more closely, as well as your conscience. We are only trying to go forward and not backward.

Mr. VANIK. Mr. Chairman, I certainly hope that the substitute will be adopted by this committee.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon [Mr. PORTER].

Mr. PORTER. Mr. Chairman, when the very able chairman of this Committee on Interstate and Foreign Commerce wound up debate, he mentioned the possibility of a catastrophe—that is, the suggestion that either one of the funds, the unemployment insurance fund or the retirement fund, might get into very serious trouble. It was not clear to me which one it was. Certainly this substitute does provide for actuarial soundness for both funds.

The issue here on the floor today seems to be whether or not we should change well-established, long-standing conditions of employment for railroad employees. Apparently it is considered necessary by the chairman and the majority of the committee on the ground that it will make the fund more sound. Yet, we have had no evidence on this floor of any great abuses, nor have we had set out before us the amount of money it will save.

If there is a catastrophe in the offing, then the people most concerned, the railroad unions and their members, certainly should have been in touch with us by now. They are personally and vitally concerned about these benefits, both unemployment and retirement. However, the fact is that they are for this substitute. They do not believe it will mean catastrophe, nor do I.

Now, I should like to ask the gentleman from West Virginia [Mr. STAGGERS] a few questions. It seems to me that the bill, H.R. 1012, is entirely clear as amended, but I would like to have the gentleman state succinctly in the time remaining what is exactly before the House as the substitute to the committee bill.

Mr. STAGGERS. The substitute is H.R. 1012 precisely with five minor adjustments. Three of those have to do with moving up the date of the effectiveness of the retirement fund; the other is taxation, and the other is 10 percent on the lump-sum payment.

Mr. PORTER. Four of these are in the committee bill?

Mr. STAGGERS. Four of these are in the committee bill. One of them gives the Railroad Retirement Board the authority to borrow money from the retirement fund if it gets too low.

Mr. PORTER. The basic difference then is that we are not changing the long-standing conditions of employment?

Mr. STAGGERS. That is right. There is one basic fact in my amendment, and that is that we are raising the rate of interest one-fourth of 1 percent on the unemployment compensation fund.

Mr. PORTER. Which will make it actuarially sound?

Mr. STAGGERS. That is according to the actuaries that came before our committee and so testified.

The CHAIRMAN. The Committee will rise informally for the purpose of receiving a message from the Senate.

Accordingly the Committee rose and the Speaker assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Carrell, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 226 An act to amend the Railroad Retirement Act of 1937, the Railroad Retirement tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

The SPEAKER. The Committee will resume its sitting.

AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937, THE RAILROAD RETIREMENT TAX ACT, AND THE RAILROAD UNEMPLOYMENT INSURANCE ACT

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. CURTIS].

Mr. CURTIS of Missouri. Mr. Chairman, as I have listened to this debate it sounds essentially as though this is a fiscal problem. I think the committee has done a very commendable job. We on the Committee on Ways and Means have a very similar problem on unemployment compensation and social security in trying to make these funds solvent. As I understand the bill that the committee has recommended, the committee essentially has tightened it up so that it will be in a little better shape.

I do want to make this comment, that in going over it I do not believe it has done violence to comparable unemployment compensation programs, various Federal and State compensation programs. There is one thing I am concerned about. Some remarks were made by those who are supporting the substitute indicating their feelings that the railroads are going to go on forever. I think the economic situation is serious. We have seen the interurbans go out of existence completely. We are now seeing the surface transits in the cities going out, and it is entirely possible because of the competitive situation that we might be looking for jobs for our 700,000 railroad employees, and any burden that is added onto the railroads is going to be passed on to the users of the railroads and that will put them in a more adverse competitive situation.

So I do believe that the committee, in my judgment at any rate, has done a very well-balanced job. I think we do have to consider the jobs of the 700,000 men, which jobs are dependent upon the health of our railroads.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas [Mr. AVERY].

Mr. AVERY. Mr. Chairman, I just want to remind the committee in view of the remarks of my friend from West Virginia that H.R. 5610 takes something away from the railroad employees, that we increase the railroad retirement benefits by \$147 million. To me that does not mean that we are taking something away. That is a plus item. Then, on unemployment compensation, we increase that by up to 20 percent, adding annually \$25.5 million for the benefit of the unemployed persons in the railroad industry.

It has been said repeatedly that we are taking away sickness benefits. We are not taking away any sickness benefits as such. In fact, we are increasing them under this bill to the extent of \$3½ million a year. If that is taking anything away from anybody, I wish someone would explain it to me.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin [Mr. BYRNES].

Mr. BYRNES of Wisconsin. Mr. Chairman, reference has been made to

the report of the Republican policy committee. As chairman of that committee, I am very pleased to respond and say that the committee did put out advice to the Republican members that the committee was in support of H.R. 5610 as reported by the Committee on Interstate and Foreign Commerce. We took action in support of the legislative committee and so advised our members.

Inquiry has been made as to whether this action by the Republican policy committee makes the issue presently before us a political issue. I would point out to the gentleman that the Committee on Interstate and Foreign Commerce is under the control of the Democrats. They have 21 members of the committee. The Republicans have 12 members of the committee. If action by the Republican policy committee expressing support of the action of a Democrat-controlled committee makes the issue a matter of partisan politics, the gentleman is welcome to make the most of it. I would think, however, that the Democrats would welcome action by the Republican policy committee and the membership on our side in support of the legislative committees which you control.

I will point out further that we on the Republican side never at any time either in conference or otherwise attempt to bind our members. We do not, however, resist the opportunity to advise our members as to what the general feelings of the members of our policy committee are on any particular issue.

Mr. Chairman, I am no expert on this subject; in fact, there is no subject that comes before us on which I would consider qualifying as an expert. But I do not think one has to be an expert to be concerned about some of the basic issues involved in this legislation that is before us today.

If we were dealing with a healthy, thriving industry I would not be so concerned about the provisions of this substitute and the extents to which we might go in adding additional costs. I do not say I would not be concerned at all because I will always be concerned that we do not take a healthy thriving industry and put it into bankruptcy and sickness and death. But let us get one thing clear in this picture: We are dealing here with an industry that is not a healthy industry. We acknowledged that fact last year when we took action and enacted, on the basis of the economic condition of that industry, a transportation act. Is there anyone here that will contend that by that action last year we cured all the ills of the railroad industry, and that from here on it is going to be a thriving industry and you can do with it what you will? I do not think there is a member here that would make that contention.

Certainly, if I understood the chairman of this committee, who certainly is in a position to know more about it than any other single member of the committee, he did not give us the hope that we did not have to worry any more about the competitive position and the ability of this industry to serve us and to serve the people. That is fact No. 1. We are

dealing with an industry that is in a difficult situation.

No. 2: Let us remember that this is a basic industry in this country. Your railroads fold up and your economy folds up, make no mistake about that. So one thing I would caution you no matter what we do or how we vote, let us be careful, let us recognize the problem that may be involved in the consequences of our act.

Also, Mr. Chairman, we have heard talk that corporate profits are involved in this controversy. To me, Mr. Chairman, the issue here is the issue of jobs. Is it a proper approach just to be concerned about what you are going to do with a man when he is out of a job? Should you not be concerned with what you can do to assure that jobs will be available.

I listened to the gentleman from Iowa [Mr. COAB] speaking about the Northwestern Railroad, that they did not have Pullman cars, that they were closing up shops and stations and taking off trains. Why? Because of economic difficulty. The elimination of cars, of shops, of stations, and trains eliminates jobs and produces unemployment.

I suggest that we had better make sure that in our desire to take care of the unemployed we do not so act that we encourage greater unemployment.

That, as I see it, is the issue raised by this substitute. The bill as reported by the committee will put an additional cost of over \$100 million on the railroads. The substitute will increase this to around \$150 million. I am most fearful that this additional \$50 million could very well produce additional unemployment. I am sure this is not what is desired by the average railroad worker. I shall therefore support the committee bill.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I think just about all the issues involved here have been very thoroughly discussed and explained. Everyone must know by this time what he or she is going to do in connection with this bill. I have already advised the Committee of the action of our committee, and how it worked its way and its will in bringing in the bill which the committee presented and which, at the direction of the committee, I introduced. We have it here today. Now we are told by the author of the substitute bill, our esteemed friend, the gentleman from West Virginia, a member of the committee, who offered this substitute, that there is a Senate bill which has passed the other body and which has been reported here. I do not know whether there is any difference or not between the bills. I do know that this substitute is not H.R. 1012. Everybody has been urged to support H.R. 1012.

You do not have H.R. 1012. You have the original bill with certain amendments, some of which are incorporated in H.R. 5610. And I believe there is a veterans' amendment in the Senate bill. It would seem to me, since we do not know what is contained in the bill which just has been presented to us, that the

better thing to do would be to vote down this substitute and let the committee and the House work its will on the bill that is here before us, which we could then take to conference. In that way we can analyze what has been done and see whether or not it is in the best interest of the employees and the employers and the general public. As far as I am concerned, I am not willing to swallow whole, without the necessary explanation and itemization of a highly complicated and technical proposal such as we have here.

So are you going to do it? As for me, I want to see what I am doing? Therefore, I say to you that I believe the better wisdom here this afternoon is to let the House work its will on the bill that is before us. Our committee knows this subject. We have studied it. We have held hearings. We have heard testimony on the whole subject not one time, but many times. The better thing to do as I see it, and the better way to legislate and to shoulder our responsibility, is to let the House work its will on the bill that we have here instead of swallowing what has been given to us without an opportunity to know all of the facts and all of the problems connected with it, with apparently an effort to make it coincide with what has been done by the other body. The Committee on Interstate and Foreign Commerce by a vote of practically two to one brings this bill, H.R. 5610, to you. Gentlemen, it is now your responsibility.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. STAGGERS].

The question was taken, and on a division (demanded by Mr. HARRIS) there were—ayes 181, noes 91.

So the substitute amendment was agreed to.

The CHAIRMAN. Under the rule the Committee rises.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, pursuant to House Resolution 248, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

GENERAL LEAVE TO EXTEND

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks in the Record on the railroad retirement bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. KING of Utah. Mr. Chairman, I take this opportunity to say that I am gratified that the Railroad Retirement Act, H.R. 1012, for which I voted, passed this body by a strong voice vote.

I am convinced that it would have been an injustice to the laboring men of the Nation's railroads to have enacted the alternative, H.R. 5610. While the latter embodied certain benefits for the people it was meant to help, it also threatened to erase certain gains which the same people already enjoy.

H.R. 1012 carried the benefits which H.R. 5610 contained without threatening other benefits as the latter did. For this reason, the Congress clearly took the stronger, better position in choosing H.R. 1012, and I reiterate my pleasure over its passage.

Mr. HARRIS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 226) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, strike out all after the enacting clause and insert the provisions of H.R. 5610 as amended.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

"SECTION 1. (a) Section 2(a)3 of the Railroad Retirement Act of 1937 is amended to read as follows:

"3. Individuals who will have attained the age of sixty and will have completed thirty years of service or, in the case of women, who will have attained the age of sixty-two and will have completed less than thirty years of service, but the annuity of such individual shall be reduced by one one-hundred-and-eightieth for each calendar month that he or she is under age sixty-five when the annuity begins to accrue."

"(b) Section 2(d) of such Act is amended by adding at the end thereof the following new sentence: 'If pursuant to the third sentence of this subsection an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in the first sentence of this subsection) did not exceed \$1,200, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the fifth sentence of this subsection, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in the first sentence of this subsection) is in excess of \$1,200, the number of months in such year with respect to which an annuity is not payable by reason of such third

and fifth sentences shall not exceed one month for each \$100 of such excess, treating the last \$50 or more of such excess as \$100; and if the amount of the annuity has changed during such year, any payments of annuity which become payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.'

"(c) Section 2(e) of such Act is amended by striking out 'than an amount' and inserting in lieu thereof 'than 110 per centum of an amount'.

"(d) Section 2(g) of such Act is amended by inserting after 'wife under age 65' the following: '(other than a wife who is receiving such annuity by reason of an election under subsection (h))'.

"(e) Section 2 of such Act is further amended by adding at the end thereof the following new subsection:

"(h) A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue."

"SEC. 2. (a) Section 3(a) of the Railroad Retirement Act of 1937 is amended (1) by striking out '3.04', '2.28', and '1.52' and inserting in lieu thereof '3.35', '2.51', and '1.67', respectively; and (2) by striking out '\$200' and inserting in lieu thereof '\$250'.

"(b) Section 3(c) of such Act is amended by inserting after 'or in excess of \$350 for any month after June 30, 1954,' the following: 'and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended,'.

(c) Section 3(e) of such Act is amended (1) by striking out '\$4.55', '\$75.90', and 'his monthly compensation' and inserting in lieu thereof '\$5.00', '\$83.50' and '110 per centum of his monthly compensation', respectively; (2) by striking out 'is less than the amount, or the additional amount' and inserting in lieu thereof 'is less than 110 per centum of the amount, or 110 per centum of the additional amount'; (3) by inserting after 'age sixty-five,' the following: 'women entitled to spouses' annuities pursuant to elections made under subsection (h) of section 2 to be entitled to wife's insurance benefits determined under section 202(q) of the Social Security Act,'; and (4) by striking out 'such amount or such additional amount' and inserting in lieu thereof '110 per centum of such amount or 110 per centum of such additional amount'.

"Sec. 3. (a) Section 5(f) (2) of the Railroad Retirement Act of 1937 is amended by striking out 'and 7 per centum of his or her compensation after December 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month before July 1, 1954, and in the latter case in excess of \$350 for any month after June 30, 1954),' and by inserting in lieu thereof the following: 'plus 7 per centum of his or her compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of his or her compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and in excess of \$400 for any month after the month in which this Act was so amended)'.

"(b) Section 5(h) of such Act is amended by striking out '\$33', '\$176', and '\$15.40'

wherever they appear and inserting in lieu thereof '\$36.30', '\$193.60', and '\$16.95', respectively.

"(c) Section 5(i)(1)(ii) of such Act is amended by striking out 'or in which month he engaged on seven or more different calendar days in noncovered remunerative activity outside the United States (as defined in section 203(k) of the Social Security Act)' and inserting in lieu thereof the following: 'or, having engaged in any activity outside the United States, would be charged under such section 203(e) with any earnings derived from such activity if it had been an activity within the United States'.

"(d) Clause (A) (i) of section 5(l)(9) of such Act is amended by striking out the word 'and' appearing after 'July 1, 1954,' and by inserting after 'June 30, 1954,' the following: 'and before the calendar month next following the month in which this Act was amended in 1959, and any excess over \$400 for any calendar month after the month in which this Act was so amended,'.

"(e) Clause (A) (ii) of section 5(l)(9) of such Act is amended (1) by inserting 'and before 1959' after '1954' where it first appears; (2) by inserting after '\$4,200' where it first appears the following: ', or for any calendar year after 1958 is less than \$4,800,'; (3) by striking out '\$350' and inserting in lieu thereof '\$400'; and (4) by striking out 'and \$4,200 for years after 1954, by' and inserting in lieu thereof the following: ', \$4,200 for years after 1954 and before 1959, and \$4,800 for years after 1958, by'.

"(f) Section 5(l)(10) of such Act is amended by striking out '44', '11', '\$350', '\$15.40', '\$36.66', '\$27.50', and '\$14.66' wherever they appear and inserting in lieu thereof '49', '12', '\$400', '\$16.95', '\$40.33', '\$30.25', and '\$16.13', respectively.

"Sec. 4. All pensions under section 6 of the Railroad Retirement Act of 1937, all joint and survivor annuities and survivor annuities deriving from joint and survivor annuities under that Act awarded before the month next following the month of enactment of this Act all widows' and widowers' insurance annuities which began to accrue before the second calendar month next following the month of such enactment, and which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937, are payable in the amount of the spouse's annuity to which the widow or widower was entitled, and all annuities under the Railroad Retirement Act of 1935, are increased by 10 per centum.

"Sec. 5. (a) The amendments made by section 1 (other than subsection (b) thereof), by subsections (a) and (c) of section 2, and by subsection (b) of section 3 shall be effective only with respect to annuities (not including annuities to which section 4 applies) accruing for months after the month of enactment of this Act. The amendment made by subsection (b) of section 1 and by subsection (c) of section 3 shall be effective with respect to annuities accruing during the calendar year 1959 and subsequent calendar years. The amendment made by subsection (a) of section 3 shall be effective only with respect to lump-sum payments (under section 5(f)(2) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. The amendments made by subsection (f) of section 3 shall be effective only with respect to annuities accruing for months after the month of enactment of this Act and lump-sum payments (under section 5(f)(1) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. Section 4 shall be effective only with respect to pensions due in calendar months after the month next following the month of enactment of this Act and annuities accruing

for months after the month of enactment of this Act.

"(b) All recertifications required by reason of the amendments made by this part shall be made by the Railroad Retirement Board without application therefor.

"PART II—AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

"Sec. 201. (a) Section 3201 of the Railroad Retirement Tax Act is amended to read as follows:

"Sec. 3201. Rate of Tax.

"In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to—

"(1) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1961,

as is not in excess of \$400 for any calendar month: *Provided*, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.

"(b) Section 3202(a) of the Railroad Retirement Tax Act is amended (1) by striking out 'after December 31, 1954' wherever it appears and inserting in lieu thereof 'after the month in which this provision was amended in 1959'; (2) by striking out '\$350' wherever it appears and inserting in lieu thereof '\$400'; (3) by striking out 'after 1954' and inserting in lieu thereof 'after the month in which this provision was amended in 1959'.

"(c) Section 3211 of the Railroad Retirement Tax Act is amended to read as follows:

"Sec. 3211. Rate of Tax.

"In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to—

"(1) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961,

as is not in excess of \$400 for any calendar month: *Provided*, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by Social Security Amendments of 1956.

"(d) (1) Section 3221 of the Railroad Retirement Tax Act is amended by striking out 'In addition to' and all that follows down through '\$350' the first time it appears, and inserting in lieu thereof the following:

"(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to—

"(1) 6¾ percent of so much of the compensation paid by such employer for serv-

ices rendered to him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1961, as is, with respect to any employee for any calendar month, not in excess of \$400'.

"(2) Such section 3221 is further amended (A) by striking out 'after December 31, 1954' and 'after 1954' wherever they appear in that section and inserting in lieu thereof 'after the month in which this provision was amended in 1959'; (B) by striking out '\$350' wherever else it appears in that section and inserting in lieu thereof '\$400'; and (C) by adding at the end thereof the following new subsection:

"(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3111 at such time exceeds the rate provided by paragraph (2) of such section 3111 as amended by the Social Security Amendments of 1956.

"Sec. 202. The amendments made by section 201 shall, except as otherwise provided in such amendments, be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid after the month of such enactment, for services rendered after such month of enactment.

"PART III—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

"Sec. 301. (a) Section 1(i) of the Railroad Unemployment Insurance Act is amended by striking out the proviso in the first sentence and inserting in lieu thereof: '*Provided, however*, That in computing the compensation paid to any employee, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended, shall be recognized'.

"(b) The first proviso of section 1(k) of the Railroad Unemployment Insurance Act is amended by striking out "\$400" and inserting in lieu thereof "\$500".

"Sec. 302. (a) Section 2(a) of the Railroad Unemployment Insurance Act is amended by striking out the language between '(i)' and '(ii)' and inserting in lieu thereof the following: 'for each day of unemployment in excess of four during any registration period, and'.

"(b) Section 2(a) of such Act is further amended by striking out columns I and II and inserting in lieu thereof the following:

Column I Total Compensation	Column II Daily Benefit Rate
\$500 to \$699.99	\$4.50
700 to 999.99	5.00
1,000 to 1,299.99	5.50
1,300 to 1,599.99	6.00
1,600 to 1,899.99	6.50
1,900 to 2,199.99	7.00
2,200 to 2,499.99	7.50
2,500 to 2,799.99	8.00
2,800 to 3,099.99	8.50
3,100 to 3,499.99	9.00
3,500 to 3,999.99	9.50
4,000 and over	10.20'

"(c) The proviso in such section 2(a) is amended by striking out '50' and '\$8.50' and inserting in lieu thereof '60' and '\$10.20', respectively.

"Sec. 303. (a) Section 2(c) of the Railroad Unemployment Insurance Act is amended by striking out the period at the end thereof and inserting in lieu of such period a colon and the following: 'And provided further, That, with respect to an employee who has ten or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, who did not voluntarily leave work without good cause or voluntarily retire, and who had current rights to normal benefits for days of unemployment in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under the following schedule, and the maximum number of days of, and amount of payment for, unemployment within such benefit year for which benefits may be paid to the employee shall be enlarged to include all compensable days of unemployment within such extended benefit period:

The extended benefit period shall begin on the first day of unemployment following the day on which the employee exhausted his then current rights to normal benefits for days of unemployment and shall continue for successive fourteen-day periods (each of which period shall constitute a registration period) until the number of such fourteen-day periods totals—

10 and less than 15—	7 (but not more than 65 days)
15 and over—	13

* If the employee's "years of service" total—

but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 of this Act on the basis of compensation earned after the first of such successive fourteen-day periods has begun. For an employee who has ten or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, who has fourteen or more consecutive days of unemployment, and who is not a "qualified employee" for the general benefit year current when such unemployment commences but is or becomes a "qualified employee" for the next succeeding general benefit year, such succeeding benefit year shall, in his case, begin on the first day of the month in which such unemployment commences.

"(b) An employee who has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, and who has after June 30, 1957, and before April 1, 1959, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his rights to unemployment benefits, shall be paid unemployment benefits for days of unemployment, not exceeding sixty-five, which occur in registration periods beginning on or after June 19, 1958, and before July 1, 1959, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act, except that an employee who has filed, and established, a first claim for benefits under the Temporary Unemployment Compensation Act of 1958 may not thereafter establish a claim under this subsection, and an employee who has registered for, and established a claim for benefits under this subsection, may not thereafter establish a

claim under the Temporary Unemployment Compensation Act of 1958. Except to the extent inconsistent with this subsection, the provisions of the Railroad Unemployment Insurance Act shall be applicable in the administration of this subsection.

"(c) The Secretary of Labor, upon request, shall furnish the Board information deemed necessary by the Board for the administration of the provisions of subsection (b) hereof, and the Board, upon request, shall furnish the Secretary of Labor information deemed necessary by the Secretary for the administration of the Temporary Unemployment Compensation Act of 1958.

"Sec. 304. Section 3 of the Railroad Unemployment Insurance Act is amended by striking out '\$400' and inserting in lieu thereof '\$500'.

"Sec. 305. Section 4(a-2) of the Railroad Unemployment Insurance Act is amended by striking out subdivision (iv), and by striking out the semicolon at the end of subdivision (iii) and inserting in lieu thereof a period.

"Sec. 306. Section 8(a) of the Railroad Unemployment Insurance Act is amended (1) by inserting after 'June 30, 1954' where it first appears the following: ', and before the calendar month next following the month in which this Act was amended in 1959, and is not in excess of \$400 for any calendar month paid by him to any employee for services rendered to him after the month in which this Act was so amended'; (2) by inserting after 'June 30, 1954' where it appears for the second time the following: ', and before the calendar month next following the month in which this Act was amended in 1959, and to not more than \$400 for any month after the month in which this Act was so amended'; (3) by inserting after 'June 30, 1954' where it appears for the third time the following: ', and before the calendar month next following the month in which this Act was amended in 1959, or less than \$400 if such month is after the month in which this Act was so amended'; (4) by striking out 'December 31, 1947' in paragraph 2 and inserting in lieu thereof 'the month in which this Act was amended in 1959'; and (5) by striking out the table (except the column headings) in such paragraph 2 and inserting in lieu thereof the following:

	Percent
* \$450,000,000 or more—	1½
\$400,000,000 or more but less than \$450,000,000	2
\$350,000,000 or more but less than \$400,000,000	2½
\$300,000,000 or more but less than \$350,000,000	3
Less than \$300,000,000	3¼

"Sec. 307. Section 8(b) of the Railroad Unemployment Insurance Act is amended (1) by striking out '3 per centum' and inserting in lieu thereof '3¼ per centum'; and (2) by inserting before the period at the end of the first sentence the following: ', and before the calendar month next following the month in which this Act was amended in 1959, and as is not in excess of \$400 paid to him for services rendered as an employee representative in any calendar month after the month in which this Act was so amended'.

"Sec. 308. (a) Subsection (d) of section 10 of the Railroad Unemployment Insurance Act be amended to read as follows:

"(d) Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. When-

ever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at the rate of 3 per centum per annum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a) of this Act, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded.

"(b) The amendment made by this section shall take effect on the date of enactment of this Act.

"Sec. 309. The amendments made by section 301(b) shall be effective with respect to days in registration periods beginning after June 30, 1959. The amendments made by sections 302, 303(a), and 305 shall be effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, and in extended benefit periods which begin after December 31, 1957. The amendment made by section 304 shall be effective with respect to base years after the base year ending December 31, 1957. The amendments made by clauses (4) and (5) of section 306 and clause (1) of section 307 shall be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid for services rendered in calendar months after the month in which this Act was enacted."

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider and a similar House bill, H.R. 5610, were laid on the table.

Representatives that nobody had read. That is exactly what we did. We were urged, as I recall, to accept a bill on faith with a very brief explanation of what were to be five major amendments to a bill, and they were never fully explained. Notwithstanding what happened, the House took its course of action which they deemed to be in the public interest. Here we are back in this situation today. Although I feel certainly inclined to object, I am not going to object, but I hope after this the House will at least have the consideration to accept the recommendation of its legislative committee rather than adopt a measure that they have not even had a chance to read.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas [Mr. HARRIS]?

There was no objection.

Mr. HARRIS. Mr. Speaker, I move to strike out all after the enacting clause and insert an amendment, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the amendment.

AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937, THE RAILROAD RETIREMENT TAX ACT, AND THE RAILROAD UNEMPLOYMENT INSURANCE ACT

The SPEAKER. The Clerk will read the amendment.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following:

"PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

"SECTION 1. (a) Section 2(a)3 of the Railroad Retirement Act of 1937 is amended to read as follows:

"'3. Individuals who will have attained the age of sixty and will have completed thirty years of service or, in the case of women, who will have attained the age of sixty-two and will have completed less than thirty years of service, but the annuity of such individual shall be reduced by one one-hundred-and-eightieth for each calendar month that he or she is under age sixty-five when the annuity begins to accrue.'

"(b) Section 2(d) of such Act is amended by adding at the end thereof the following new sentence: 'If pursuant to the third sentence of this subsection an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in the first sentence of this subsection) did not exceed \$1,200, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the fifth sentence of this subsection, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in the first sentence of this subsection) is in excess of \$1,200, the number of months in such year with respect to which an annuity is not payable by reason for such third and fifth sentences shall not exceed one month for each \$100 of such excess, treating for the last \$50 or more of such excess as \$100; and if the amount of the annuity has changed during such year, any payments of annuity which become payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.'

"(c) Section 2(e) of such Act is amended by striking out 'than an amount' and inserting in lieu thereof 'than 110 per centum of an amount'.

"(d) Section 2(g) of such Act is amended by inserting after 'wife under age 65' the following: 'other than a wife who is receiving such annuity by reason of an election under subsection (h))'.

"(e) Section 2 of such Act is further amended by adding at the end thereof the following new subsection:

"'(h) A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue.'

"Sec. 2. (a) Section 3(a) of the Railroad Retirement Act of 1937 is amended (1) by striking out '3.04', '2.28', and '1.52' and inserting in lieu thereof '3.35', '2.51', and '1.67', respectively; and (2) by striking out '\$200' and inserting in lieu thereof '\$250'.

AMENDING THE RAILROAD RETIREMENT ACT OF 1937, THE RAILROAD RETIREMENT TAX ACT, AND THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the proceedings whereby the bill H.R. 5610 was laid on the table, the amendment agreed to, the bill engrossed and read a third time, and passed, be vacated for the purpose of offering an amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. BENNETT of Michigan. Reserving the right to object, Mr. Speaker, will the chairman of our committee explain the purpose of this request?

Mr. HARRIS. The purpose of this unanimous consent request is that the bill H.R. 5610 be reconsidered, after the vacating of the proceedings of the House of last week in connection therewith, for the purpose of agreeing to an amendment.

Mr. BENNETT of Michigan. I withdraw my reservation of objection, Mr. Speaker.

Mr. AVERY. Mr. Speaker, reserving the right to object, I do so to remind the House of the recommendation of my distinguished chairman and the majority of the members of the committee the other day. It certainly was not in the public interest to approve a bill in the House of

"(b) Section 3(c) of such Act is amended by inserting after 'or in excess of \$350 for any month after June 30, 1954,' the following: 'and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended.'"

"(c) Section 3(e) of such Act is amended (1) by striking out '\$4.55', '\$75.90', and 'his monthly compensation' and inserting in lieu thereof '\$5.00', '\$83.50' and '110 per centum of his monthly compensation', respectively; (2) by striking out 'is less than the amount, or the additional amount' and inserting in lieu thereof 'is less than 110 per centum of the amount, or 110 per centum of the additional amount'; (3) by inserting after 'age sixty-five,' the following: 'women entitled to spouses' annuities pursuant to elections made under subsection (h) of section 2 to be entitled to wife's insurance benefits determined under section 202(q) of the Social Security Act;'; and (4) by striking out 'such amount or such additional amount' and inserting in lieu thereof '110 per centum of such amount or 110 per centum of such additional amount'."

"Sec. 3. (a) Section 5(f)(2) of the Railroad Retirement Act of 1937 is amended by striking out 'and 7 per centum of his or her compensation after December 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month before July 1, 1954, and in the latter case in excess of \$350 for any month after June 30, 1954),' and by inserting in lieu thereof the following: 'plus 7 per centum of his or her compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of his or her compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and in excess of \$400 for any month after the month in which this Act was so amended)'."

"(b) Section 5(h) of such Act is amended by striking out '\$33', '\$176', and '\$15.40' wherever they appear and inserting in lieu thereof '\$36.30', '\$193.60', and '\$16.95', respectively."

"(c) Section 5(i)(1)(ii) of such Act is amended by striking out 'or in which month he engaged on seven or more different calendar days in noncovered remunerative activity outside the United States (as defined in section 203(k) of the Social Security Act)' and inserting in lieu thereof the following: 'or, having engaged in any activity outside the United States, would be charged under such section 203(e) with any earnings derived from such activity if it had been an activity within the United States'."

"(d) Clause (A)(i) of section 5(l)(9) of such Act is amended by striking out the word 'and' appearing after 'July 1, 1954,' and by inserting after 'June 30, 1954,' the following: 'and before the calendar month next following the month in which this Act was amended in 1959, and any excess over \$400 for any calendar month after the month in which this Act was so amended.'"

"(e) Clause (A)(ii) of section 5(l)(9) of such Act is amended (1) by striking 'and before 1959' after '1954' where it first appears; (2) by inserting after '\$4,200' where it first appears the following: ', or for any calendar year after 1958 is less than \$4,800;'; (3) by striking out '\$350' and inserting in lieu thereof '\$400'; and (4) by striking out 'and \$4,200 for years after 1954, by' and inserting in lieu thereof the following: ', \$4,200 for years after 1954 and before 1959, and \$4,800 for years after 1958, by'."

"(f) Section 5(l)(10) of such Act is amended by striking out '44', '11', '\$350', '\$15.40', '\$36.66', '\$27.50', and '\$14.66' wherever they appear and inserting in lieu thereof '49', '12', '\$400', '\$16.95', '\$40.33', '\$30.25', and '\$16.13, respectively."

"Sec. 4. Section 20 of the Railroad Retirement Act of 1937 is amended (1) by inserting '(a)' immediately after 'Sec. 20;'; and (2) by adding at the end thereof the following new subsection:

"(b) Pensions and annuities under this Act or the Railroad Retirement Act of 1935 shall not be considered as income for the purposes of section 522 of title 38 of the United States Code."

"Sec. 5. All pensions under section 6 of the Railroad Retirement Act of 1937, all joint and survivor annuities and survivor annuities deriving from a joint and survivor annuities under that Act awarded before the month next following the month of enactment of this Act, all widows' and widowers' insurance annuities which began to accrue before the second calendar month next following the month of such enactment, and which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937, are payable in the amount of the spouse's annuity to which the widow or widower was entitled, and all annuities under the Railroad Retirement Act of 1935, are increased by 10 per centum."

"Sec. 6. (a) The amendments made by section 1 (other than subsection (b) thereof), by subsections (a) and (c) of section 2, and by subsection (b) of section 3 shall be effective only with respect to annuities (not including annuities to which section 5 applies) accruing for months after the month of enactment of this Act. The amendment made by subsection (b) of section 1 and by subsection (c) of section 3 shall be effective with respect to annuities accruing during the calendar year 1959 and subsequent calendar years. The amendment made by subsection (a) of section 3 shall be effective only with respect to lump-sum payments (under section 5(f)(2) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. The amendments made by subsection (f) of section 3 shall be effective only with respect to annuities accruing for months after the month of enactment of this Act and lump-sum payments (under section 5(f)(1) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. Sections 4 and 5 shall be effective only with respect to pensions due in calendar months after the month next following the month of enactment of this Act and annuities accruing for months after the month of enactment of this Act."

"(b) All recertifications required by reason of the amendments made by this part shall be made by the Railroad Retirement Board without application therefor."

"PART II—AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT"

"Sec. 201. (a) Section 3201 of the Railroad Retirement Tax Act is amended to read as follows:

"SEC. 3201. RATE OF TAX."

"In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to—

"(1) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1961, as is not in excess of \$400 for any calendar month: *Provided*, That the rate of tax im-

posed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956."

"(b) Section 3202(a) of the Railroad Retirement Tax Act is amended (1) by striking out 'after December 31, 1954' wherever it appears and inserting in lieu thereof 'after the month in which this provision was amended in 1959; (2) by striking out '\$350' wherever it appears and inserting in lieu thereof '\$400'; (3) by striking out 'after 1954' and inserting in lieu thereof 'after the month in which this provision was amended in 1959'."

"(c) Section 3211 of the Railroad Retirement Tax Act is amended to read as follows:

"SEC. 3211. RATE OF TAX."

"In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to—

"(1) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961,

as is not in excess of \$400 for any calendar month: *Provided*, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956."

"(d) (1) Section 3221 of the Railroad Retirement Tax Act is amended by striking out 'In addition to' and all that follows down through '\$350' the first time it appears, and inserting in lieu thereof the following:

"(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to—

"(1) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1961, as is, with respect to any employee for any calendar month, not in excess of \$400."

"(2) Such section 3221 is further amended (A) by striking out 'after December 31, 1954' and 'after 1954' wherever they appear in that section and inserting in lieu thereof 'after the month in which this provision was amended in 1959'; (B) by striking out '\$350' wherever else it appears in that section and inserting in lieu thereof '\$400'; and (C) by adding at the end thereof the following new subsection:

"(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of

percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3111 at such time exceeds the rate provided by paragraph (2) of such section 3111 as amended by the Social Security Amendments of 1956.

"Sec. 202. The amendments made by section 201 shall, except as otherwise provided in such amendments, be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid after the month of such enactment, for services rendered after such month of enactment.

"PART III—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

"Sec. 301. (a) Section 1(i) of the Railroad Unemployment Insurance Act is amended by striking out the proviso in the first sentence and inserting in lieu thereof: 'Provided, however, That in computing the compensation paid to any employee, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended, shall be recognized.'

"(b) The first proviso of section 1(k) of the Railroad Unemployment Insurance Act is amended by striking out "\$400" and inserting in lieu thereof "\$500".

"Sec. 302. (a) Section 2(a) of the Railroad Unemployment Insurance Act is amended by striking out the language between '(i)' and '(ii)' and inserting in lieu thereof the following: 'for each day of unemployment in excess of four during any registration period, and'.

"(b) Section 2(a) of such Act is further amended by striking out columns I and II and inserting in lieu thereof the following:

"Column I Total Compensation	Column II Daily Benefit Rate
\$500 to \$699.99-----	\$4.50
700 to 999.99-----	5.00
1,000 to 1,299.99-----	5.50
1,300 to 1,599.99-----	6.00
1,600 to 1,899.99-----	6.50
1,900 to 2,199.99-----	7.00
2,200 to 2,499.99-----	7.50
2,500 to 2,799.99-----	8.00
2,800 to 3,099.99-----	8.50
3,100 to 3,499.99-----	9.00
3,500 to 3,999.99-----	9.50
4,000 and over-----	10.20'

"(c) The proviso in such section 2(a) is amended by striking out '50' and '\$8.50' and inserting in lieu thereof '60' and '\$10.20', respectively.

"Sec. 303 (a) Section 2(c) of the Railroad Unemployment Insurance Act is amended by striking out the period at the end thereof and instreing in lieu of such period a colon and the following: 'And provided further, That, with respect to an employee who has ten or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, who did not voluntarily leave work without good cause or voluntarily retire, and who had current rights to normal benefits for days of unemployment in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under the following schedule, and the maximum number of days of, and amount of payment for, unemployment within such benefit year for which benefits may be paid to the employee shall be enlarged to include all compensable days

of unemployment within such extended benefit period:

The extended benefit period shall begin on the first day of unemployment following the day on which the employee exhausted his then current rights to normal benefits for days of unemployment and shall continue for successive fourteen-day periods (each of which periods shall constitute a registration period) until the number of such fourteen-day periods totals—

"If the employee's
"years of service"
total—
10 and less than 15---
15 and over-----

7 but not more than
65 days)
13

but not such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 of this Act on the basis of compensation earned after the first of such successive fourteen-day periods has begun. For an employee who has ten or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, who has fourteen or more consecutive days of unemployment, and who is not a "qualified employee" for the general benefit year current when such unemployment commences but is or becomes a "qualified employee" for the next succeeding general benefit year, such succeeding benefit year shall, in his case, begin on the first day of the month in which such unemployment commences.'

"(b) An employee who has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, and who has after June 30, 1957, and before April 1, 1959, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his rights to unemployment benefits, shall be paid unemployment benefits for days of unemployment, not exceeding sixty-five, which occur in registration periods beginning on or after June 19, 1958, and before July 1, 1959, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act, except that an employee who has filed, and established, a first claim for benefits under the Temporary Unemployment Compensation Act of 1958 may not thereafter establish a claim under this subsection, and employee who has registered for, and established a claim for benefits under this subsection may not thereafter establish a claim under the Temporary Unemployment Compensation Act of 1958. Except to the extent inconsistent with this subsection, the provisions of the Railroad Unemployment Insurance Act shall be applicable in the administration of this subsection.

"(c) The Secretary of Labor, upon request, shall furnish the Board information deemed necessary by the Board for the administration of the provisions of subsection (b) hereof, and the Board, upon request, shall furnish the Secretary of Labor information deemed necessary by the Secretary for the administration of the Temporary Unemployment Compensation Act of 1958.

"Sec. 304. Section 3 of the Railroad Unemployment Insurance Act is amended by striking out '\$400' and inserting in lieu thereof '\$500'.

"Sec. 305. Section 4 (a-2) of the Railroad Unemployment Insurance Act is amended by striking out subdivision (iv), and by striking out the semicolon at the end of subdivision (iii) and inserting in lieu thereof a period.

"Sec. 306. Section 8 (a) of the Railroad Unemployment Insurance Act is amended (1) by inserting after 'June 30, 1954' where it first appears the following: ', and before the calendar month next following the month in which this Act was amended in 1959, and is not in excess of \$400 for any calendar month paid by him to any employee for services rendered to him after the month in which this Act was so amended'; (2) by inserting after 'June 30, 1954' where it appears for the second time the following: ', and before the calendar month next following the month in which this Act was amended in 1959, and to not more than \$400 for any month after the month in which this Act was so amended'; (3) by inserting after 'June 30, 1954' where it appears for the third time the following: ', and before the calendar month next following the month in which this Act was amended in 1959, or less than \$400 if such month is after the month in which this Act was so amended'; (4) by striking out 'December 31, 1947' in paragraph 2 and inserting in lieu thereof 'the month in which this Act was amended in 1959'; and (5) by striking out the table (except the column headings) in such paragraph 2 and inserting in lieu thereof the following:

	Percent
' \$450,000,000 or more-----	1 1/2
\$400,000,000 or more but less than \$450,000,000-----	2
\$350,000,000 or more but less than \$400,000,000-----	2 1/2
\$300,000,000 or more but less than \$350,000,000-----	3
Less than \$300,000,000-----	3 3/4'

"Sec. 307. Section 8(b) of the Railroad Unemployment Insurance Act is amended (1) by striking out '3 per centum' and inserting in lieu thereof '3 3/4 per centum'; and (2) by inserting before the period at the end of the first sentence the following: ', and before the calendar month next following the month in which this Act was amended in 1959, and as is not in excess of \$400 paid to him for services rendered as an employee representative in any calendar month after the month in which this Act was so amended'.

"Sec. 308. (a) Subsection (d) of section 10 of the Railroad Unemployment Insurance Act be amended to read as follows:

"(d) Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at the rate of 3 per centum per anum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment

insurance account as of September 30 of any year pursuant to section 8(a) of this Act, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded.

"(b) The amendment made by this section shall take effect on the date of enactment of this Act.

"Sec. 309. The amendments made by section 301(b) shall be effective with respect to days in registration periods beginning after June 30, 1959. The amendments made by sections 302, 303(a), and 305 shall be effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, and in extended benefit periods which begin after December 31, 1957. The amendment made by section 304 shall be effective with respect to base years after the base year ending December 31, 1957. The amendments made by clauses (4) and (5) of section 306 and clause (1) of section 307 shall be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid for services rendered in calendar months after the month in which this Act was enacted."

Mr. HARRIS (interrupting the reading of the amendment). Mr. Speaker, I ask unanimous consent that the further reading of the amendment be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HARRIS. Mr. Speaker, for the information of the Members of the House, I have asked unanimous consent that the proceedings whereby the bill H.R. 5610 was laid on the table, the amendment agreed to, the bill engrossed and read a third time and passed, be vacated, for the purpose of offering an amendment.

The unanimous consent request was agreed to, and I have offered an amendment, which has just been read.

The amendment to the bill H.R. 5610 which I have just offered strikes out all after the enacting clause and inserts the provisions of the bill that passed the Senate last week.

You will recall that H.R. 5610, to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, was considered in the House last Wednesday. A substitute was offered by the distinguished gentleman from West Virginia [Mr. STAGGERS]. The substitute was practically the same bill that was considered and passed by the other body, with the exception of one amendment, which had to do with section 4. Under this amendment pensions and annuities under this act or the Railroad Retirement Act of 1935 will not be considered as income for the purposes of section 522 of title 38 of the United States Code. The Senate had considered that amendment, which is not out of line with other provisions of law in other matters of this kind. So that is the matter that is before us now.

The necessity for this action is that last week after the House had taken the action it did, we, as usual, when we have a bill from the other body on the same subject on the Speaker's table, asked that that bill be taken from the Speaker's desk, that all after the enacting clause be stricken out, and that the House-passed bill be inserted. That was the usual procedure we followed, and I made the request after the House had taken its action last week. It later developed that that was not the correct action that should have been taken because there are tax provisions in this legislation. The Constitution provides, as you know, that all legislation relating directly to tax measures, revenues, must originate in the House of Representatives. Therefore, this action to vacate that proceeding is in order to comply with the constitutional provision by passing this legislation in order to accomplish what the House intended last week after it considered this matter rather extensively.

Mr. ROBERTS. Mr. Speaker, the amendment to section 20 of the Railroad Retirement Act of 1937 made by section 4 of the amendment provides that payments under such act shall not be considered as income for purposes of section 522 of title 38, United States Code. Under that section, pension for non-service-connected permanent and total disability is not paid to a veteran whose annual income exceeds \$1,400 if he has no dependents or \$2,700 if he has one or more dependents. Under existing law, certain items are disregarded in determining whether a veteran has exceeded the income limitations, and the amendment will add to the list of such items payments under the Railroad Retirement Act of 1937.

The cost of this amendment is negligible.

The amendment was sponsored in the other body by Senator HILL, of Alabama. I was happy to sponsor it in the House.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the proceedings whereby S. 226, an act to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, as amended, was read a third time, and passed, be vacated, and the bill be indefinitely postponed.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HARRIS. Mr. Speaker, I ask unanimous consent to revise the remarks I have made on this subject, and further that all Members may have permission to extend their remarks on this subject if they so desire.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

**AMENDMENT OF THE RAILROAD
RETIREMENT ACT OF 1937**

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of House bill 5610, to amend the Railroad Retirement Act.

The PRESIDING OFFICER. The bill will be stated by title, for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, which was read the first time by title and the second time at length.

Mr. JOHNSON of Texas. Mr. President, if I may have the attention of the Senator from Oregon [Mr. MORSE], let me say that the House passed, on May 4, H.R. 5610, which amends the Railroad Retirement Act. H.R. 5610 is identical with Senate bill 226, which was passed by the Senate on April 29, and which had been reported by the Senator from Oregon [Mr. MORSE].

The House adopted every line, every word, every punctuation mark in the Senate bill—including a misplaced quotation mark.

I am informed that the House took that action because the bill contained a revenue feature, inasmuch as the bill increases the rate of tax on employers and employees under the railroad retirement system. However, the tax-increase provision is only one of many charges effected by the bill in the railroad retirement law.

Senate bill 226, as passed by the Senate, is not primarily a tax measure. The increase in tax is only part of a bill which is designed to provide much needed increases in the benefits under the Act. In my mind there is no doubt about the constitutional power of the Senate to initiate such a measure. The Supreme Court has long held that the Senate can initiate and can pass general legislation which contains, as an incidental feature, a revenue provision. The case of *Millard vs. Roberts*, decided in 1906, is specific on this point. The annotated Constitution, compiled by Professor Corwin, contains numerous citations in support of this view.

I have conferred with the distinguished chairman of the subcommittee who handled the bill, the Senator from Oregon [Mr. MORSE]. It is our conclusion that we do not wish to quibble over the matter; we are primarily concerned with sending this proposed legislation to the

President at an early date. In our judgment, the power of the Senate to initiate and to dispose of proposed legislation such as Senate bill 226 is clear and beyond any doubt; and we do not intend to delay the taking of final action on this matter by arguing the procedural question. It is far more important to the railroad workers that such a bill be passed and go to the President and be signed by him into law, rather than that there be long argument over the question of whether the bill bear a House bill number or a Senate bill number.

So, Mr. President, after conferring with the Senator from Oregon and other members of the committee, I urge immediate Senate consideration of House bill 5610, which is identical in every respect with Senate bill 226, which was passed by the Senate on April 29, I believe, by unanimous vote.

Mr. President, I yield now to the Senator from Oregon, so that he may make whatever comments he desires to make, and that then the Senate may perhaps take action on the bill.

Mr. MORSE. Mr. President, the majority leader has explained the reason why there has been some confusion in regard to railroad retirement legislation. In my judgment he has stated the law accurately. There is no question about the fact that it was within the province of the Senate to initiate such proposed legislation and to pass it. I quite agree with the Senator from Texas that we should proceed to repass the bill, this time in the form of House bill 5610.

In making legislative history on the bill, our obligation is to make sure that no question at all in regard to the legislative process can be raised successfully by anyone in any future litigation.

Mr. President, until yesterday we had thought a conference would be necessary in order to resolve a difference between the bill which was passed by the Senate—Senate bill 226, the Morse bill—and the bill which was passed last Wednesday by the House—House bill 5610.

Yesterday, however, the House passed a new bill, numbered H.R. 5610, with language identical to that of the Morse bill, Senate bill 226, as passed by the Senate.

It is much to be desired that the Senate now pass House bill 5610, and thus permit a railroad retirement bill to reach the White House as soon as possible. In urging that the Senate take this action, I assure this body that such action by it will merely reaffirm the action the Senate took last week in passing Senate bill 226.

Mr. JOHNSON of Texas. Mr. President, I yield to the minority leader first. Then I shall yield to the Senator from Louisiana [Mr. LONG].

Mr. DIRKSEN. Mr. President, I think we had some discussion of this matter when the bill first came up in the Committee on Labor and Public Welfare. I did not feel there was any doubt whatsoever that the Senate had authority to consider this bill originally and send it to the House. I do indeed concur in the opinion expressed by the majority leader; but, in the interest of felicity as between the two Houses, if this is what

it takes in order to expedite action, certainly I have no objection.

Mr. LONG. Mr. President—

Mr. JOHNSON of Texas. I yield now to my friend from Louisiana.

Mr. LONG. Mr. President, as one of those who greatly admire the majority leader, I hope he is not going to permit the House, in matters of this sort, continually to downgrade the Senate. This type of procedure can hardly be more than an excuse for the House to claim to be the author of legislation by acting first. If the House had proceeded expeditiously, it could have acted first on this measure, rather than second, as it has. Then the Senate might properly be denied credit for being the body of Congress to act first on this bill. The Senate is already bound in a number of ways when the House insists, unreasonably in some instances, on having its way. For example, the Senator from Louisiana has several times sponsored legislation involving veterans insurance, which the House has failed to consider because of objection on the part of a single Member of the House.

I urge the majority leader to see that the responsibilities, duties, and powers of the Senate are maintained. I hope he will try to do something about it, as time goes on, so that the House will act reasonably in such matters.

Mr. JOHNSON of Texas. I appreciate the remarks of the Senator from Louisiana. I shall do all I can, in a constructive manner, to see that the responsibilities of the Senate are recognized. In this instance I do not agree with the way the House has acted, but I do not see that there is any good purpose to be served by further quibbling and delay, and I certainly do not want to emulate the action of the House in this instance.

Mr. President, if we can get action on this bill—

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill was passed.

Mr. MORSE. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. JOHNSON of Texas. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Public Law 86-28
86th Congress, H. R. 5610
May 19, 1959

AN ACT

To amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroad Retirement Act of 1937, amendments.

PART I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

Section 1. (a) Section 2(a)3 of the Railroad Retirement Act of 1937 is amended to read as follows:

50 Stat. 309.
45 USC 228b.

~~“3. Individuals who will have attained the age of sixty and will have completed thirty years of service or, in the case of women, who will have attained the age of sixty-two and will have completed less than thirty years of service, but the annuity of such individual shall be reduced by one one-hundred-and-eightieth for each calendar month that he or she is under age sixty-five when the annuity begins to accrue.”~~

Women.
Reduced annuity.
73 Stat. 25.
73 Stat. 26.

(b) Section 2(d) of such Act is amended by adding at the end thereof the following new sentence: “If pursuant to the third sentence of this subsection an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual’s earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in the first sentence of this subsection) did not exceed \$1,200, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the fifth sentence of this subsection, shall then be payable. If the total amount of such individual’s earnings during such year (exclusive of earnings for services described in the first sentence of this subsection) is in excess of \$1,200, the number of months in such year with respect to which an annuity is not payable by reason of such third and fifth sentences shall not exceed one month for each \$100 of such excess, treating the last \$50 or more of such excess as \$100; and if the amount of the annuity has changed during such year, any payments of annuity which become payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.”

Disability annuities.

(c) Section 2(e) of such Act is amended by striking out “than an amount” and inserting in lieu thereof “than 110 per centum of an amount”.

Spouses’s annuity.

(d) Section 2(g) of such Act is amended by inserting after “wife under age 65” the following: “(other than a wife who is receiving such annuity by reason of an election under subsection (h))”.

(e) Section 2 of such Act is further amended by adding at the end thereof the following new subsection:

“(h) A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue.”

Sec. 2. (a) Section 3(a) of the Railroad Retirement Act of 1937 is amended (1) by striking out “3.04”, “2.28”, and “1.52” and inserting in lieu thereof “3.35”, “2.51”, and “1.67”, respectively; and (2) by striking out “\$200” and inserting in lieu thereof “\$250”.

Annuity Computation.
45 USC 228e.

45 USC 228e.

(b) Section 3(c) of such Act is amended by inserting after "or in excess of \$350 for any month after June 30, 1954," the following: "and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended,".

73 Stat. 26.

73 Stat. 27.

(c) Section 3(e) of such Act is amended (1) by striking out "\$4.55", "\$75.90", and "his monthly compensation" and inserting in lieu thereof "\$5.00", "\$83.50" and "110 per centum of his monthly compensation", respectively; (2) by striking out "is less than the amount, or the additional amount" and inserting in lieu thereof "is less than 110 per centum of the amount, or 110 per centum of the additional amount"; (3) by inserting after "age sixty-five," the following: "women entitled to spouses' annuities pursuant to elections made under subsection (h) of section 2 to be entitled to wife's insurance benefits determined under section 202(q) of the Social Security Act,"; and (4) by striking out "such amount or such additional amount" and inserting in lieu thereof "110 per centum of such amount or 110 per centum of such additional amount".

70 Stat. 809.

42 USC 402.

Survivor annuities.

45 USC 228e.

SEC. 3. (a) Section 5(f) (2) of the Railroad Retirement Act of 1937 is amended by striking out "and 7 per centum of his or her compensation after December 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month before July 1, 1954, and in the latter case in excess of \$350 for any month after June 30, 1954)," and by inserting in lieu thereof the following: "plus 7 per centum of his or her compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of his or her compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and in excess of \$400 for any month after the month in which this Act was so amended),".

(b) Section 5(h) of such Act is amended by striking out "\$33", "\$176", and "\$15.40" wherever they appear and inserting in lieu thereof "\$36.30", "\$193.60", and "\$16.95", respectively.

42 USC 403.

(c) Section 5(i)(1)(ii) of such Act is amended by striking out "or in which month he engaged on seven or more different calendar days in noncovered remunerative activity outside the United States (as defined in section 203(k) of the Social Security Act)" and inserting in lieu thereof the following: "or, having engaged in any activity outside the United States, would be charged under such section 203(e) with any earnings derived from such activity if it had been an activity within the United States".

72 Stat. 1781.

45 USC 228e.

(d) Clause (A)(i) of section 5(1)(9) of such Act is amended by striking out the word "and" appearing after "July 1, 1954," and by inserting after "June 30, 1954," the following: "and before the calendar month next following the month in which this Act was amended in 1959, and any excess over \$400 for any calendar month after the month in which this Act was so amended,".

(e) Clause (A)(ii) of section 5(1)(9) of such Act is amended (1) by inserting "and before 1959" after "1954" where it first appears; (2) by inserting after "\$4,200" where it first appears the following: "or for any calendar year after 1958 is less than \$4,800,"; (3) by striking out "\$350" and inserting in lieu thereof "\$400"; and (4) by striking out "and \$4,200 for years after 1954, by" and inserting in lieu thereof the following: " , \$4,200 for years after 1954 and before 1959, and \$4,800 for years after 1958, by".

(f) Section 5(1)(10) of such Act is amended by striking out "44", "11", "\$350", "\$15.40", "\$36.66", "\$27.50", and "\$14.66" wherever they appear and inserting in lieu thereof "49", "12", "\$400", "\$16.95", "\$40.33", "\$30.25", and "\$16.13", respectively.

45 USC 228e.
73 Stat. 27.
73 Stat. 28.

SEC. 4. Section 20 of the Railroad Retirement Act of 1937 is amended (1) by inserting "(a)" immediately after "Sec. 20."; and (2) by adding at the end thereof the following new subsection:

45 USC 228s-1.

"(b) Pensions and annuities under this Act or the Railroad Retirement Act of 1935 shall not be considered as income for the purposes of section 522 of title 38 of the United States Code."

Veterans.
72 Stat. 1136.

SEC. 5. All pensions under section 6 of the Railroad Retirement Act of 1937, all joint and survivor annuities and survivor annuities deriving from joint and survivor annuities under that Act awarded before the month next following the month of enactment of this Act, all widows' and widowers' insurance annuities which began to accrue before the second calendar month next following the month of such enactment, and which, in accordance with the proviso in section 5 (a) or section 5 (b) of the Railroad Retirement Act of 1937, are payable in the amount of the spouse's annuity to which the widow or widower was entitled, and all annuities under the Railroad Retirement Act of 1935, are increased by 10 per centum.

Annuity increase.
45 USC 228f.

SEC. 6. (a) The amendments made by section 1 (other than subsection (b) thereof), by subsections (a) and (c) of section 2, and by subsection (b) of section 3 shall be effective only with respect to annuities (not including annuities to which section 5 applies) accruing for months after the month of enactment of this Act. The amendment made by subsection (b) of section 1 and by subsection (c) of section 3 shall be effective with respect to annuities accruing during the calendar year 1959 and subsequent calendar years. The amendment made by subsection (a) of section 3 shall be effective only with respect to lump-sum payments (under section 5(f)(2) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. The amendments made by subsection (f) of section 3 shall be effective only with respect to annuities accruing for months after the month of enactment of this Act and lump-sum payments (under section 5(f)(1) of the Railroad Retirement Act of 1937) in the case of deaths occurring after the month of enactment of this Act. Sections 4 and 5 shall be effective only with respect to pensions due in calendar months after the month next following the month of enactment of this Act and annuities accruing for months after the month of enactment of this Act.

45 USC 228e.

Effective dates.

(b) All recertifications required by reason of the amendments made by this part shall be made by the Railroad Retirement Board without application therefor.

Recertifications.

PART II—AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

SEC. 201. (a) Section 3201 of the Railroad Retirement Tax Act is amended to read as follows:

68A Stat. 431.
26 USC 3201.

"SEC. 3201. RATE OF TAX.

"In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to—

Employees.

"(1) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1961, as is not in excess of \$400 for any calendar month: *Provided*, That

the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956."

68A Stat. 415.
26 USC 3101.
70 Stat. 845.

68A Stat. 431.
26 USC 3202.

(b) Section 3202(a) of the Railroad Retirement Tax Act is amended (1) by striking out "after December 31, 1954" wherever it appears and inserting in lieu thereof "after the month in which this provision was amended in 1959"; (2) by striking out "\$350" wherever it appears and inserting in lieu thereof "\$400"; (3) by striking out "after 1954" and inserting in lieu thereof "after the month in which this provision was amended in 1959".

68A Stat. 432.
26 USC 3211.

(c) Section 3211 of the Railroad Retirement Tax Act is amended to read as follows:

"SEC. 3211. RATE OF TAX.

Employee repre-
sentative.

"In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to—

"(1) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961,

as is not in excess of \$400 for any calendar month: *Provided*, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956."

26 USC 3101.

26 USC 3221.

(d) (1) Section 3221 of the Railroad Retirement Tax Act is amended by striking out "In addition to" and all that follows down through "\$350" the first time it appears, and inserting in lieu thereof the following:

Employers.
Excise tax.

"(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to—

"(1) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after the month in which this provision was amended in 1959, and before January 1, 1962, and

"(2) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1961,

as is, with respect to any employee for any calendar month, not in excess of \$400".

(2) Such section 3221 is further amended (A) by striking out "after December 31, 1954" and "after 1954" wherever they appear in that section and inserting in lieu thereof "after the month in which this provision was amended in 1959"; (B) by striking out "\$350" wherever

else it appears in that section and inserting in lieu thereof "\$400"; and (C) by adding at the end thereof the following new subsection:
 "(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3111 at such time exceeds the rate provided by paragraph (2) of such section 3111 as amended by the Social Security Amendments of 1956."

26 USC 3111.

70 Stat. 845.

Effective date.

Sec. 202. The amendments made by section 201 shall, except as otherwise provided in such amendments, be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid after the month of such enactment, for services rendered after such month of enactment.

PART III—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Sec. 301. (a) Section 1(i) of the Railroad Unemployment Insurance Act is amended by striking out the proviso in the first sentence and inserting in lieu thereof "*Provided, however*, That in computing the compensation paid to any employee, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended, shall be recognized".

Compensation base.
 52 Stat. 1095;
 68 Stat. 1041.
 45 USC 351.

(b) The first proviso of section 1(k) of the Railroad Unemployment Insurance Act is amended by striking out "\$400" and inserting in lieu thereof "\$500".

Sec. 302. (a) Section 2(a) of the Railroad Unemployment Insurance Act is amended by striking out the language between "(i)" and "(ii)" and inserting in lieu thereof the following: "for each day of unemployment in excess of four during any registration period, and".

Daily benefit rates.
 45 USC 352.

(b) Section 2(a) of such Act is further amended by striking out columns I and II and inserting in lieu thereof the following:

Column I Total Compensation	Column II Daily Benefit Rate
\$500 to \$699.99	\$4.50
700 to 999.99	5.00
1,000 to 1,299.99	5.50
1,300 to 1,599.99	6.00
1,600 to 1,899.99	6.50
1,900 to 2,199.99	7.00
2,200 to 2,499.99	7.50
2,500 to 2,799.99	8.00
2,800 to 3,099.99	8.50
3,100 to 3,499.99	9.00
3,500 to 3,999.99	9.50
4,000 and over	10.20"

(c) The proviso in such section 2(a) is amended by striking out "50" and "\$8.50" and inserting in lieu thereof "60" and "\$10.20", respectively.

Sec. 303. (a) Section 2(c) of the Railroad Unemployment Insurance Act is amended by striking out the period at the end thereof and inserting in lieu of such period a colon and the following: "*And provided further*, That, with respect to an employee who has ten or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, who did not voluntarily leave work without

Temporary extension of benefits.

45 USC 228a.

good cause or voluntarily retire, and who had current rights to normal benefits for days of unemployment in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under the following schedule, and the maximum number of days of, and amount of payment for, unemployment within such benefit year for which benefits may be paid to the employee shall be enlarged to include all compensable days of unemployment within such extended benefit period:

"If the employee's 'years of service' total—

10 and less than 15.....
15 and over.....

The extended benefit period shall begin on the first day of unemployment following the day on which the employee exhausted his then current rights to normal benefits for days of unemployment and shall continue for successive fourteen-day periods (each of which periods shall constitute a registration period) until the number of such fourteen-day periods totals—

7 (but not more than 65 days)
13

but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 of this Act on the basis of compensation earned after the first of such successive fourteen-day periods has begun. For an employee who has ten or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, who has fourteen or more consecutive days of unemployment, and who is not a 'qualified employee' for the general benefit year current when such unemployment commences but is or becomes a 'qualified employee' for the next succeeding general benefit year, such succeeding benefit year shall, in his case, begin on the first day of the month in which such unemployment commences."

45 USC 228a.

(b) An employee who has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, and who has after June 30, 1957, and before April 1, 1959, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his rights to unemployment benefits, shall be paid unemployment benefits for days of unemployment, not exceeding sixty-five, which occur in registration periods beginning on or after June 19, 1958, and before July 1, 1959, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act, except that an employee who has filed, and established, a first claim for benefits under the Temporary Unemployment Compensation Act of 1958 may not thereafter establish a claim under this subsection, and an employee who has registered for, and established a claim for benefits under this subsection may not thereafter establish a claim under the Temporary Unemployment Compensation Act of 1958. Except to the extent inconsistent with this subsection, the provisions of the Railroad Unemployment Insurance Act shall be applicable in the administration of this subsection.

52 Stat. 1094.
45 USC 367.
72 Stat. 171.
42 USC 1400
note.

(c) The Secretary of Labor, upon request, shall furnish the Board information deemed necessary by the Board for the administration of the provisions of subsection (b) hereof, and the Board, upon request, shall furnish the Secretary of Labor information deemed necessary by the Secretary for the administration of the Temporary Unemployment Compensation Act of 1958.

45 USC 353.
Qualifying condition.
45 USC 354,
Sundays and
holidays.

SEC. 304. Section 3 of the Railroad Unemployment Insurance Act is amended by striking out "\$400" and inserting in lieu thereof "\$500".

SEC. 305. Section 4(a-2) of the Railroad Unemployment Insurance Act is amended by striking out subdivision (iv), and by striking out

the semicolon at the end of subdivision (iii) and inserting in lieu thereof a period.

SEC. 306. Section 8(a) of the Railroad Unemployment Insurance Act is amended (1) by inserting after "June 30, 1954" where it first appears the following: ", and before the calendar month next following the month in which this Act was amended in 1959, and is not in excess of \$400 for any calendar month paid by him to any employee for services rendered to him after the month in which this Act was so amended"; (2) by inserting after "June 30, 1954" where it appears for the second time the following: ", and before the calendar month next following the month in which this Act was amended in 1959, and to not more than \$400 for any month after the month in which this Act was so amended"; (3) by inserting after "June 30, 1954" where it appears for the third time the following: ", and before the calendar month next following the month in which this Act was amended in 1959, or less than \$400 if such month is after the month in which this Act was so amended"; (4) by striking out "December 31, 1947" in paragraph 2 and inserting in lieu thereof "the month in which this Act was amended in 1959"; and (5) by striking out the table (except the column headings) in such paragraph 2 and inserting in lieu thereof the following:

Employer's contributions.
45 USC 358.

	Percent
\$450,000,000 or more.....	1½
\$400,000,000 or more but less than \$450,000,000.....	2
\$350,000,000 or more but less than \$400,000,000.....	2½
\$300,000,000 or more but less than \$350,000,000.....	3
Less than \$300,000,000.....	3¾

SEC. 307. Section 8(b) of the Railroad Unemployment Insurance Act is amended (1) by striking out "3 per centum" and inserting in lieu thereof "3¾ per centum"; and (2) by inserting before the period at the end of the first sentence the following: ", and before the calendar month next following the month in which this Act was amended in 1959, and as is not in excess of \$400 paid to him for services rendered as an employee representative in any calendar month after the month in which this Act was so amended".

Employee representatives' contributions.

SEC. 308. (a) Subsection (d) of section 10 of the Railroad Unemployment Insurance Act be amended to read as follows:

45 USC 360.
Transfer of funds.

"(d) Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at the rate of 3 per centum per annum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a) of this Act, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded."

Effective dates. (b) The amendment made by this section shall take effect on the date of enactment of this Act.

SEC. 309. The amendments made by section 301 (b) shall be effective with respect to days in registration periods beginning after June 30, 1959. The amendments made by sections 302, 303(a), and 305 shall be effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, and in extended benefit periods which begin after December 31, 1957. The amendment made by section 304 shall be effective with respect to base years after the base year ending December 31, 1957. The amendments made by clauses (4) and (5) of section 306 and clause (1) of section 307 shall be effective as of the first day of the calendar month next following the month in which this Act was enacted, and shall apply only with respect to compensation paid for services rendered in calendar months after the month in which this Act was enacted.

Approved May 19, 1959.

THE
HISTORY
OF
THE
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OF
NEW-YORK
FROM
ITS
FIRST
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TO
THE
PRESENT
TIME
BY
J. C. HEATON
NEW-YORK
1856

LISTING OF REFERENCE MATERIALS

U.S. Congress. Senate. Committee on Labor and Public Welfare. Subcommittee on Railroad Retirement. Hearings on S. 226, S. 280, S. 875, S. 987, and S. 1314, Retirement Benefits and Unemployment Insurance, 86th Congress, 1st session.