Social Security Amendments of 1966

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89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
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TAX ADJUSTMENT ACT OF 1966

FEBRUARY 15, 1966.—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. 12752]

The Committee on Ways and Means, to whom was referred the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. SUMMARY

H.R. 12752, the tax adjustment bill of 1966, is designed to contribute revenues to aid in financing the increased costs of government associated with operations in Vietnam. It is designed to help finance these costs in a manner which will avoid the creation of serious inflationary pressures.

The provisions of the bill, which are based upon recommendations made by the President with certain important modifications, are grouped under two headings. Most important from a revenue standpoint are the provisions which affect the procedures for collecting tax, but which do not affect tax liabilities. They include graduated withholding on wage income, tightening up the filing requirements for declarations, the acceleration of corporate estimated tax payments, and quarterly payments of estimated self-employment social security tax. The remaining provisions superimpose a 2-year moratorium on rate reductions scheduled under existing law for the excise taxes on passenger automobiles and telephone service. When this moratorium ends, these tax rates will immediately fall to the levels which would otherwise have been applicable under present law at

that time, and will thereafter continue to be reduced as scheduled under existing law.

Revenue effect.—It is anticipated that these provisions will increase administrative budget revenues in the fiscal year 1966 by $1.2 billion and the revenues in the fiscal year 1967 by $4.8 billion relative to the levels that would be achieved under existing law. The temporary effects of the change in the timing of tax payments will be responsible for $1.1 billion of the added administrative budget revenues in the fiscal year 1966 and $3.6 billion of the increase in revenues in the fiscal year 1967. The quarterly payment of estimated self-employment tax will increase trust fund receipts, which are reflected in the consolidated cash budget but not in the administrative budget, by $200 million in the fiscal year 1967. The moratorium on excise tax reduction will retain $60 million in revenue which would otherwise be foregone in the fiscal year 1966 and $1.2 billion in revenue which would otherwise be foregone in the fiscal year 1967.

The provisions.—(1) *Graduated withholding.*—For wages paid after April 30, 1966, the bill replaces the present withholding tax rate with a series of six graduated rates ranging from 14 to 30 percent which are grouped in a system that takes account of the minimum standard deduction or deductions of 10 percent of wages and of the taxpayer's marital status as well as the statutory tax rates which apply to the first $12,000 of taxable income for single persons and $24,000 of taxable income for married persons.

Included in the bill is a provision, not a part of the President's recommendations, which is designed to reduce overwithholding. This provision, beginning in 1967, will permit taxpayers whose itemized deductions as a percentage of their wages are in excess of certain limits to claim withholding allowances. These allowances will have the effect of additional withholding exemptions. Withholding allowances will be based on the excess of estimated itemized deductions (which cannot exceed the deductions itemized in the previous year) over a prescribed amount of estimated wage income (which cannot be less than the wage income received in the previous year). The prescribed amount is a composite of 12 percent of the first $7,500 of estimated wages plus 17 percent of estimated wages in excess of $7,500. Beginning in 1967, withholding allowances may be claimed with respect to each full $700 of these excess itemized deductions. The Internal Revenue Service is authorized, and expected, to compile a table which will help taxpayers to determine the number of withholding allowances they may claim.

(2) *Quarterly payments of estimated self-employment tax.*—Effective for taxable years beginning after December 31, 1966, self-employed persons will be required to file declarations with respect to the total of their estimated income tax and self-employment tax and to make quarterly payments based on this declaration. The rules which now apply with regard to the requirement for filing a declaration of estimated income tax and the rules which govern the assessment of penalties for the underpayment of estimated tax will henceforth apply to the combined amount of estimated income tax and estimated self-employment tax.

(3) *Underpayment of estimated tax by individuals.*—Under existing law, a penalty may be incurred by a taxpayer when the total of the

amounts withheld from his wages and the amounts paid through quarterly payments of estimated tax are equal to less than 70 percent of the tax shown on his return. Effective for taxable years beginning after December 31, 1966, the present 70 percent provision is raised to 80 percent.

(4) *Acceleration of corporation income tax payments.*—The schedule bringing corporation payments of estimated income tax liabilities above $100,000 to a current basis will be accelerated so that the current payments basis will be reached in 1967 instead of 1970 as scheduled under present law. Calendar year corporations will pay 12 percent of their estimated tax liabilities in April and June 1966, instead of the presently scheduled 9 percent. In 1967 and in following years, they will pay 25 percent of estimated tax liabilities on each payment date.

(5) *Excise tax on passenger automobiles.*—The excise tax rate on passenger automobiles effective on the day after enactment of the bill will revert to 7 percent (the rate before January 1, 1966) from 6 percent, and there will be a moratorium until March 31, 1968, on further tax rate reductions scheduled under present law. At the expiration of the moratorium, the excise tax on passenger automobiles will fall to 2 percent, as presently scheduled for 1968, and then to 1 percent as presently scheduled for 1969. A tax of 1 percent will be imposed on dealer stocks of automobiles held on the day following the date of enactment. It will be collected from the dealers by the manufacturers.

(6) *Excise tax on telephone service.*—The excise tax rate on telephone service will revert to 10 percent (the rate before January 1, 1966), from 3 percent, on general and toll telephone and teletypewriter exchange services. It will be in effect until March 31, 1968, when it will decline to 1 percent and will be repealed on January 1, 1969, as scheduled under present law. Nonprofit hospitals will be exempt from the tax on telephone services. These provisions will be effective with respect to bills rendered on or after the first day of the month which begins 15 days after the effective date of this bill.

II. REVENUE EFFECTS

As indicated in table 1, your committee's bill is expected to increase fiscal year 1966 administrative budget receipts by $1,155 million and fiscal year 1967 receipts by $4,830 million. This latter figure is slightly above that recommended by the President. In addition, consolidated cash budget receipts will be further increased by $200 million in the fiscal year 1967. This increase differs from the recommendation of the President only in that the $200 million under his recommendation was spread over the fiscal years 1966 and 1967.

TABLE 1.—*Estimated revenue increase under H.R. 12752 for the fiscal years 1966 and 1967*

[In millions of dollars]

	Fiscal year 1966	Fiscal year 1967
Excises:		
Communication	----	785
Automobiles	60	420
Total excises	60	1,205
Corporate speed-up	1,000	3,200
Graduated withholding	95	275
Increase in declaration requirement under individual income tax from 70 to 80 percent	----	150
Total, administrative budget	1,155	4,830
Self-employment tax, social security, quarterly payments (goes into a trust fund)	----	200
Total, cash budget	1,155	5,030

The largest single source of additional revenue provided by your committee's bill is attributable to advancing the payment dates for corporate tax. This is expected to increase revenues in the fiscal year 1966 by $1 billion and revenues in fiscal year 1967 by $3.2 billion. The excise reduction moratorium with respect to the taxes on automobiles and communications represents the second major revenue source under the bill. It is estimated that this will raise revenues by $60 million in the fiscal year 1966 and by $1,205 million in the fiscal year 1967. The provisions with respect to graduated withholding and the increase in the declaration requirement under the individual income tax from 70 to 80 percent of actual tax liability are expected to increase revenues by $425 million in the fiscal year 1967. The provision with respect to graduated withholding is expected to increase revenues in the fiscal year 1966 by $95 million.

Table 2 shows the revenue impact of the graduated withholding system and the declaration requirement change approved by your committee. Only the six-rate graduated withholding system has an impact in the fiscal year 1966. As previously indicated, this is expected to increase revenues in that year by $95 million. In the fiscal year 1967 a six-rate graduated withholding system with no allowances for excess itemized deductions would increase revenues by $400 million. If two-thirds of those eligible decrease overwithholding due to itemized deductions under the provision approved by your committee, this gain will be reduced by $125 million in the fiscal year 1967, resulting in a net gain from graduated withholding of $275 million in the fiscal year 1967. However, your committee's action in raising the declaration requirement from 70 to 80 percent effective for the fiscal year 1967 is expected to increase revenues by $150 million. As a result these actions, taken together, give rise to an estimated revenue gain of $425 million for the fiscal year 1967, or slightly more than that recommended by the President. In the fiscal year 1968 the decrease in overwithholding attributable to allowances for itemized deductions will result in a loss of $190 million. This fiscal year 1968 loss of $190 million is a loss over and above any which would be incurred under the President's recommendations. However, there is a gain of $65 million in that year arising from extending the excise tax rates for passenger cars and communication

services until April 1, 1968, which also would not be realized under the President's recommendations.

TABLE 2.—*Revenue effect of provisions of H.R. 12752 relating to graduated withholding and declarations of estimated tax*

[In millions of dollars]

Provisions	Effective date	Full year effect	Change in receipts		
			Fiscal year 1966	Fiscal year 1967	Fiscal year 1968
6-rate graduated withholding	May 1, 1966	+1,240	+95	+400	
Extra withholding allowance for excess deductions [1]	Apr. 1, 1967	−770		−125	−190
Increase requirement for estimated tax from 70 to 80 percent	Apr. 15, 1967	+300		+150	
Total for individuals		+770	+95	+425	−190

[1] Assumes ⅔ utilization by eligible taxpayers.

III. REASONS FOR THE BILL

1. Fiscal and economic impact

The tax adjustment bill of 1966 will help provide the additional revenues which your committee is advised will be required by the conflict in Vietnam. This bill is designed to help finance the additional expenditures required for this purpose without generating serious inflationary pressures in the domestic economy. The additional revenues will be derived from two general types of provisions. The first consists of inprovements in tax collection procedures which, without affecting tax liabilities, involve a temporary increase in the amount of revenues by making payments more current. The remaining provisions restore rates in effect on December 31, 1965, and impose a 2-year moratorium on presently scheduled reductions in the excise taxes on passenger automobiles and telephone service.

Were it not for special Vietnam costs, administration testimony before your committee has informed us, the increase in Federal revenue attributable to the growth of the economy—growth largely in response to the tax reductions enacted in recent years—would be sufficient not only to meet the regular requirements of Federal operations but also to provide a surplus. The President's budget message indicates that special Vietnam expenses will account for an estimated $10.5 billion of administrative budget expenditures for the fiscal year 1967. These expenses account for $5.8 billion of the $6.4 billion increase in expenditures in the fiscal year 1967 over those for the fiscal year 1966. It is estimated that revenues would increase by $7.5 billion between the 2 fiscal years if no change were made in existing tax laws, an amount that would be sufficient to produce a substantial budget surplus were it not for the extraordinary defense requirements. It will be recalled that when the House was considering what became the Revenue Act of 1964—which provided a reduction of $11.5 billion, the largest reduction ever provided—the then Secretary of the Treasury Douglas Dillon indicated that despite this reduction, it might be possible to balance the budget in the fiscal year 1967. It should be noted that this objective of a balanced budget in the fiscal year 1967 would be obtained were it not for the extraordinary defense expendi-

tures arising from the conflict in Vietnam. Thus, were it not for the special Vietnam expenses of $10.5 billion, there would be no need at this time for the 2-year excise tax reduction moratorium or for an advancement of the corporate tax payments at a more rapid rate then originally planned.

As a result of these extraordinary defense requirements, this bill provides additional temporary revenues designed to improve the budgetary outlook for both the fiscal years 1966 and 1967 as indicated in table 3.

Its provisions will increase revenues over present law yields in the current fiscal year by an estimated $1.2 billion on an administrative budget basis and by $4.8 billion in the following fiscal year. As a result, the deficit in the administration's budget expected for fiscal 1966 will be reduced from $7.6 to $6.4 billion, and will fall sharply to $1.8 billion in fiscal 1967. Viewed from the basis of the consolidated cash budget, the results of the bill will be even more significant. The anticipated consolidated cash budget deficit for the fiscal year 1966 is expected to be $6.9 billion. In the fiscal year 1967, this deficit will be eliminated and a small surplus achieved as a consequence of the $5 billion that will be added to cash receipts by this bill in that year. Moreover, the bill will increase fiscal 1966 cash receipts by $1.2 billion.

The modifications in collection procedures enacted in this bill—that is, graduated withholding, tighter declaration requirements, quarterly self-employment tax payments, and faster corporate income tax payments—will have a significant effect on revenues even though they will not increase tax liabilities. These changes in timing will result in the collection of some revenues in fiscal 1966 and fiscal 1967 which would otherwise not be collected until the following years. Once the transition to the new collection procedures is completed, however, tax payments by individuals and corporations during each fiscal year will (apart from the effect of growth in the economy) be no greater than under present law.

TABLE 3.—*Comparison of administrative budget receipts and expenditures with and without H.R. 12752, fiscal years 1966 and 1967*

[In billions of dollars]

	Fiscal year 1966	Fiscal year 1967	Change fiscal year 1967 over fiscal year 1966
Expenditures	106.4	112.8	+6.4
Receipts without bill	98.8	106.2	+7.3
Deficit without bill	7.6	6.7	−0.9
Increase in receipts under bill	+1.2	+4.8	+3.7
Tota lreceipts (including those under this bill)	100.0	111.0	+11.0
Deficit after taking account of revenues under this bill	6.4	1.8	−4.6

NOTE. Figures are based on President's budget message, and therefore totals include estimated effects of proposed legislation other than H.R. 12752. Figures are rounded and will not necessarily add to totals.

It is expected that the increased tax collections that result from this bill will have a moderating influence on the expenditures of individuals and business firms. This influence will tend to offset the expansionary effects of increased defense expenditures. Such a policy is appropriate in view of the near capacity levels of output and employment

at which the economy is now operating. In the absence of the moderating influence of increased tax collections, the total of private demand and Government requirements would threaten to exceed the present capacity of the Nation's productive resources, and in that manner constitute a threat to price stability.

The Nation has enjoyed 5 years of uninterrupted economic expansion, the longest period of peacetime expansion in U.S. business cycle annals. In 1961, at the start of the expansion, civilian labor force unemployment reached 7 percent and 22 percent of manufacturing capacity remained idle. The Revenue Acts of 1962 and 1964 and the Excise Tax Reduction Act of 1965 were in large part directed at the removal of restraints to growth in the private sector of the economy arising from tax rates that were too high. Largely as a result of these measures, the rate of unemployment fell to 4 percent of the labor force in January 1966, and the capacity utilization index in manufacturing rose to 91 percent in the fourth quarter of 1965.

Today the gap between potential and actual output has thus been greatly narrowed. This is suggested by the recent behavior of the consumer and wholesale prices indexes. After 4 years of virtual stability, the index of wholesale prices increased 2 percent from 1964 to 1965. The percentage increases in the consumer price index from 1960 to 1964 averaged 1.2 percent a year. In 1965 the percentage increase was 1.7 percent and would have been 1.9 or 2 percent but for the effect of excise tax reductions enacted in the Excise Tax Reduction Act of 1965.

Evidence of the approach to the full use of our capacity is also indicated in statistics on capacity utilization rates in various industries. In December 1965, several important industries were operating at or above their preferred operating rates and the overall utilization index was only 1 point below the average preferred operating rate.

As pointed out to your committee by the Secretary of the Treasury, the various provisions of the bill will have a restraining influence on demands on available capacity. Following the enactment of this bill, the amounts withheld from individual wages will increase by $1.24 billion at annual rates under the six-rate graduated withholding system. While these increased collections of $1.24 billion will be reflected in reduced amounts of tax due when final returns are filed in the spring of 1967 and, to a limited extent, in increased tax refunds, they will tend to reduce consumer purchases during the remaining portion of 1966 and during the early months of 1967.

The fiscal effect of more accurate withholding will be reinforced by the requirement that taxpayers pay at least 80 percent of their liability for the year through withholding, payments of estimated tax, or both, to avoid penalties for underpayments of estimated tax. This, too, will tend to lessen consumer spending during this period of extraordinary military expenditures. Presently only 70 percent of the final liability need be paid to avoid the application of penalties. (As under present law, however, penalties will not be imposed where payments equal the prior year's tax or are based on the prior year's income, or certain other conditions are met).

The postponement of some corporate investment expenditures, as will occur as a result of the acceleration of corporate tax payments for the larger corporations will be favorable to continued economic

stability. Current levels of corporate investment in new plant and equipment are high. Outlays for business fixed investment rose by 11.5 percent in 1964 and by 15.4 percent in 1965 as compared with an average annual rate of increase of 7.5 percent in 1962 and 1963. Present announced plans indicate that investment will again increase at a rapid rate in the first half of 1966. Mild restraint, therefore, may well promote better balance between the rate of growth of output and investment in expanded capacity. It will also support our effort to reduce the deficit in our balance of payments to manageable levels. A source of strength in the balance-of-payments outlook in recent years has been the comparative stability in the prices of U.S. goods as compared to rising prices of the goods of other nations.

2. Correlating withholding with tax liabilities

Apart from their beneficial budgetary and economic effects, improved collection techniques will mean important benefits to taxpayers. Under graduated withholding, amounts withheld will more nearly approximate final liabilities. In particular, fewer taxpayers will have substantial amounts of tax to pay when they file their final return for the year. Last year for many taxpayers the fact that such bills remained to be paid in the spring of 1965 caused a measure of financial hardship and considerable resentment which tended to blunt the very substantial benefits provided by the Revenue Act of 1964. Unless graduated withholding is enacted, this experience is likely to be repeated in future years. Thus, this is a desirable improvement in collection procedures wholly apart from the temporary revenue increase.

Your committee's bill incorporates a special withholding allowance which provides relief for those taxpayers who itemize deductions and would otherwise find that withholding resulted in substantial unwanted overpayment of tax. This feature will also promote more accurate withholding as is shown subsequently in table 4 in this report.

3. Change in corporate payments merely an advance in timing

The proposal regarding corporate tax payments accomplishes by 1967 what would otherwise be accomplished by 1970. The Revenue Act of 1964 provided that corporations were to estimate and pay currently that portion of their tax liability expected to exceed $100,000, but the transition to current payment was scheduled over a period which was to end in 1970. This bill simply achieves that transition by 1967. Instead of paying 9 percent of their estimated liabilities in excess of $100,000 in April and June of 1966, calendar-year corporations will be required to pay 12 percent. In the final two quarters of 1966, these corporations will pay the same percentage, 25 percent, of these estimated liabilities as they are required to pay under present law. In 1967, these corporations will be required to pay in each quarter amounts equal to 25 percent of their estimated liabilities in excess of $100,000. Under existing law, they would pay installments of 14 percent of this estimated liability in April and June 1967 and installments of 25 percent in September and December 1967. Tables 9 and 10, presented subsequently in this report, show the schedules of payments under present law and under the bill.

4. Self-employment social security tax placed on current basis

This bill makes provision, for the first time, for the declaration and quarterly payment of estimated social security tax liabilities with re-

spect to self-employment income. This bill places self-employed persons on the same current payment basis for social security tax purposes as they are on now for income tax purposes, and does so with a minimum degree of added complication. The declaration and estimated taxpayment system now in effect is simply broadened to include estimated self-employment social security tax.

5. Two-year moratorium for auto and telephone excise reductions

The excise tax rate reductions scheduled under present law for 1966 and later years in the case of telephone service and passenger automobiles are not rescinded by this bill. They are merely postponed for 2 years. This bill makes explicit provision for reduction on April 1, 1968, of these rates to the levels which would prevail under existing law, emphasizing the fact that the moratorium on rate reduction, while necessary in view of current budgetary and economic conditions, is not intended to cancel the eventual reductions of the 1965 act. Thus, the bill as reported by your committee in this respect differs to a significant degree from the proposals of the administration: the administration would have postponed the auto and telephone excise tax reductions for 2 years—not only the reductions occurring in the next 2 years, but also the reductions occurring after that time. Your committee's bill, on the other hand, merely provides a moratorium for the reductions which would under present law occur in the next 2 years. Under the bill, the rates will fall at the end of the 2-year period to the level they would have been at under present law at that time, and subsequent reductions under present law are not further postponed.

The excises on telephone service and passenger automobiles are selected for a number of reasons in addition to the fact that they yield substantial revenues. They are currently in effect, so that a moratorium on rate reduction is a much simpler matter administratively for business firms and the Government (since the payment and collection machinery is still in effect) than the reinstitution of excises previously repealed. The fact that these excises were not repealed outright by the Excise Tax Reduction Act of 1965 but were scheduled for gradual reduction also is indicative of the order of priorities in excise tax reduction established by the Congress in 1965. Moreover, the burden of these taxes is widely dispersed over the population, and, therefore, a disproportionate burden will not be imposed on a narrow segment of the population as a result of the moratorium.

IV. GENERAL EXPLANATION

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2. Payments of estimated social security and hospital insurance taxes by self-employed persons. (Sec. 102 of the bill and sec. 6015 of the code.)

Present law.—Under existing law, self-employed persons are required to pay their social security tax and their tax for the hospital insurance program when they file their final income tax return for a given year. However, they may pay this tax quarterly with their estimated income tax payments.

The tax, which, beginning in 1966, is based on the initial $6,600 of net earnings from self-employment, is imposed on self-employed individuals who have net earnings from self-employment which total $400 or more. When an individual also has covered wage income,

this is subtracted from the $6,600 maximum earnings base, and the self-employment tax is computed on the lesser of this amount or net earnings from self-employment. A taxpayer who has $400 of net self-employment income must file a final return and pay self-employment tax even if he is not required to file an income tax return.

General explanation.—Your committee's bill places self-employed persons on the same current payment basis with respect to the payment of their self-employment tax that they are now on for income tax purposes. It does so by requiring quarterly payments of estimated self-employment tax. It will place self-employed persons on more nearly the same payments basis for social security purposes as that of employed persons, whose social security tax is withhold from their wages by employers.

The adoption of current payment for self-employment tax is accomplished with a minimum of difficulty for the self-employed taxpayers who currently file declarations of estimated income tax, since the payment of estimated self-employment tax will be integrated with the payment of estimated income tax. For the estimated 1 million self-employed persons who do not now file declarations of estimated income tax but who will be required to file such declarations as a result of this bill, the advantages of current payment will outweigh the added compliance requirements.

The payments of the self-employment tax will, as a result of this bill, be received on a quarterly basis instead of generally on an annual basis as under present law. It is understood that the amounts received on a quarterly basis will be estimated and paid over from the general fund to the OASI, DI, and HI trust funds on a current basis.

Tables 7 and 8 show the maximum dollar amount of self-employment tax and tax liability since 1951.

TABLE 7.—*Maximum dollar amount of self-employment tax for individuals, 1951 to 1987*

Year	Maximum net earnings base [1]	Tax rate	Maximum tax per person
		Percent	
1951–53	$3,600	2.25	$81.00
1954	3,600	3.0	108.00
1955–56	4,200	3.0	126.00
1957–58	4,200	3.375	141.75
1959	4,800	3.75	180.00
1960–61	4,800	4.5	216.00
1962	4,800	4.7	225.60
1963–65	4,800	5.4	259.20
1966	6,600	[2] 6.15	405.90
1967–68	6,600	6.40	422.40
1969–72	6,600	7.10	468.60
1973–75	6,600	7.55	498.30
1976–79	6,600	7.60	501.60
1980–86	6,600	7.70	508.20
1987+	6,600	7.80	514.80

[1] The minimum net earnings subject to the self-employment rate has been $400 since 1951.
[2] Includes OASDI (social security) tax rates and HI (hospital insurance) tax rate of 1966 and all following years.

TABLE 8.—*Self-employment tax liability, 1951 to 1966*

Year	Self-employment tax		
	Number of income tax returns reporting self-employment tax	Amount of self-employment tax	Average tax per return [1]
	Millions	*Millions*	
1951	4.1	$211.3	$51.90
1952	4.1	217.5	53.60
1953	4.2	226.6	53.70
1954	4.2	301.5	71.60
1955	6.6	463.2	69.70
1956	7.4	533.1	72.50
1957	7.0	581.2	83.10
1958	7.0	589.2	84.00
1959	7.0	701.5	99.70
1960	6.9	833.5	121.00
1961	6.7	840.1	124.50
1962	6.7	887.2	132.90
1963	6.5	1,002.2	154.60
1964 (preliminary)	6.3	1,009.0	160.00
1965 (estimate) [2]	6.2	1,050.0	169.00
1966 (estimate) [2]	6.3	1,500.0	238.00

[1] Average computed from unrounded figures.
[2] Includes doctors of medicine newly covered by the Social Security Amendments Act of 1965.

Explanation of provisions.—Under the bill, a self-employed person generally will be required to file a declaration of estimated tax whenever the combined total of his estimated income tax liability and his estimated social security and hospital insurance tax liability exceeds $40. Payments of estimated tax will be made as at present with the exception that the amount paid will include both the estimated income tax and the estimated self-employment tax. That is, for calendar-year taxpayers the declaration will have to be filed by April 15 and quarterly payments will be required on April 15, June 15, and September 15 of the current year and on January 15 of the succeeding year.

Persons whose gross income derived from farming and fishing activities will be at least two-thirds of their estimated gross income from all sources will not be required to make quarterly payments of estimated self-employment tax. This treatment conforms to the present provisions for the payment of estimated income tax for farmers and fishermen. Further in conformity with present law regarding estimated income tax, such persons will have until January 15 of the year following the taxable year to file a declaration of estimated tax, and need not file a declaration at all if they choose to file their final tax return by February 15.

A penalty for underpayment of estimated tax will be imposed if amounts paid by the quarterly payment dates equal less than the amounts that would be due on those dates if the estimated tax for the year equaled 80 percent of the combined liability for income and self-employment taxes. The penalty is computed with respect to each installment separately. However, even if the above 80 percent rule is not met, no penalty is imposed with respect to an installment if the estimated tax paid to date equals the amount that would be required to be paid if the estimated tax were the least of the following:

(1) The sum of the income tax and the self-employment tax shown on the return for the prior year;

(2) The sum of the income tax and the self-employment tax that would be due on the prior year's income under current rates and current exemptions;

(3) An amount equal to 80 percent (66⅔ percent for farmers and fishermen) of the combined income and self-employment taxes due computed by annualizing the taxable income received in the months in the year prior to the month a particular installment is due. Self-employment income for this purpose is only the amount received to date with the maximum of $6,600 reduced by employee social security wage income placed on an annualized basis; or

(4) An amount equal to 90 percent or more of the combined tax payable on the income actually received from the beginning of the year up to the month in which the installment is due.

Effective date.—This provision is effective for taxable years beginning after December 31, 1966.

Revenue effect.—This provision is expected to increase fiscal year 1967 trust fund revenues, which are not reflected in the administrative budget, by $200 million. It will have no effect on revenues in the fiscal year 1966.

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SECTION 102. ESTIMATED TAX IN CASE OF INDIVIDUALS

(*a*) *Inclusion of self-employment tax in estimated tax.*—Subsection (a) of section 102 of the bill amends section 6015(c) of the code (relating to definition of estimated tax in the case of an individual). Section 6015(c) of the code presently defines the term "estimated tax" to mean the amount which an individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, minus the amount estimated as the sum of any credits against tax provided by part IV of subchapter A of chapter 1. Section 6015(c) as amended provides that for purposes of the code the term "estimated tax" also

includes the amount which an individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year.

This section of the bill makes no change in the language of the existing provisions of the code which specify the time when a declaration of estimated tax must be filed (sec. 6073), the number of installment payments of estimated tax to be made for the taxable year and the time for payment of each installment (sec. 6153), which individuals must file a declaration (sec. 6015(a)), and the circumstances under which failure to pay estimated tax constitutes a criminal offense (sec. 7203). However, the amendment made by section 102(a) of the bill adds estimated self-employment tax under chapter 2 to estimated income tax under chapter 1 for purposes of these provisions of the code. Thus, for example, individuals whose combined estimated income tax (if any) and estimated self-employment tax (if any) can reasonably be expected to be $40 or more are required to file a declaration if they otherwise meet the requirements of section 6015(a).

In determining the amount of an installment payment of estimated tax under sections 6015 and 6153, the computation includes both the income and self-employment tax. For example, assume that self-employed individual (other than a farmer or fisherman) estimates that his income and self-employment tax liability for the calendar year 1967 will be $1,600 and $400, respectively. He is required to pay his estimated tax of $2,000 in four equal installments of $500.

(*b*) *Addition to tax for underpayment of estimated tax.*—Subsection (b) of section 102 of the bill amends section 6654 (a), (d), and (f), section 7701(a), and section 1403(b) of the code.

ADDITION TO THE TAX

Paragraph (1) of section 102(b) of the bill amends section 6654(a) of the code (relating to addition to the tax for underpayment of estimated tax by an individual). Section 6654(a) of the code presently provides for an addition to the income tax under chapter 1 in the case of an underpayment of estimated tax by an individual, except as provided in subsection (d). Section 6654(a), as amended, provides that such addition is to be imposed with respect to the sum of the income tax under chapter 1 (if any) and the self-employment tax under chapter 2 (if any) for the taxable year.

EXCEPTION FROM ADDITION TO THE TAX

Paragraph (2) of section 102(b) of the bill amends section 6654(d) of the code (relating to exception from the addition to the tax for underpayment of estimated tax by individuals). Section 6654(d) presently provides that the addition to the tax is not imposed with respect to any installment where the installment payment of estimated tax is not less than an amount based on (1) the previous year's tax (sec. 6654(d)(1)(A)); or (2) the tax based on the facts shown on the previous year's return but computed on the basis of current rates and current exemptions (sec. 6654(d)(1)(B)); or (3) 70 percent (66⅔ percent in the case of farmers and fishermen) of the tax computed on the basis of annualized taxable income for the months of the taxable year preceding the month in which the installment is due (sec. 6654(d)(1)(C)); or (4) 90 percent of the tax computed on the actual taxable income (not annualized) for the months of the taxable year

preceding the month in which the installment is due as if such months constituted the taxable year (sec. 6654(d)(2)).

LAST YEAR'S TAX

Paragraph (1) of section 6654(d), as amended, is identical with existing section 6654(d)(1)(A). However, by reason of the change in the meaning of the word "tax" made by section 102(b)(3) of the bill, effective with respect to declarations for taxable years beginning after 1966, the tax shown on the return for the preceding taxable year will be the combined chapters 1 and 2 taxes.

ANNUALIZATION

Paragraph (2) of section 6654(d), as amended, is a modification of existing section 6654(d)(1)(C). Section 6654(d)(1)(C) of existing law provides an exception where the estimated tax payments equal at least 70 percent (66⅔ percent in the case of farmers and fishermen) of the tax computed on the basis of annualized taxable income for the months in the taxable year preceding the month in which the installment is due. Under the provisions of paragraph (2) of section 6654(d), as amended, the tax on adjusted self-employment income is included for purposes of this exception if net earnings from self-employment for the taxable year equal or exceed $400.

The method by which taxable income is annualized is set forth in subparagraph (A) of section 6654(d)(2) and is identical with existing law. The term "adjusted self-employment income" is defined in subparagraph (B) of section 6654(d)(2) to mean—

(1) the net earnings from self-employment (as defined in sec. 1402(a)) for the months in the taxable year preceding the month in which the installment is due, as if such months constituted the taxable year, but not more than

(2) the excess of (A) $6,600, over (B) the amount of the wages (within the meaning of section 1402(b)) for the months in the taxable year preceding the month in which the installment is due placed on an annualized basis. For this purpose wages are annualized in a manner consistent with clauses (i) and (ii) of subparagraph (A); that is, by multiplying by 12 (or the number of months in the taxable year in the case of a taxable year of less than 12 months) the wages for the months in the taxable year preceding the month in which the installment is due, and dividing the resulting amount by the number of such months.

The application of this provision is illustrated by the following examples:

Example 1.—Assume that X, a calendar year taxpayer who is self-employed (other than as a farmer or fisherman), has annualized taxable income of $6,900 for the period January 1, 1967, through August 31, 1967, the income tax on which is $1,171. For the same period his net earnings from self-employment are $5,000 and his wages are $1,000. The adjusted self-employment income is $5,000, computed as follows:

(1) Net earnings from self-employment	$5,000
(2) But not more than $6,600 minus annualized wages ($6,600—$1,500 ($1,000×12÷8))	5,100
(3) Lesser of (1) or (2)	5,000

The tax on X's adjusted self-employment income is $320 ($5,000×6.4 percent). X's total estimated tax payments required to be paid by September 15, 1967, for purposes of this exception, must equal or exceed $1,192.80; that is, 80 percent[1] of $1,491 ($1,171+$320).

Example 2.—Assume the same facts as in example 1, except that X's wages for the period January 1, 1967, through August 31, 1967, are $2,000. The adjusted self-employment income is $3,600, computed as follows:

(1) Net earnings from self-employment	$5,000
(2) But not more than $6,600 minus annualized wages ($6,600—$3,000 ($2,000×12÷8))	3,600
(3) Lesser of (1) or (2)	3,600

The tax on X's adjusted self-employment income is $230.40 ($3,600×6.4 percent). X's total estimated tax payments required to be paid by September 15, 1967, for purposes of this exception, must equal or exceed $1,121.12; that is, 80 percent of $1,401.40 ($1,171+$230.40).

THE 90 PERCENT TEST

Paragraph (3) of section 6654(d), as amended, is a modification of existing section 6654(d)(2). Section 6654(d)(2) presently provides an exception where the total amount of estimated tax payments is at least 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year preceding the month in which the installment is due as if such months constituted the taxable year. Under the provisions of paragraph (3) of section 6654(d), the tax on actual self-employment income is included for purposes of this exception. Actual self-employment income means the net earnings from self-employment (as defined in sec. 1402(a)) for the months in the taxable year preceding the month in which the installment is due as if such months constituted the taxable year, but not more than $6,600 minus the wages (within the meaning of sec. 1402(b)) for such months. Section 6654(d)(3) provides, consistent with existing law, that the months of the taxable year for which the determination of actual taxable income and actual self-employment income is made for purposes of this exception are treated as constituting the taxable year. The application of this provision is illustrated by the following example:

Example.—Assume that X, a calendar year taxpayer who is self-employed (other than as a farmer or fisherman), has actual taxable income of $3,800 for the period January 1, 1967, through August 31, 1967, the income tax on which is $586. For the same period his net earnings from self-employment are $5,000 and his wages are $2,000. His actual self-employment income for such period is $4,600, computed as follows:

(1) Net earnings from self-employment, $5,000.

(2) But not more than $6,600 minus wages ($6,600 —$2,000), $4,600.

(3) Lesser of (1) or (2), $4,600.

The tax on X's actual self-employment income is $294.40 ($4,600 times 6.4 percent). X's total estimated tax payments required to be paid by September 15, 1967, for purposes of this exception, must

[1] The 70 percent referred to in sec. 6654(d)(2) is changed to 80 percent by sec. 103 of the bill.

equal or exceed $792.36; that is, 90 percent of $880.40 ($586 plus $294.40).

TAX BASED ON LAST YEAR'S INCOME

Paragraph (4) of section 6654(d) as amended is identical with existing section 6654(d)(1)(B). By reason of the change in the meaning of the word "tax" made by section 102(b)(3) of the bill, the tax includes the tax (computed at the rates applicable to the taxable year) on the self-employment income shown on the return for the preceding taxable year.

DEFINITION OF TAX

Paragraph (3) of section 102(b) of the bill amends section 6654(f) of the code (relating to definition of tax for purposes of subsections (b) and (d) of section 6654). Section 6654(f) presently provides that, for purposes of subsections (b) and (d) of section 6654, the term "tax" means the income tax imposed by chapter 1 reduced by certain credits. Section 6654(f) as amended provides that the term "tax" also includes the self-employment tax imposed by chapter 2, for purposes of such subsections.

DEFINITION OF ESTIMATED INCOME TAX

Paragraph (4) of section 102(b) of the bill amends section 7701(a) (relating to definitions) by adding a new paragraph (34) which defines the term "estimated income tax" as used in the code to mean, in the case of an individual, the estimated tax as defined in section 6015(c), or, in the case of a corporation, the estimated tax as defined in section 6016(b).

CROSS REFERENCE

Paragraph (5) of section 102(b) of the bill amends section 1403(b) of the code (relating to cross references) to provide a cross reference to section 6015 of the code.

(c) *Ministers, members of religious orders, and Christian Science practitioners.*—Section 102(c) of the bill amends section 1402(e)(3) of the code (relating to effective date of waiver certificates) to provide a special rule in the case of ministers, members of religious orders, and Christian Science practitioners who file waiver certificates (as described in sec. 1402(e)(1)).

Section 1402(e)(3) as amended contains a new subparagraph (E) which provides that, for purposes of sections 6015 and 6654, a waiver certificate described in section 1402(e)(1) is treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed. Thus, for example, if a minister who is a calendar year taxpayer files a waiver certificate (pursuant to sec. 1402(e)) on April 15, 1968, such certificate will not be effective for purposes of sections 6015 and 6654 until the taxable year 1969. Accordingly, although such minister may be liable for self-employment tax for 1967 and 1968, he is not required to include an estimate of such liability in his declaration of estimated tax for such years and is not subject to an addition to the tax (under sec. 6654(a)) with respect to his self-employment tax liability for such years.

(d) *Effective date.*—Subsection (d) of section 102 of the bill provides that the amendments made by subsections (a), (b), and (c) of section

102 of the bill shall apply with respect to taxable years beginning after December 31, 1966.

* * * * *

Union Calendar No. 545

89TH CONGRESS
2D SESSION

H. R. 12752

[Report No. 1285]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1966

Mr. MILLS introduced the following bill; which was referred to the Committee on Ways and Means

FEBRUARY 15, 1966

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

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A BILL

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Adjustment Act of 1966".

* * * * *

* * * * *

SEC. 102. ESTIMATED TAX IN CASE OF INDIVIDUALS.

(a) INCLUSION OF SELF-EMPLOYMENT TAX IN ESTIMATED TAX.—Section 6015(c) (relating to definition of estimated tax in the case of an individual) is amended to read as follows:

"(c) ESTIMATED TAX.—For purposes of this title, in the case of an individual, the term 'estimated tax' means—

"(1) the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, plus

"(2) the amount which the individual estimates

as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

"(3) the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1."

(b) ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX.—

(1) Section 6654(a) (relating to addition to the tax for underpayment of estimated tax by an individual) is amended by inserting after "chapter 1" the following: "and the tax under chapter 2".

(2) Section 6654(d) is amended to read as follows:

"(d) EXCEPTION.—Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

"(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a

liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

"(2) An amount equal to 70 percent (66⅔ percent in the case of individuals referred to in section 6073 (b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402 (a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

"(A) The taxable income shall be placed on an annualized basis by—

"(i) multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

"(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

"(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment).

"(B) The term 'adjusted self-employment income' means—

"(i) the net earnings from self-employment (as defined in section 1402(a)) for the months in the taxable year ending before the month in which the installment is required to be paid, but not more than

"(ii) the excess of $6,600 over the amount determined by placing the wages (within the meaning of section 1402(b)) for the months in the taxable year ending before the month in which the installment is required to be paid on an annualized basis in a manner consistent with clauses (i) and (ii) of subparagraph (A).

"(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income and the actual self-employment income for the months in the taxable year ending before the month in which the installment is required to be paid as if such months constituted the taxable year.

"(4) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year."

(3) Section 6654 (f) (relating to definition of tax for purposes of subsections (b) and (d) of section 6654) is amended to read as follows:

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term 'tax' means—

"(1) the tax imposed by this chapter 1, plus

"(2) the tax imposed by chapter 2, minus

"(3) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)."

(4) Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(34) ESTIMATED INCOME TAX.—The term 'estimated income tax' means—

"(A) in the case of an individual, the estimated tax as defined in section 6015(c), or

"(B) in the case of a corporation, the estimated tax as defined in section 6016(b)."

(5) Section 1403(b) (cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to declarations of estimated tax on self-employment income, see section 6015."

(c) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Section 1402(e)

(3) (relating to effective date of waiver certificates) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of sections 6015 and 6654, a waiver certificate described in paragraph (1) shall be treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1966.

* * * * *

Union Calendar No. 545

89TH CONGRESS
2D SESSION

H. R. 12752

[Report No. 1285]

A BILL

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

By Mr. MILLS

FEBRUARY 10, 1966

Referred to the Committee on Ways and Means

FEBRUARY 15, 1966

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

No debate on social security issues.

The Committee rose, and the Speaker pro tempore, Mr. ALBERT, having resumed the chair, Mr. HANSEN of Iowa, 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. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, pursuant to House Resolution 736, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. 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 pro tempore. The question is on the passage of the bill.

For what purpose does the gentleman from California [Mr. UTT] rise?

Mr. UTT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. UTT. I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. UTT moves to recommit the bill (H.R. 12752) to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

Page 2, strike out lines 7 and 8.

Page 47, strike out line 4 and all that follows through line 9 on page 51.

Mr. MILLS. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that in the opinion of the Chair, the "noes" had it.

Mr. UTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 187, nays 207, not voting 38, as follows:

[Roll No. 19]

YEAS—187

Abbitt	Foley	Morse
Abernethy	Ford, Gerald R.	Morton
Adair	Ford, William D.	Mosher
Anderson, Ill.	Fountain	Nedzi
Andrews, George W.	Fulton, Pa.	Nelsen
Andrews, Glenn	Fulton, Tenn.	O'Hara, Mich.
Andrews, N. Dak.	Fuqua	O'Neal, Ga.
Arends	Gettys	Ottinger
Ashbrook	Giaimo	Passman
Ashmore	Goodell	Pirnie
Bandstra	Griffin	Poff
Baring	Griffiths	Quie
Belcher	Gross	Quillen
Bell	Grover	Race
Berry	Gurney	Randall
Betts	Haley	Reid, Ill.
Bolton	Hall	Reid, N.Y.
Bow	Halleck	Reifel
Bray	Halpern	Reinecke
Broomfield	Hanley	Rhodes, Ariz.
Brown, Calif.	Hansen, Idaho	Robison
Brown, Ohio	Hardy	Rogers, Fla.
Broyhill, N.C.	Harsha	Roncalio
Buchanan	Henderson	Rooney, Pa.
Burton, Utah	Hicks	Roybal
Cabell	Horton	Rumsfeld
Callaway	Hosmer	Satterfield
Cameron	Hull	Saylor
Carter	Hungate	Schisler
Chamberlain	Hutchinson	Schmidhauser
Clancy	Jarman	Schweiker
Clark	Jennings	Secrest
Clausen, Don H.	Johnson, Pa.	Selden
Clawson, Del	Jonas	Shipley
Clevenger	Jones, Mo.	Shriver
Collier	Jones, N.C.	Sikes
Conable	Kastenmeier	Skubitz
Conte	Keith	Smith, Calif.
Conyers	King, N.Y.	Smith, N.Y.
Cooley	Kornegay	Springer
Corman	Kunkel	Stalbaum
Craley	Landrum	Stanton
Cunningham	Langen	Stephens
Curtin	Latta	Taylor
Dague	Leggett	Thomson, Wis.
Davis, Ga.	Lennon	Tuck
Davis, Wis.	Lipscomb	Tupper
Derwinski	Long, La.	Tuten
Devine	McClory	Utt
Dickinson	McCulloch	Vivian
Diggs	McDade	Waggonner
Dole	McEwen	Walker, Miss.
Dulski	McMillan	Walker, N. Mex.
Duncan, Tenn.	MacGregor	Watkins
Dwyer	Mackie	Watson
Edwards, Ala.	Marsh	Weltner
Ellsworth	Martin, Nebr.	Whalley
Erlenborn	Mathias	Whitener
Findley	Michel	Whitten
Fino	Minshall	Williams
	Mize	Wilson, Bob
	Moore	Wyatt
		Wydler
		Younger

NAYS—207

Adams	Corbett	Garmatz
Addabbo	Culver	Gathings
Albert	Curtis	Gibbons
Anderson, Tenn.	Daddario	Gilbert
Annunzio	Daniels	Gilligan
Ashley	Dawson	Gonzalez
Aspinall	de la Garza	Grabowski
Ayres	Delaney	Gray
Barrett	Dent	Green, Oreg.
Bates	Denton	Green, Pa.
Battin	Dingell	Greigg
Beckworth	Donohue	Grider
Bennett	Dorn	Hagen, Calif.
Bingham	Dow	Hamilton
Boggs	Downing	Hanna
Boland	Duncan, Oreg	Hansen, Iowa
Bolling	Dyal	Hansen, Wash.
Brademas	Edmondson	Harvey, Mich.
Brock	Edwards, Calif.	Hathaway
Brooks	Evans, Colo.	Hawkins
Broyhill, Va.	Everett	Hays
Burke	Evins, Tenn.	Hechler
Burton, Calif.	Farbstein	Helstoski
Byrne, Pa.	Farnum	Herlong
Byrnes, Wis.	Fascell	Holifield
Cahill	Feighan	Holland
Callan	Flood	Howard
Carey	Flynt	Huot
Casey	Fogarty	Ichord
Celler	Fraser	Irwin
Cleveland	Frelinghuysen	Jacobs
Colmer	Friedel	Joelson
	Gallagher	Johnson, Calif

Johnson, Okla.	Multer	Ryan
Jones, Ala.	Murphy, Ill.	St Germain
Karsten	Murphy, N.Y.	Scheuer
Karth	Murray	Schneebeli
Kelly	Natcher	Senner
Keogh	Nix	Sickles
King, Utah	O'Brien	Sisk
Kirwan	O'Hara, Ill.	Smith, Va.
Kluczynski	O'Konski	Stafford
Krebs	Olsen, Mont.	Staggers
Laird	Olson, Minn.	Steed
Long, Md.	O'Neill, Mass.	Stratton
Love	Patman	Stubblefield
McCarthy	Patten	Sullivan
McDowell	Pelly	Sweeney
McFall	Pepper	Teague, Calif.
McGrath	Perkins	Tenzer
McVicker	Philbin	Thompson, N.J.
Macdonald	Pickle	Thompson, Tex.
Machen	Pike	Todd
Mackay	Poage	Trimble
Madden	Powell	Tunney
Mahon	Price	Udall
Mailliard	Pucinski	Ullman
Martin, Mass.	Purcell	Van Deerlin
Matsunaga	Rees	Vanik
May	Reuss	Vigorito
Meeds	Rhodes, Pa.	Watts
Mills	Rivers, Alaska	White, Tex.
Minish	Roberts	Widnall
Mink	Rodino	Wilson,
Moeller	Rogers, Colo.	Charles H.
Monagan	Ronan	Wolff
Morgan	Rooney, N.Y.	Wright
Morris	Rosenthal	Yates
Morrison	Rostenkowski	Young
Moss	Roush	

NOT VOTING—38

Baldwin	Hagan, Ga.	Rogers, Tex.
Blatnik	Harvey, Ind.	Roudebush
Burleson	Hébert	St. Onge
Cederberg	Kee	Scott
Chelf	King, Calif.	Slack
Cohelan	Martin, Ala.	Smith, Iowa
Cramer	Matthews	Talcott
Dowdy	Miller	Teague, Tex.
Edwards, La.	Moorhead	Toll
Fallon	Pool	White, Idaho
Farnsley	Redlin	Willis
Fisher	Resnick	Zablocki
Gubser	Rivers, S.C.	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Cramer for, with Mr. Hébert against.

Mr. Harvey of Indiana for, with Mr. Miller against.

Mr. Roudebush for, with Mr. White of Idaho against.

Mr. Martin of Alabama for, with Mr. Toll against.

Mr. Fisher for, with Mr. Cohelan against.

Mr. Cederberg for, with Mr. Farnsley against.

Mr. Scott for, with Mr. King of California against.

Mr. Talcott for, with Mr. St. Onge against.

Until further notice:

Mr. Teague of Texas with Mr. Smith of Iowa.

Mr. Rogers of Texas with Mr. Willis.

Mr. Slack with Mr. Moorhead.

Mr. Blatnik with Mr. Fallon.

Mr. Hogan of Georgia with Mr. Redlin.

Mr. Rivers of South Carolina with Mr. Matthews.

Mr. Pool with Mr. Kee.

Mr. Zablocki with Mr. Baldwin.

Mr. Resnick with Mr. Gubser.

Mr. Chelf with Mr. Edwards of Louisiana.

Mr. DE LA GARZA changed his vote from "yea" to "nay."

Mr. POAGE changed his vote from "yea" to "nay."

Mr. KUNKEL changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

The SPEAKER pro tempore. The question is on passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 246, nays 146, not voting 41, as follows:

[Roll No. 20]

YEAS—246

Adams	Gilbert	Moss
Addabbo	Gilligan	Multer
Albert	Gonzalez	Murphy, Ill.
Anderson, Ill.	Grabowski	Murphy, N.Y.
Anderson, Tenn.	Gray	Murray
Annunzio	Green, Oreg.	Natcher
Ashley	Green, Pa.	Nix
Aspinall	Greigg	O'Brien
Ayres	Grider	O'Hara, Ill.
Barrett	Hagen, Calif.	Olsen, Mont.
Bates	Hamilton	Olson, Minn.
Battin	Hanley	O'Neill, Mass.
Beckworth	Hanna	Patten
Belcher	Hansen, Iowa	Pelly
Bell	Hansen, Wash.	Pepper
Bennett	Hardy	Perkins
Bingham	Harvey, Mich.	Philbin
Boggs	Hathaway	Pickle
Boland	Hawkins	Pike
Bolling	Hays	Pirnie
Bow	Hechler	Poage
Brademas	Helstoski	Powell
Brock	Herlong	Price
Brooks	Holifield	Pucinski
Broyhill, Va.	Holland	Purcell
Burke	Hosmer	Redlin
Burton, Calif.	Howard	Rees
Byrne, Pa.	Hull	Reid, N.Y.
Byrnes, Wis.	Hungate	Reuss
Cabell	Huot	Rhodes, Pa.
Cahill	Ichord	Rivers, Alaska
Callan	Irwin	Roberts
Callaway	Jacobs	Rodino
Carey	Jarman	Rogers, Colo.
Carter	Joelson	Rogers, Fla.
Casey	Johnson, Calif.	Ronan
Celler	Johnson, Okla.	Rooney, N.Y.
Clark	Jones, Ala.	Rooney, Pa.
Cleveland	Karsten	Rosenthal
Collier	Karth	Rostenkowski
Colmer	Keith	Roush
Corbett	Kelly	Ryan
Corman	Keogh	St Germain
Culver	King, Utah	Scheuer
Curtis	Kirwan	Schisler
Daddario	Kluczynski	Schmidhauser
Daniels	Krebs	Schneebeli
Davis, Wis.	Kunkel	Schweiker
Dawson	Kupferman	Sickles
de la Garza	Laird	Sisk
Delaney	Leggett	Smith, Va.
Dent	Lipscomb	Springer
Denton	Long, Md.	Stafford
Dingell	Love	Staggers
Donohue	McCarthy	Steed
Dorn	McClory	Stratton
Dow	McDade	Stubblefield
Downing	McDowell	Sullivan
Dwyer	McFall	Sweeney
Dyal	McGrath	Teague, Calif.
Edmondson	McVicker	Tenzer
Edwards, Calif.	Macdonald	Thompson, N.J.
Evans, Colo.	Machen	Thompson, Tex.
Everett	Mackay	Todd
Evins, Tenn.	Madden	Trimble
Farbstein	Mahon	Tunney
Farnum	Mailliard	Tupper
Fascell	Marsh	Udall
Feighan	Martin, Mass.	Ullman
Findley	Martin, Nebr.	Van Deerlin
Flood	Mathias	Vanik
Flynt	Matsunaga	Vigorito
Fogarty	May	Vivian
Foley	Meeds	Watts
Fraser	Mills	White, Tex.
Frelinghuysen	Minish	Widnall
Friedel	Mink	Wilson,
Gallagher	Moeller	Charles H.
Garmatz	Monagan	Wolff
Gathings	Morgan	Wright
Giaimo	Morris	Yates
Gibbons	Morrison	Young
	Morse	

NAYS—146

Abbitt	Andrews, Glenn	Ashbrook
Abernethy	Andrews, N. Dak.	Ashmore
Adair	Arends	Baring
Andrews, George W.	Bolton	Berry
	Bray	Betts
	Broomfield	Quillen
	Brown, Calif.	Race
	Brown, Ohio	Randall
	Broyhill, N.C.	Reid, Ill.
	Buchanan	Reifel
	Burton, Utah	Reinecke
	Cameron	Rhodes, Ariz.
	Chamberlain	Robison
	Clancy	Roncalio
	Clausen, Don H.	Roybal
	Clawson, Del	Rumsfeld
	Clevenger	Satterfield
	Conable	Saylor
	Conte	Secrest
	Conyers	Selden
	Cooley	Shipley
	Craley	Shriver
	Cunningham	Sikes
	Curtin	Skubitz
	Dague	Smith, Calif.
	Davis, Ga.	Smith, N.Y.
	Derwinski	Stalbaum
	Devine	Stanton
	Dickinson	Stephens
	Diggs	Talcott
	Dole	Taylor
	Dulski	Thomson, Wis.
	Duncan, Tenn.	Tuck
	Edwards, Ala.	Tuten
	Ellsworth	Utt
	Erlenborn	Waggonner
	Fino	Walker, Miss.
	Ford, Gerald R.	Walker, N. Mex.
	Ford, William D.	Watkins
	Fountain	Watson
	Fulton, Pa.	Weltner
	Fulton, Tenn.	Whalley
	Fuqua	Whitener
	Gettys	Whitten
	Goodell	Williams
	Griffin	Wilson, Bob
	Griffiths	Wyatt
	Gross	Wydler
	Grover	Younger
	Gurney	
	Haley	
	Hall	
	Halleck	
	Halpern	
	Hansen, Idaho	
	Harsha	
	Henderson	
	Hicks	
	Horton	
	Hutchinson	
	Jennings	
	Johnson, Pa.	
	Jonas	
	Jones, Mo.	
	Jones, N.C.	
	Kastenmeier	
	King, N.Y.	
	Kornegay	
	Landrum	
	Langen	
	Latta	
	Lennon	
	Long, La.	
	McCulloch	
	McEwen	
	McMillan	
	MacGregor	
	Mackie	
	Michel	
	Minshall	
	Mize	
	Moore	
	Morton	
	Mosher	
	Nedzi	
	Nelsen	
	O'Hara, Mich.	
	O'Konski	
	O'Neal, Ga.	
	Ottinger	
	Passman	
	Poff	
	Quie	

NOT VOTING—41

Baldwin	Gubser	Rogers, Tex.
Bandstra	Hagan, Ga.	Roudebush
Blatnik	Harvey, Ind.	St. Onge
Burleson	Hébert	Scott
Cederberg	Kee	Senner
Chelf	King, Calif.	Slack
Cohelan	Martin, Ala.	Smith, Iowa
Cramer	Matthews	Teague, Tex.
Dowdy	Miller	Toll
Duncan, Oreg.	Moorhead	White, Idaho
Edwards, La.	Patman	Willis
Fallon	Pool	Zablocki
Farnsley	Resnick	
Fisher	Rivers, S.C.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Harvey of Indiana against.

Mr. Miller for, with Mr. Roudebush against.

Mr. King of California for, with Mr. Martin of Alabama against.

Mr. St. Onge for, with Mr. Fisher against.

Mr. Fallon for, with Mr. Cramer against.

Mr. Patman for, with Mr. Cederberg against.

Mr. Edwards of Louisiana for, with Mr. Scott against.

Until further notice:

Mr. Cohelan with Mr. Gubser.

Mr. Senner with Mr. Baldwin.

Mr. Matthews with Mr. Teague of Texas.

Mr. Toll with Mr. Rogers of Texas.

Mr. Farnsley with Mr. Slack.

Mr. Moorhead with Mr. Bandstra.

Mr. White of Idaho with Mr. Willis.

Mr. Zablocki with Mr. Duncan of Oregon.

Mr. Smith of Iowa with Mr. Kee.

Mr. Blatnik with Mr. Chelf.

Mr. Pool with Mr. Resnick.

Mr. Hagan of Georgia with Mr. Rivers of South Carolina.

Mr. HALPERN changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Calendar No. 985

89TH CONGRESS
2d Session

SENATE

REPORT
No. 1010

TAX ADJUSTMENT ACT OF 1966

MARCH 2, 1966.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

together with

SUPPLEMENTAL VIEWS

[To accompany H.R. 12752]

The Committee on Finance, to which was referred the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. SUMMARY

Your committee has reported H.R. 12752, the tax adjustment bill of 1966, with four substantive amendments in addition to other technical amendments. Your committee's amendments will increase slightly the revenue to be obtained under this bill.

H.R. 12752 is designed to contribute revenues to aid in financing the increased cost of Government associated with operations in Vietnam. It is designed to help finance these costs in a manner which will avoid the creation of serious inflationary pressures.

Two of the amendments made by your committee relate to matters in the House version of the bill and two deal with separate measures not included in the House bill. One of the provisions relating to material in the House bill concerns the withholding allowances provided in connection with graduated withholding and is discussed below with the discussion of that provision. The second amendment relates to a House measure which deals with the floor stocks tax of 1 percent on dealers' inventories of passenger cars (provided in connec-

tion with the 1 percentage point restored to the manufacturer's excise tax rate on passenger automobiles). Your committee's amendment deletes this floor stocks tax.

One of the two provisions added to the bill by your committee requires the Department of Agriculture to send to farmers copies of information returns they send to the Internal Revenue Service with respect to payments of over $600 a year. The second new provision added by an amendment made by your committee denies any deduction for amounts paid for advertising in a convention program of a political party, or in any other publication if any part of the proceeds inures to a political party or candidate. Deduction is also denied for payments for admission to dinners or programs if any part of the proceeds inures to a political party or candidate. In addition, deduction is denied for payments for admission to an inaugural ball or a similar event.

The provisions of the bill, which are based upon recommendations made by the President with certain important modifications, are grouped under two headings. Most important from a revenue standpoint are the provisions which affect the procedures for collecting tax, but which do not affect tax liabilities. They include graduated withholding on wage income, strengthening the payment requirements for declarations, the acceleration of corporate estimated tax payments, and quarterly payments of estimated self-employment social security tax. The remaining provisions superimpose a 2-year moratorium on rate reductions scheduled under existing law for the excise taxes on passenger automobiles and telephone service. When this moratorium ends, these tax rates will immediately fall to the levels which would otherwise have been applicable under present law at that time, and will thereafter continue to be reduced as scheduled under existing law.

Revenue effect.—It is anticipated that these provisions will increase administrative budget revenues in the fiscal year 1966 by $1.1 billion and the revenues in the fiscal year 1967 by $4.8 billion relative to the levels that would be achieved under existing law. The temporary effects of the change in the timing of taxpayments will be responsible for almost all of the $1.1 billion of the added administrative budget revenues in the fiscal year 1966 and $3.4 billion of the increase in revenues in the fiscal year 1967. The quarterly payment of estimated self-employment tax will increase trust fund receipts, which are reflected in the consolidated cash budget but not in the administrative budget, by $200 million in the fiscal year 1967. The moratorium on excise tax reduction will retain $35 million in revenue which would otherwise be foregone in the fiscal year 1966 and $1.2 billion in revenue which would otherwise be foregone in the fiscal year 1967.

The provisions.—(1) *Graduated withholding.*—For wages paid after April 30, 1966, the bill replaces the present withholding tax rate with a series of six graduated rates ranging from 14 to 30 percent which are grouped in a system that takes account of the minimum standard deduction or deductions of 10 percent of wages and of the taxpayer's marital status as well as the statutory tax rates which apply to the first $12,000 of taxable income for single persons and $24,000 of taxable income for married persons. The 30-percent rate also will apply to all higher levels of taxable income.

Included in the bill is a provision, not a part of the President's recommendations, which is designed to reduce overwithholding. This provision, beginning in 1967, will permit taxpayers whose itemized deductions as a percentage of their wages are in excess of certain limits to claim withholding allowances. These allowances will have the effect of additional withholding exemptions. Withholding allowances will be based on the excess of estimated itemized deductions (which cannot exceed the deductions itemized in the previous year) over a prescribed amount of estimated wage income (which cannot be less than the wage income received in the previous year). The prescribed amount under the House bill would be a composite of 12 percent of the first $7,500 of estimated wages plus 17 percent of estimated wages in excess of $7,500. Under your committee's bill the prescribed amount is to be a composite of 10 percent of the first $7,500 of estimated wages plus 17 percent of estimated wages in excess of $7,500. Under the House bill, beginning in 1967, withholding allowances could be claimed with respect to each full $700 of itemized deductions above the prescribed percentage amounts, except that the first allowance could be claimed if this excess amount equaled $350 or more. Under your committee's amendments withholding allowances may be claimed only with respect to full units of $700 of itemized deductions above the prescribed percentage limitation, whether it is the first or a subsequent withholding allowance which is involved. Under both versions of the bill the Internal Revenue Service is authorized, and expected, to compile a table which will help taxpayers to determine the number of withholding allowances they may claim.

(2) *Quarterly payments of estimated self-employment tax.*—Effective for taxable years beginning after December 31, 1966, self-employed persons will be required to file declarations with respect to the total of their estimated income tax and self-employment tax and to make quarterly payments based on this declaration. The rules which now apply with regard to the requirement for filing a declaration of estimated income tax and the rules which govern the assessment of penalties for the underpayment of estimated tax will henceforth apply to the combined amount of estimated income tax and estimated self-employment tax.

(3) *Underpayment of estimated tax by individuals.*—Under existing law, a penalty may be incurred by a taxpayer when the total of the amounts withheld from his wages and the amounts paid through quarterly payments of estimated tax are equal to less than 70 percent of the tax shown on his return. Effective for taxable years beginning after December 31, 1966, the present 70 percent provision is raised to 80 percent.

(4) *Acceleration of corporation income tax payments.*—The schedule bringing corporation payments of estimated income tax liabilities above $100,000 to a current basis will be accelerated so that the current payments basis will be reached in 1967 instead of 1970 as scheduled under present law. Calendar year corporations will pay 12 percent of their estimated tax liabilities in April and June 1966, instead of the presently scheduled 9 percent. In 1967 and in following years, they will pay 25 percent of estimated tax liabilities on each payment date.

(5) *Excise tax on passenger automobiles.*—The excise tax rate on passenger automobiles effective on the day after enactment of the

bill will revert to 7 percent (the rate before January 1, 1966) from 6 percent, and there will be a moratorium through March 31, 1968, on further tax rate reductions scheduled under present law. At the expiration of the moratorium, the excise tax on passenger automobiles will fall to 2 percent, as presently scheduled for 1968, and then to 1 percent as presently scheduled for 1969. Under your committee's amendments no floor stocks tax is to be imposed on the inventories of dealers and distributors.

(6) *Excise tax on telephone service.*—The excise tax rate on telephone service will revert to 10 percent (the rate before January 1, 1966), from 3 percent, on general and toll telephone and teletypewriter exchange services. It will be in effect through March 31, 1968, when it will decline to 1 percent and will be repealed on January 1, 1969, as scheduled under present law. Nonprofit hospitals will be exempt from the tax on telephone services. These provisions will be effective with respect to bills rendered on or after the first day of the first month which begins more than 15 days after the effective date of this bill.

(7) *Indirect political contributions.*—No deduction from income is to be allowed to an individual or a business for advertising, admissions to dinners, programs, or any similar events, if any part of the net proceeds inures to the benefit of a political party or political candidate. In addition, no deduction is to be allowed for payments for admissions to inaugural balls, etc., identified with a political party or a political candidate. The provision is to be applicable to taxable years beginning after December 31, 1965, but only with respect to amounts paid after the date of enactment of the bill.

(8) *Information returns supplied to farmers.*—The Department of Agriculture will be required to supply farmers with copies of information returns which now are sent to the Internal Revenue Service with respect to all payments of $600 or more made in any 1 year to an individual. The statements may be made through the national office of the Department of Agriculture, any of its State or local offices, or any of its agencies. The provision will be effective for rereports sent out after the date of enactment of the bill.

II. REVENUE EFFECTS

As indicated in table 1, the bill is expected to increase fiscal year 1966 administrative budget receipts by $1,130 million and fiscal year 1967 receipts by $4,800 million. This latter figure is about the same as that recommended by the President. In addition, consolidated cash budget receipts will be further increased by $200 million in the fiscal year 1967. This increase differs from the recommendation of the President only in that the $200 million under his recommendation was spread over the fiscal years 1966 and 1967.

TABLE 1.—*Estimated revenue increase under H.R. 12752 as reported by the Senate Committee on Finance, for the fiscal years 1966 and 1967*

[In millions of dollars]

	Fiscal year 1966	Fiscal year 1967
Excises:		
Communications		785
Automobiles	35	420
Total excises	35	1,205
Corporate speed-up	1,000	3,200
Graduated withholding	95	245
Increase in declaration requirement under individual income tax from 70 to 80 percent		150
Total, administrative budget	1,130	4,800
Self-employment tax, social security, quarterly payments (goes into a trust fund)		200
Total, cash budget	1,130	5,000

The largest single source of additional revenue provided by the bill is attributable to advancing the payment dates for corporate tax. This is expected to increase revenues in the fiscal year 1966 by $1 billion and revenues in fiscal year 1967 by $3.2 billion. The excise reduction moratorium with respect to the taxes on automobiles and communications represents the second major revenue source under the bill. It is estimated that this will raise revenues by $35 million in the fiscal year 1966 and by $1,205 million in the fiscal year 1967. The provisions with respect to graduated withholding and the increase in the declaration requirement under the individual income tax from 70 to 80 percent of actual tax liability are expected to increase revenues by $395 million in the fiscal year 1967. The provision with respect to graduated withholding is expected to increase revenues in the fiscal year 1966 by $95 million.

Table 2 shows the revenue impact of the graduated withholding system and the declaration requirement change approved by your committee. Only the six-rate graduated withholding system has an impact in the fiscal year 1966. As previously indicated, this is expected to increase revenues in that year by $95 million. In the fiscal year 1967 a six-rate graduated withholding system with no allowances for excess itemized deductions would increase revenues by $400 million. If two-thirds of those eligible decrease overwithholding due to itemized deductions under the version of the provision approved by your committee, this gain will be reduced by $155 million in the fiscal year 1967, resulting in a net gain from graduated withholding of $245 million in the fiscal year 1967. However, the provision in raising the declaration requirement from 70 to 80 percent effective for the fiscal year 1967 is expected to increase revenues by $150 million. As a result these actions, taken together, give rise to an estimated revenue gain of $395 million for the fiscal year 1967, or about the same as that recommended by the President. In the fiscal year 1968 the decrease in overwithholding attributable to allowances for itemized deductions will result in a loss of $230 million. This fiscal year 1968 loss of $230 million is a loss over and above any which

would be incurred under the President's recommendations. However, there is a net gain of $65 million in that year arising from extending the excise tax rates for passenger cars and communication services until April 1, 1968, which also would not be realized under the President's recommendations.

TABLE 2.—*Revenue effect of provisions of H.R. 12752 as reported by the Senate Committee on Finance, relating to graduated withholding and declarations of estimated tax*

[In millions of dollars]

Provisions	Effective date	Full year effect	Change in receipts		
			Fiscal year 1966	Fiscal year 1967	Fiscal year 1968
6-rate graduated withholding	May 1, 1966	+1,240	+95	+400	----------
Extra withholding allowance for excess deductions [1]	Jan. 1, 1967	−935	----------	−155	−230
Increase requirement for estimated tax from 70 to 80 percent	Jan. 1, 1967	+300	----------	+150	----------
Total for individuals	----------	+605	+95	+395	−230

[1] Assumes ⅔ utilization by eligible taxpayers.

III. REASONS FOR THE BILL

1. Fiscal and economic impact

The tax adjustment bill of 1966 will help provide the additional revenues which your committee is advised will be required by the conflict in Vietnam. This bill is designed to help finance the additional expenditures required for this purpose without generating serious inflationary pressures in the domestic economy. The additional revenues will be derived from two general types of provisions. The first consists of improvements in tax collection procedures which, without affecting tax liabilities, involve a temporary increase in the amount of revenues by making payments more current. The remaining provisions restore excise rates in effect on December 31, 1965, and impose a 2-year moratorium on presently scheduled reductions in the excise taxes on passenger automobiles and telephone service.

Were it not for special Vietnam costs, your committee has been informed the increase in Federal revenue attributable to the growth of the economy—growth largely in response to the tax reductions enacted in recent years—would be sufficient not only to meet the regular requirements of Federal operations but also to provide a surplus. The President's budget message indicates that special Vietnam expenses will account for an estimated $10.5 billion of administrative budget expenditures for the fiscal year 1967. These expenses account for $5.8 billion of the $6.4 billion increase in expenditures in the fiscal year 1967 over those for the fiscal year 1966. It is estimated that revenues would increase by $7.3 billion between the 2 fiscal years if no change were made in existing tax laws, an amount that would be sufficient to produce a substantial budget surplus were it not for the extraordinary defense requirements. It will be recalled that when the Senate was considering the Revenue Act of 1964—which provided a reduction of $11.5 billion, the largest reduction ever provided—the then Secretary of the Treasury Douglas Dillon indicated that despite this reduction, it might be possible to balance the budget in the fiscal

year 1967. It should be noted that this objective of a balanced budget in the fiscal year 1967 would be obtained were it not for the extraordinary defense expenditures arising from the conflict in Vietnam. Thus, were it not for the special Vietnam expenses of $10.5 billion, there would be no need at this time for the 2-year excise tax reduction moratorium or for an advancement of the corporate tax payments at a more rapid rate then originally planned.

As a result of these extraordinary defense requirements, this bill provides additional temporary revenues designed to improve the budgetary outlook for both the fiscal years 1966 and 1967 as indicated in table 3.

Its provisions will increase revenues over present law yields in the current fiscal year by an estimated $1.1 billion on an administrative budget basis and by $4.8 billion in the following fiscal year. As a result, the deficit in the administration's budget expected for fiscal 1966 without the bill will be reduced from $7.6 to $6.5 billion, and will fall sharply to $1.7 billion in fiscal 1967. Viewed from the basis of the consolidated cash budget, the results of the bill will be even more significant. The anticipated consolidated cash budget deficit for the fiscal year 1966 is expected to be $7.0 billion. In the fiscal year 1967, this deficit will be eliminated and a small surplus achieved as a consequence of the $5.0 billion that will be added to cash receipts by this bill in that year. Moreover, the bill will increase fiscal 1966 cash receipts by $1.1 billion.

The modifications in collection procedures enacted in this bill—that is, graduated withholding, tighter declaration requirements, quarterly self-employment tax payments, and faster corporate income tax payments—will have a significant effect on revenues even though they will not increase tax liabilities. These changes in timing will result in the collection of some revenues in fiscal 1966 and fiscal 1967 which would otherwise not be collected until the following years. Once the transition to the new collection procedures is completed, however, tax payments by individuals and corporations during each fiscal year will (apart from the effect of growth in the economy) be no greater than under present law.

TABLE 3.—*Comparison of administrative budget receipts and expenditures with and without H.R. 12752 as reported by the Senate Committee on Finance, fiscal years 1966 and 1967*

[In billions of dollars]

	Fiscal year 1966	Fiscal year 1967	Change fiscal year 1967 over fiscal year 1966
Expenditures	106.4	112.8	+6.4
Receipts without bill	98.8	106.2	+7.3
Deficit without bill	7.6	6.7	−.9
Increase in receipts under bill	+1.1	+4.8	+3.7
Total receipts (including those under this bill)	100.0	111.0	+11.0
Deficit after taking account of revenues under this bill	6.5	1.9	−4.6

NOTE.—Figures are based on President's budget message and therefore totals include estimated effects of proposed legislation other than H.R 12752. Figures are rounded and will not necessarily add to totals.

It is expected that the increased tax collections that result from this bill will have a moderating influence on the expenditures of individuals and business firms. This influence will tend to offset the expansionary effects of increased defense expenditures. Such a policy is appropriate in view of the near capacity levels of output and employment at which the economy is now operating. In the absence of the moderating influence of increased tax collections, the total of private demand and Government requirements would threaten to exceed the present capacity of the Nation's productive resources, and in that manner constitute a threat to price stability.

The Nation has enjoyed 5 years of uninterrupted economic expansion, the longest period of peacetime expansion in U.S. business cycle annals. In 1961, at the start of the expansion, civilian labor force unemployment reached 7 percent and 22 percent of manufacturing capacity remained idle. The Revenue Acts of 1962 and 1964 and the Excise Tax Reduction Act of 1965 were in large part directed at the removal of restraints to growth in the private sector of the economy arising from tax rates that were too high. Largely as a result of these measures, the rate of unemployment fell to 4 percent of the labor force in January 1966, and the capacity utilization index in manufacturing rose to 91 percent in the fourth quarter of 1965.

Today the gap between potential and actual output has thus been greatly narrowed. This is suggested by the recent behavior of the consumer and wholesale prices indexes. After 4 years of virtual stability, the index of wholesale prices increased 2 percent from 1964 to 1965. The percentage increases in the Consumer Price Index from 1960 to 1964 averaged 1.2 percent a year. In 1965 the percentage increase was 1.7 percent and would have been 1.9 or 2 percent but for the effect of excise tax reductions enacted in the Excise Tax Reduction Act of 1965.

Evidence of the approach to the full use of our capacity is also indicated in statistics on capacity utilization rates in various industries. In December 1965, several important industries were operating at or above their preferred operating rates and the overall utilization index was only 1 point below the average preferred operating rate.

As pointed out to your committee by the Secretary of the Treasury, the various provisions of the bill will have a restraining influence on demands on available capacity. Following the enactment of this bill, the amounts withheld from individual wages will increase by $1.24 billion at annual rates under the six-rate graduated withholding system. While these increased collections of $1.24 billion will be reflected in reduced amounts of tax due when final returns are filed in the spring of 1967 and, to a limited extent, in increased tax refunds, they will tend to reduce consumer purchases during the remaining portion of 1966 and during the early months of 1967.

The fiscal effect of more accurate withholding will be reinforced by the requirement that taxpayers pay at least 80 percent of their liability for the year through withholding, payments of estimated tax, or both, to avoid penalties for underpayments of estimated tax. This, too, will tend to lessen consumer spending during this period of extraordinary military expenditures. Presently only 70 percent of the final liability need be paid to avoid the application of penalties. (As under

present law, however, penalties will not be imposed where payments equal the prior year's tax or are based on the prior year's income, or certain other conditions are met.)

The postponement of some corporate investment expenditures, as will occur as a result of the acceleration of corporate tax payments for the larger corporations, will be favorable to continued economic stability. Current levels of corporate investment in new plant and equipment are high. Outlays for business fixed investment rose by 11.5 percent in 1964 and by 15.4 percent in 1965 as compared with an average annual rate of increase of 7.5 percent in 1962 and 1963. Present announced plans indicate that investment will again increase at a rapid rate in the first half of 1966. Mild restraint, therefore, may well promote better balance between the rate of growth of output and investment in expanded capacity. It will also support our effort to reduce the deficit in our balance of payments to manageable levels. A source of strength in the balance-of-payments outlook in recent years has been the comparative stability in the prices of U.S. goods as compared to rising prices of the goods of other nations.

2. Correlating withholding with tax liabilities

Apart from their beneficial budgetary and economic effects, improved collection techniques will mean important benefits to taxpayers. Under graduated withholding, amounts withheld will more nearly approximate final liabilities. In particular, fewer taxpayers will have substantial amounts of tax to pay when they file their final return for the year. Last year for many taxpayers the fact that such bills remained to be paid in the spring of 1965 caused a measure of financial hardship and considerable resentment which tended to blunt the very substantial benefits provided by the Revenue Act of 1964. Unless graduated withholding is enacted, this experience is likely to be repeated in future years. Another result of the graduated withholding is that fewer employees will have overwithholding. Thus, this is a desirable improvement in collection procedures wholly apart from the temporary revenue increase.

The bill incorporates a special withholding allowance which provides relief for those taxpayers who itemize deductions and would otherwise find that withholding resulted in substantial unwanted overpayment of tax. This feature will also promote more accurate withholding as is shown subsequently in table 4 in this report.

3. Change in corporate payments merely an advance in timing

The proposal regarding corporate tax payments accomplishes by 1967 what would otherwise be accomplished by 1970. The Revenue Act of 1964 provided that corporations were to estimate and pay currently that portion of their tax liability expected to exceed $100,000, but the transition to current payment was scheduled over a period which was to end in 1970. This bill simply achieves that transition by 1967. Instead of paying 9 percent of their estimated liabilities in excess of $100,000 in April and June of 1966, calendar-year corporations will be required to pay 12 percent. In the final two quarters of 1966, these corporations will pay the same percentage, 25 percent, of these estimated liabilities as they are required to pay under present law. In 1967, these corporations will be required to pay in each quarter amounts equal to 25 percent of their estimated liabilities in

excess of $100,000. Under existing law, they would pay installments of 14 percent of this estimated liability in April and June 1967 and installments of 25 percent in September and December 1967. Tables 9 and 10, presented subsequently in this report, show the schedules of payments under present law and under the bill.

4. Self-employment social security tax placed on current basis

This bill makes provision, for the first time, for the declaration and quarterly payment of estimated social security tax liabilities with respect to self-employment income. This bill places self-employed persons on the same current payment basis for social security tax purposes as they are on now for income tax purposes, and does so with a minimum degree of added complication. The declaration and estimated tax payment system now in effect is simply broadened to include estimated self-employment social security tax.

5. Two-year moratorium for auto and telephone excise reductions

The excise tax rate reductions scheduled under present law for 1966 and later years in the case of telephone service and passenger automobiles are not rescinded by this bill. They are merely postponed for 2 years. This bill makes explicit provision for reduction on April 1, 1968, of these rates to the levels which would prevail under existing law, emphasizing the fact that the moratorium on rate reduction, while necessary in view of current budgetary and economic conditions, is not intended to cancel the eventual reductions of the 1965 act. Thus, the bill in this respect differs to a significant degree from the proposals of the administration: the administration would have postponed the auto and telephone excise tax reductions for 2 years—not only the reductions occurring in the next 2 years, but also the reductions occurring after that time. The bill, on the other hand, merely provides a moratorium for the reductions which would under present law occur in the next 2 years. Under the bill, the rates will fall at the end of the 2-year period to the rates scheduled to be in effect at that time under present law, and subsequent reductions under present law are not further postponed.

The excises on telephone service and passenger automobiles are selected for a number of reasons in addition to the fact that they yield substantial revenues. They are currently in effect, so that a moratorium on rate reduction is a much simpler matter administratively for business firms and the Government (since the payment and collection machinery is still in effect) than the reinstitution of excises previously repealed. The fact that these excises were not repealed outright by the Excise Tax Reduction Act of 1965 but were scheduled for gradual reduction also is indicative of the order of priorities in excise tax reduction established by the Congress in 1965. Moreover, the burden of these taxes is widely dispersed over the population, and, therefore, a disproportionate burden will not be imposed on a narrow segment of the population as a result of the moratorium.

IV. GENERAL EXPLANATION

* * * * *

* * * * *

2. Payments of estimated social security and hospital insurance taxes by self-employed persons (sec. 102 of the bill and sec. 6015 of the code)

Present law.—Under existing law, self-employed persons are required to pay their social security tax and their tax for the hospital insurance program when they file their final income tax return for a given year. However, they may voluntarily pay this tax quarterly with their estimated income tax payments.

The tax, now based on the initial $6,600 of net earnings from self-employment, is imposed on self-employed individuals who have net earnings from self-employment which total $400 or more. When an individual also has covered wage income, this is subtracted from the $6,600 maximum earnings base, and the self-employment tax is computed on the lesser of this amount or net earnings from self-employment. A taxpayer who has $400 of net self-employment income must file a final return and pay self-employment tax even if he is not required to file an income tax return.

General explanation.—The bill places self-employed persons on the same current payment basis with respect to the payment of their self-employment tax that they are now on for income tax purposes. It does so by requiring quarterly payments of estimated self-employment tax. It will place self-employed persons on more nearly the same payments basis for social security purposes as that of employed persons, whose social security tax is withheld from their wages by employers.

The adoption of current payment for self-employment tax is accomplished with a minimum of difficulty for the self-employed taxpayers who currently file declarations of estimated income tax, since the payment of estimated self-employment tax will be integrated with the payment of estimated income tax. For the estimated 1 million self-employed persons who do not now file declarations of estimated income tax but who will be required to file such declarations as a result of this bill, the advantages of current payment will outweigh the added compliance requirements.

The payments of the self-employment tax will, as a result of this bill, be received on a quarterly basis instead of generally on an annual basis as under present law. It is understood that the amounts received on a quarterly basis will be estimated and paid over from the general fund to the OASI, DI, and HI trust funds on a current basis.

Tables 7 and 8 show the maximum dollar amount of self-employment tax and tax liability since 1951.

TABLE 7.—*Maximum dollar amount of self-employment tax for individuals, 1951 to 1987*

Year	Maximum net earnings base [1]	Tax rate	Maximum tax per person
		Percent	
1951–53	$3,600	2.25	$81.00
1954	3,600	3.0	108.00
1955–56	4,200	3.0	126.00
1957–58	4,200	3.375	141.75
1959	4,800	3.75	180.00
1960–61	4,800	4.5	216.00
1962	4,800	4.7	225.60
1963–65	4,800	5.4	259.20
1966	6,600	[2] 6.15	405.90
1967–68	6,600	6.40	422.40
1969–72	6,600	7.10	468.60
1973–75	6,600	7.55	498.30
1976–79	6,600	7.60	501.60
1980–86	6,600	7.70	508.20
1987+	6,600	7.80	514.80

[1] The minimum net earnings subject to the self-employment rate has been $400 since 1951.
[2] Includes OASDI (social security) tax rates and HI (hospital insurance) tax rate of 1966 and all following years.

TABLE 8.—*Self-employment tax liability, 1951 to 1966*

Year	Self-employment tax		
	Number of income tax returns reporting self-employment tax	Amount of self-employment tax	Average tax per return [1]
	Millions	*Millions*	
1951	4.1	$211.3	$51.90
1952	4.1	217.5	53.60
1953	4.2	226.6	53.70
1954	4.2	301.5	71.60
1955	6.6	463.2	69.70
1956	7.4	533.1	72.50
1957	7.0	581.2	83.10
1958	7.0	589.2	84.00
1959	7.0	701.5	99.70
1960	6.9	833.5	121.00
1961	6.7	840.1	124.50
1962	6.7	887.2	132.90
1963	6.5	1,002.2	154.60
1964 (preliminary)	6.3	1,009.0	160.00
1065 (estimated) [2]	6.2	1,050.0	169.00
1966 (estimate) [2]	6.3	1,500.0	238.00

[1] Average computed from unrounded figures.
[2] Includes doctors of medicine newly covered by the Social Security Amendments Act of 1965.

Explanation of provision.—Under the bill, a self-employed person generally will be required to file a declaration of estimated tax whenever the combined total of his estimated income tax liability and his estimated social security and hospital insurance tax liability exceeds $40. Payments of estimated tax will be made as at present with the exception that the amount paid will include both the estimated income tax and the estimated self-employment tax. That is, for calendar-year taxpayers the declaration will have to be filed by April 15 and quarterly payments will be required on April 15, June 15, and September 15 of the current year and on January 15 of the succeeding year.

Persons whose gross income derived from farming and fishing activities will be at least two-thirds of their estimated gross income from all sources will not be required to make quarterly payments of estimated self-employment tax. This treatment conforms to the present provisions for the payment of estimated income tax for farmers and fishermen. Further in conformity with present law regarding estimated income tax, such persons will have until January 15 of the year following the taxable year to file a declaration of estimated tax, and need not file a declaration at all if they choose to file their final tax return by February 15.

A penalty for underpayment of estimated tax will be imposed when amounts paid by the quarterly payment dates are less than the amounts that would be due on those dates if the estimated tax for the year equaled 80 percent of the combined liability for income and self-employment taxes. The penalty is computed with respect to each installment separately. However, even if the above 80-percent rule is not met, no penalty is imposed with respect to an installment if the estimated tax paid to date equals the amount that would be required to be paid if the estimated tax were the least of the following:

(1) The sum of the income tax and the self-employment tax shown on the return for the prior year;

(2) The sum of the income tax and the self-employment tax that would be due on the prior year's income under current rates and current exemptions;

(3) An amount equal to 80 percent (66⅔ percent for farmers and fishermen) of the combined income and self-employment taxes due computed by annualizing the taxable income received in the months in the year prior to the month a particular installment is due. Self-employment income for this purpose is only the amount received to date with the maximum of $6,600 reduced by employee social security wage income placed on an annualized basis; or

(4) An amount equal to 90 percent or more of the combined tax payable on the income actually received from the beginning of the year up to the month in which the installment in due.

Effective date.—This provision is effective for taxable years beginning after December 31, 1966.

Revenue effect.—This provision is expected to increase fiscal year 1967 trust fund revenues, which are not reflected in the administrative budget, by $200 million. It will have no effect on revenues in the fiscal year 1966.

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SECTION 102. ESTIMATED TAX IN CASE OF INDIVIDUALS

This section has been approved by your committee except for a technical change which amends subsection (b)(1) of section 6211 (relating to definition of a deficiency) to take account, in the computation of a deficiency, of the inclusion of self-employment tax in the estimated tax. For the technical explanation of this section of the bill see page 40 of the report of the Committee on Ways and Means on the bill.

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Calendar No. 985

89TH CONGRESS
2D SESSION

H. R. 12752

[Report No. 1010]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 1966
Read twice and referred to the Committee on Finance

MARCH 2, 1966
Reported by Mr. LONG of Louisiana, with amendments

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

AN ACT

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Adjustment Act of 1966".

* * * * *

* * * * *

SEC. 102. ESTIMATED TAX IN CASE OF INDIVIDUALS.

(a) INCLUSION OF SELF-EMPLOYMENT TAX IN ESTIMATED TAX.—Section 6015(c) (relating to definition of

estimated tax in the case of an individual) is amended to read as follows:

"(c) ESTIMATED TAX.—For purposes of this title, in the case of an individual, the term 'estimated tax' means—

"(1) the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, plus

"(2) the amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

"(3) the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1."

(b) ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX.—

(1) Section 6654(a) (relating to addition to the tax for underpayment of estimated tax by an individual) is amended by inserting after "chapter 1" the following: "and the tax under chapter 2".

(2) Section 6654(d) is amended to read as follows:

"(d) EXCEPTION.—Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be

imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

"(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

"(2) An amount equal to 70 percent ($66\frac{2}{3}$ percent in the case of individuals referred to in section 6073 (b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402 (a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

"(A) The taxable income shall be placed on an annualized basis by—

"(i) multiplying by 12 (or, in the case

of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

"(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

"(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment).

"(B) The term 'adjusted self-employment income' means—

"(i) the net earnings from self-employment (as defined in section 1402 (a)) for the months in the taxable year ending before the month in which the installment is required to be paid, but not more than

"(ii) the excess of $6,600 over the amount determined by placing the wages (within the meaning of section 1402 (b)) for the months in

the taxable year ending before the month in which the installment is required to be paid on an annualized basis in a manner consistent with clauses (i) and (ii) of subparagraph (A).

"(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income and the actual self-employment income for the months in the taxable year ending before the month in which the installment is required to be paid as if such months constituted the taxable year.

"(4) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year."

(3) Section 6654(f) (relating to definition of tax for purposes of subsections (b) and (d) of section 6654) is amended to read as follows:

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term 'tax' means—

"(1) the tax imposed by this chapter 1, plus

"(2) the tax imposed by chapter 2, minus

"(3) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)."

(4) Section 6211(b)(1) (relating to definition of a deficiency) is amended by striking out "chapter 1" and inserting in lieu thereof "subtitle A".

~~(4)~~ *(5)* Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(34) ESTIMATED INCOME TAX.—The term 'estimated income tax' means—

"(A) in the case of an individual, the estimated tax as defined in section 6015(c), or

"(B) in the case of a corporation, the estimated tax as defined in section 6016(b)."

~~(5)~~ *(6)* Section 1403(b) (cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to declarations of estimated tax on self-employment income, see section 6015."

(c) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Section 1402(e)

(3) (relating to effective date of waiver certificates) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of sections 6015 and 6654, a waiver certificate described in paragraph (1) shall be treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1966.

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Calendar No. 985

89TH CONGRESS
2D SESSION

H. R. 12752

[Report No. 1010]

AN ACT

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

FEBRUARY 24, 1966
Read twice and referred to the Committee on Finance
MARCH 2, 1966
Reported with amendments

TAX ADJUSTMENT ACT OF 1966

Mr. LONG of Louisiana. Mr. President, my task today is not a pleasant one, for I rise in support of a bill, H.R. 12752, which will increase the tax payments of most American taxpayers. The members of the Finance Committee recall with nostalgia the years 1962, 1964, and 1965, years in which they were able to recommend significant tax reductions—reductions which had so much to do with the attainment of the current high levels of employment and production. Al-

though it was not a pleasant duty, there was general support for the bill when the committee voted to report it to the full Senate, for we realize that additional revenues must be raised to finance the expenditures required by the conflict in Vietnam.

The increase in expenditures attributable to our operations in Vietnam is responsible for this bill. When the Excise Tax Reduction Act of 1965 was before Congress last June, we could not anticipate that the situation in Vietnam would require the expenditure of an added $4.7 billion in the fiscal year 1966. Nor could we anticipate that the emergency requirements of the struggle would add $10.5 billion to Federal expenditures in the fiscal year 1967. These sharp increases have exceeded the significant increases in Federal revenues caused by the growth of the economy—increases in revenues which now approach $7.5 billion a year.

ALTERNATIVES TO H.R. 12752

Some Senators may ask why the increased expenditures needed for Vietnam must be paid for by increased tax collections. They may argue, for example, that these expenditures could be made by reducing expenditures for the civilian needs of the Government. I am as much in favor of reducing wasteful or unnecessary expenditures as any other Senator. But the President had already trimmed civilian budget expenditures to essential minimums before he submitted the budget.

This is indicated by the fact that the 1967 budget provides for an increase in expenditures in areas not related to Vietnam of only $600 million.

This is so despite increased interest costs for the Federal debt and the impact of pay raises for civilian employees and military personnel that the Congress approved last year, and also in spite of the fact that the Federal Reserve Board increased the cost of carrying that Federal debt by increasing interest rates.

He has achieved this result by offsetting increases in expenditures approved by Congress and normal expenditure increases under existing programs with dramatic savings in many areas. I do not believe that Congress will be able to trim expenditures under this tight budget to the extent necessary to finance the war in Vietnam. In fact, Congress has already approved a new GI bill which will increase budget expenditures.

I can only conclude that it is unrealistic to expect Congress to be able to match increased Vietnam expenditures with reductions in other areas of the Federal budget.

Of course, we could borrow to pay for expenditures in Vietnam. This approach, however, would encourage inflation. From 1961 to mid-1965, we could safely approve bills, such as the tax reduction bills, that would initially create the need for Government borrowing because there was slack in the economy. During those years some doubted whether the rate of unemployment in the civilian labor force would ever again be as low as 4 percent. Under those circumstances, the stimulus of tax reductions resulted in an increase in employment rather than an increase in prices.

The situation is different now. The policies of the past several years have achieved their objective. The slack in the economy has been taken up. In January the rate of unemployment in the civilian labor force dropped to 4 percent for the first time since 1957. Capacity utilization figures indicate that industry is now using almost as much of its available plant and equipment as it prefers to use. We have reached the point in which sharp increases in Government expenditiures must be met by increased revenues if we are to avoid the risk of inflationary price increases.

WHAT THE BILL WILL ACHIEVE

Let me now turn to the bill itself. It is designed to raise revenues for both the fiscal years 1966 and 1967. The provisions of the bill increase revenues in the current fiscal year by $1.1 billion. They will add $4.8 billion to receipts in fiscal year 1967 over and above the amount that would be generated under existing tax rates.

These amounts differ only slightly from the effect of the provisions recommended by the President, which would have increased administrative budget receipts by $1.2 billion in fiscal 1966 and $4.8 billion in fiscal 1967.

These revenues will be sufficient to reduce the anticipated administrative-budget deficit for the fiscal year 1966 from $7.6 to $6.5 billion. In the fiscal year 1967, the added revenues provided by this bill will reduce the administrative-budget deficit to $1.9 billion. In the absence of the bill, the 1967 deficit would be $6.7 billion, or only slightly less than the 1966 deficit.

When the revenues and expenditures of the trust funds are considered, the results of this bill will be even more significant. The consolidated cash budget deficit anticipated for the current fiscal year will be reduced from $8.1 to $7.0 billions. In the fiscal year 1967, the deficit will be eliminated entirely and a small surplus achieved as a result of a $5.0 billion increase in cash receipts under this bill.

The increase in tax payments required by this bill will moderate the expenditures of households and business firms. The most important provision affecting tax collections is one which accelerates the transition to full current payment of estimated corporate tax liabilities in excess of $100,000. Some 16,000 large corporations are affected.

Many of these corporations set aside funds to meet tax liabilities as those liabilities accrue, often by purchasing tax-anticipation notes. Some corporations, however, will have to postpone investment outlays or forego dividends to provide the cash to meet their tax payments. Such postponements will not impair economic stability, since business expenditures for fixed investment are currently at very high levels. These levels are so high in fact that some economists are concerned about the possibility of a repeat of the experience in 1956 and 1957.

The postponement of some planned investment, therefore, may well be conducive to the maintenance of the proper balance between investment in expanded capacity and growth in the demand for the goods produced by that capacity.

The graduated withholding procedure contained in the bill will moderate consumer expenditures. After May 1, the amount of tax withheld from wages and salaries will be increased by about $100 million a month during the rest of 1966 and in the first few months of 1967. The additional amounts withheld will be offset as far as individual taxpayers are concerned by lower tax payments due in the spring of 1967 or through tax refunds. Some consumer spending, however, will have to be postponed during the rest of 1966 and in the early part of 1967.

The bill is also important to our balance of payments. It is essential to the success of our efforts to eliminate the persistent deficit in the U.S. balance of payments that inflation be prevented. Inflationary increases in the prices of the goods the U.S. exports would discourage export sales. This development would narrow or close our favorable trade balance. A serious outflow of gold would be the result.

EFFECT ON TAX LIABILITIES

The bill will accomplish the effects I have outlined without requiring significant increases in tax liabilities. The various changes in collection procedures proposed in the bill will speed up the collection of existing liabilities. In other words, the timing of tax collections will be changed so that some revenues will be collected in fiscal year 1966 that would not otherwise be collected until fiscal 1967. Even larger amounts will be collected in fiscal 1967 that would not otherwise be collected until fiscal 1968 and later years.

The changes in collection procedures include graduated withholding, quarterly payments of estimated social security taxes by the self-employed, tighter requirements regarding payments on declarations, and an earlier completion of the transition to full current payment of corporate tax liabilities in excess of $100,000.

The excise tax provisions of the bill will restore the tax rates on telephone service and passenger automobiles which were in effect at the end of 1965. The bill simply freezes these rates for 2 years, or until April 1, 1968. At that time the excise tax rates will fall to the levels that would have been reached at that time if the provisions of the Excise Tax Reduction Act of 1965 remained in effect.

The revenue impact of the bill is largely temporary in the sense that the changes in collection procedures will produce only a temporary increase in revenues rather than a continuing increase. Such an effect is appropriate at this time. While there has been much speculation about it, we do not know what the financial requirements of the war in Vietnam will be beyond the relatively near term. Therefore, it is appropriate that we should plan our taxes at this time on the basis of the figures in the President's budget.

As for fiscal 1968, it is important to remember that Federal revenues will in-

crease as a result of the growth of the economy. At the near full employment levels at which we are now operating, this increase amounts to $7 or $8 billion a year, or an amount significantly greater than the addition to revenue provided by this bill in fiscal 1967. As the temporary revenues attributable to changes in the timing of tax collections taper off, they will be replaced by increased revenues due to economic expansion.

It may very well turn out that the growth in revenues due to growth will be sufficient to meet the future costs of the defense of Vietnam, even if our efforts there must be continued for several additional years.

THE BILL IS FAIR

The provisions of this bill spread the cost of defense expenditures over a broad cross section of the population in an equitable manner. The provisions which will raise the most revenue—those concerning corporate tax payments—will affect the Nation's largest corporations and their stockholders.

Graduated withholding will affect a majority of the over 60 million taxpaying wage earners who do not file declarations of estimated tax. Self-employed persons, who are not subject to wage withholding, will be affected by the revised requirement for payments of estimated tax and by the provision for the quarterly payment of estimated self-employment social security tax.

Restoring the December 1965 rates for the manufacturer's excise on passenger automobiles and for the tax on telephone service will affect a very broad group of American consumers. These consumers, furthermore, are ones who, by and large, have been accustomed to paying these tax rates ever since the Korean emergency.

PROVISIONS OF THE BILL

Let me now take up the individual provisions of the bill in more detail. As reported by your committee, H.R. 12752 incorporates the essential features of the bill approved by the House, which in turn reflected the President's proposals of January 13.

Your committee made four substantive amendments to the House bill and a number of technical amendments. Two of the substantive amendments, which I will describe shortly, amend provisions of the House bill. The others, which I will also describe, add new provisions to the bill.

The provisions of the bill may be divided into two categories. In the first category are those provisions which are intended solely to raise revenues. These provisions, which account for the bulk of the revenue in this bill, include the acceleration of corporate income tax payments and the excise tax proposals. The second category includes desirable changes in collection procedures, which, because they entail a temporary increase in tax collections, can only be introduced when an increase in revenue is appropriate. The measures in this category include graduated withholding, quarterly payments of estimated social security tax by the self-employed, and tighter regulations on payments of estimated tax.

GRADUATED WITHHOLDING

The first provision of the bill relates to graduated withholding. It replaces the present 14 percent, flat-rate withholding system with a more accurate system which will aline the amounts withheld from wages more closely to the final liability of most wage earners.

Under the present system, taxpayers rarely find that the amount of tax withheld from their wages comes close to the amount which they actually owe at the end of the year. This is important because more than 9 out of 10 wage earners depend on withholding alone to make current payments on their income tax.

When tax withheld falls short of the final liability, as it would on nearly 13 million returns this year if no change were made in the withholding system, the taxpayer has a bill to pay when he files his final return. If this balance-due amount is unexpected or large, as it was for many taxpayers in the spring of 1965, it can cause financial hardship.

When the amount withheld exceeds the tax liability, as it would on nearly 40 million returns filed this year if the present system were not changed, the taxpayer must wait until he files his final return to receive the appropriate refund.

The bill substitutes six graduated withholding rates, ranging from 14 to 30 percent, for the present single rate of 14 percent. The rates reflect the tax rates which apply to the first $12,000 of a single person's taxable income and the first $24,000 of a married couple's taxable income.

Two separate schedules and sets of withholding tables are provided, one for single persons and heads of households, and the other—with wider brackets to reflect the split-income provisions—for married persons and surviving spouses.

The graduated withholding system also incorporates the minimum standard deduction, a feature not now reflected in the withholding system. The graduated system does so by increasing the amount of a withholding exemption to $700 and by providing that the first $200 of annual wages is to be exempted from withholding. This treatment parallels the minimum standard deduction, which is equivalent to a basic $200 amount for married couples, heads of households, and single persons, plus an additional $100 for each exemption.

The graduated rates will apply to wages paid on or after May 1 of this year. Individuals will want to file new withholding exemption certificates with their employers at that time. This will especially be true of the many persons who now deliberately understate their eligible exemptions so that more will be withheld from their wages. If this bill is enacted, these voluntary adjustments to increase withholding will not be necessary in most cases.

Under the present withholding system, persons who itemize their deductions, and have deductions in excess of 10 percent of their income, are likely to be overwithheld in the sense that the amounts withheld from their wages exceed their final liability. This is the case because the present withholding system provides only a 10-percent allowance for deductions while many of those who itemize have deductions which are a larger proportion of their income.

Under the graduated withholding rates, which provide the same allowance for deductions, overwithholding due to itemized deductions would be increased, in some cases very substantially. Therefore, this bill contains a provision which will permit persons with relatively large itemized deductions to adjust their withholding by claiming special withholding allowances. These allowances, which can be claimed beginning in 1967, will be treated like additional exemptions for withholding purposes.

The committee has amended the House bill to modify the procedure for claiming withholding allowances. Under the House bill, withholding allowances would be based on the amount by which estimated itemized deductions exceeded a base level equivalent to 12 percent of estimated wage income of $7,500 or less and 17 percent of estimated wage income above this level. One withholding allowance would have been given under the House bill with respect to each full $700 of such excess with the exception that the first withholding allowance could have been claimed if excess itemized deductions exceeded $350.

As amended by your committee, the bill now provides that withholding allowances will be based on the excess of estimated itemized deductions over 10 percent of wages up to $7,500 and 17 percent of wages over this amount. Furthermore, no withholding allowance can be claimed unless such excess is equal to a full $700.

This amendment by your committee is supported by the Treasury. Under the House bill, some individuals could have corrected their overwithholding by filing for withholding allowances only to find that they owed money at the end of the year.

Your committee feels that this result would be undesirable. Thus, it has required that excess itemized deductions must equal a full $700 before a withholding allowance can be claimed. The purpose of the provision in the House bill was to make it easier for persons with incomes of less than $10,000 to claim withholding allowances.

Your committee's amendment achieves much of this purpose by reducing the limit above which excess itemized deductions are computed from 12 percent of income below $7,500 to 10 percent.

As a safeguard, estimated itemized deductions will not be permitted to exceed the deductions claimed on the last return filed, nor will estimated wage income be permitted to be less than that earned in the past year.

ESTIMATED SELF-EMPLOYMENT TAX

The second provision of this bill requires self-employed persons to pay their estimated self-employment social security tax quarterly in the manner in which they are now paying their estimated income tax. Under present law, wage and salary earners covered by the social security system pay their annual social security tax currently through withholding. Self-employed persons do not pay

their tax currently, however, but are permitted instead to delay payment until the following year.

This bill places self-employed persons on the same current-payment basis with respect to their social security tax liability which employees are now on. It does so by requiring them to make quarterly payments of estimated self-employment tax beginning in 1967.

The quarterly payments of social security tax will be combined with quarterly payments of income tax. The rules presently applicable to the declaration and quarterly payment of estimated income tax will, beginning in 1967, apply to the total of estimated income tax and estimated self-employment social security tax.

UNDERPAYMENTS OF INSTALLMENTS OF ESTIMATED TAX

The third provision in the bill relates to the provisions for filing declarations of estimated tax. Prior to 1954, taxpayers who failed to pay at least 80 percent of their final liability currently, either through withholding, quarterly payments, or both, unless certain exceptions applied, were subject to a penalty equal to 6 percent interest calculated on the difference between the amount paid currently and 80 percent of the liability. In 1954, the percentage limit for defining underpayments of installments of estimated income tax was reduced from 80 to 70 percent.

Your committee's bill restores the percentage to 80 percent. It also makes a comparable increase in the percentage applying when a taxpayer, for one or more quarters, computes his estimated tax by annualizing his income received to date.

ACCELERATION OF CORPORATE TAX PAYMENTS

The fourth provision in the bill relates to the acceleration of corporate income tax payments. Corporations with an estimated tax liability in excess of $100,000 presently are required to pay a part of their estimated liability in excess of $100,000 during the current taxable year. The portion to be paid currently is being increased from year to year in accordance with a schedule set down in the Revenue Act of 1964.

Under this schedule, corporations will be fully current with respect to their estimated tax in excess of $100,000 by 1970. Your committee's bill simply accelerates the transition to full current payment so that it will be completed in 1967 rather than 3 years later.

Under the present schedule, corporations using a calendar year accounting period would file their initial declaration and pay 9 percent of their estimated 1966 liability in excess of $100,000 on April 15 of this year. On June 15 they would pay an additional 9 percent of the estimated liability and on September 15 and December 15 they would pay installments of 25 percent on each date.

Under the bill, the payments due in April and June 1966, will be increased to 12 percent of the estimated liability and the amounts due in April and June 1967 will be increased from 14 to 25 percent of the estimated liability.

THE EXCISE TAXES ON PASSENGER AUTOMOBILES AND TELEPHONE SERVICE

The fifth and sixth provisions of the bill concern the manufacturer's excise tax on passenger automobiles and the tax on telephone and teletypewriter service. The bill imposes a moratorium on some of the rate reductions provided for these two excises by the Excise Tax Reduction Act of 1965.

The moratorium, which will last from the time this bill is passed until April 1, 1968, will freeze these rates at the levels which existed in December 1965. That is, the tax on passenger automobiles will be restored to 7 percent on the day following the date this bill is enacted and will remain at 7 percent until April 1, 1968. On the latter date, it will fall to 2 percent and on January 1, 1969, it will drop to the permanent level of 1 percent.

The tax on telephone service will be restored to 10 percent with regard to bills rendered after the first day of the first month after the date of enactment. It will remain 10 percent until April 1, 1968, when it will fall to 1 percent. On January 1, 1969, the tax will be repealed.

The committee made one important amendment in the bill approved by the House. The amendment concerns the manufacturer's excise on passenger automobiles. Under the House bill, automobile dealers and distributors would have been liable for a tax equal to 1 percent of the manufacturer's price with respect to each car they held in inventory on the day the tax was restored to 7 percent.

It has come to the attention of your committee that dealers would have many problems with respect to this tax. It might be difficult for them to gain customer acceptance of the tax since this amount would not be reflected in the posting attached to new cars which indicates the intended retail price.

Dealers, moreover, might have to wait for a substantial period in some cases before collecting the tax through sale of the car to a customer.

Because of these problems your committee amended the bill to delete the floor stocks tax with respect to cars held in dealers' inventories on the day the tax is increased to 7 percent.

The proposals in the bill regarding the excises on automobiles and telephone service were made with reluctance. The members of the committee are well aware that it is desirable to repeal these taxes in the long run. Nevertheless, there are convincing reasons for imposing a moratorium on reductions on the rates of these excises at the present time.

In the first place, these two excises generate significant revenue. Revenue is, first and foremost, the reason for this bill. It would require a combination of many other excise taxes, all equally undesirable, to match the revenue that will be obtained from these two taxes. Moreover, payments of individual income tax and corporate income tax are already being temporily increased under other provisions of the bill.

In the second place, it is much simpler matter from the administrative standpoint to increase the rates of an existing tax than it is to reimpose a tax that has been repealed. The machinery for collecting the tax is currently in existence and would not have to be reestablished.

Third, it is evident from the action taken last year that Congress considered that repeal of these two taxes was less urgent than the repeal of numerous other excise taxes.

Finally, these two excises affect a broad cross section of the population. Thus, the burden of these excises is more widely distributed than the burden of other excises.

COMMITTEE AMENDMENTS

The seventh and eighth provisions in this bill are amendments added by your committee. The first of these amendments relates to certain indirect contributions to political parties. It was brought to the attention of your committee that there are inconsistences in the tax treatment of expenses for placing ads in the convention program of a political party or in another political publication. There is also some confusion over the status of payments for admissions for fundraising dinners or programs and for amounts paid for admission to an inaugural ball, gala, or similar event.

To clarify the tax treatment of such expenses, your committee has added an amendment providing that no deduction will be allowed for the cost of advertising in a convention program or other publication if any part of such expense inures to a political party or candidate. Similarly, payments for admission to any dinner or program are not deductible if part of the proceeds inures to a political party or candidate. Finally, no deduction is allowed for tickets to an inaugural ball, gala, or similar event.

The second committee amendment concerns payments made by the Department of Agriculture with respect to such programs as the soil bank. This provision will require the Department of Agriculture to supply farmers with copies of information returns sent to the Internal Revenue Service. Such returns are sent to the Service whenever all payments made in any one year to a single farmer total $600 or more. Your committee believes that farmers should receive the same information with respect to payments derived from Government that recipients of dividends and interest payments receive from private corporations and payors.

CONCLUSION

The need for the revenues that will be provided by this bill is clear. Senators must keep this need in mind when appraising the bill. No one derives satisfaction from the thought that many Americans will have increased taxpayments to make as a result of this bill. But when we are tempted to delete or postpone any of the provisions of this bill, we must remember that the situation in Vietnam requires some sacrifices on the part of us all—not just those who are doing the fighting. From this standpoint, the only responsible way to

meet the expenses of Vietnam is through the approach adopted in this bill.

TAX ADJUSTMENT ACT OF 1966

The Senate resumed the consideration of the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Mr. WILLIAMS of Delaware. Mr. President, I am supporting H.R. 12752 the pending bill, the purpose of which is to provide additional revenue for fiscal year 1966 as well as 1967. I voted against the removal of these taxes last year on the basis that it was fiscally irresponsible to cut taxes in the face of a big deficit and with a war going on.

However, in supporting this bill, I do not underwrite the administration's claim that this solves all the fiscal problems, or that this will result in a deficit of only $1.8 billion in fiscal 1967.

For fiscal 1967 they claim it is $1.8 billion, but in reality the deficit is between $9 and $10 billion.

I pointed out earlier this year that the President in his message to Congress had advocated legislation dealing with truth in lending and truth in packaging, and I stated that what we need equally as much is more truth in government.

The fact is that if the budget submitted by the President to Congress is enacted this Government will produce a deficit of close to $10 billion in 1967.

The Secretary of the Treasury in his testimony before the Committee on Finance on this particular bill confirmed the arithmetic I have just stated.

I pointed out, however, that the real deficit is camouflaged in the claim of a $1.8 billion deficit. They have boasted of this figure as a great accomplishment.

The bill, coupled with the action in the committee last year, will produce $4.5 billion in fiscal 1967 in additional revenue as a result of acceleration in the payment of corporate taxes.

This is not new revenue. It is merely borrowing from next year's tax bill money that would normally be paid next year. This is moved over into fiscal 1967 to defray current expenses. It is so recognized and admitted by the Secretary of the Treasury. It is purely a one-shot operation, one which cannot be repeated in the years to come because we certainly cannot collect taxes in advance.

In addition, as a result of the new silver half dollars and quarters containing less silver there will be $1.5 billion nonrecurring income accrued to the Federal Treasury in fiscal 1967, and they have decided to include this as part of the general revenue, thereby using that money to defray expenditures in 1967.

Again, this item is nonrecurring income unless some brilliant bureaucrat decided later to print a paper quarter instead of minting a metal one.

They estimate $400 million will be picked up in fiscal 1967, as a result of the change in withholding taxes, which again is a one-shot operation.

In addition they are liquidating the assets of the Government by selling the mortgages on the Federal National Mortgage Association—FNMA—and some of the other lending organizations. It is true, as the Secretary points out, that there have always been some normal sales of these mortgages over the years, but the Secretary confirmed to our committee in the hearings on this bill, copies of which are now on Senators' desks, that the sale of FNMA mortgages was accelerated over and above the normal average sales of such mortgages by more than $1 billion in fiscal 1966 and that in fiscal 1967 an additional $1.5 billion will be brought in.

Their plans are to sell $4.7 billion in FNMA and small business mortgages. This is $1.5 billion more than would normally be sold.

All of the proceeds of the sales of these mortgages are used to pay current expenses and thereby reduce the amount of the recorded deficit.

Furthermore, they are selling $4.7 billion of these mortgages and applying it not to income but subtracting it from the expenditure side in order to give the American people the idea that they have cut expenditures. They have not cut expenditures. I repeat—they are using the $4.7 billion to defray the cost of the program of the Great Society. This is merely a bookkeeping device so that it will not appear on the books at all as expenditures.

Summarizing, taking the $4.5 billion accelerated payments of corporate taxes, the $1.5 billion windfall profit on coinage, the $400 million on withholding collections, and the $1.5 billion extra receipts on FNMA mortgages which have been sold, it means that they will be collecting $7.9 billion extra revenue, all of which will be nonrecurring income. It is like borrowing on next week's salary to pay this week's grocery bills.

When we add this $7.9 billion one-shot income to the $1.8 billion which the administration admits as a deficit, we find that the Government in fiscal 1967, based on its own records, will have a deficit of $9.7 billion. On an average this represents $800 million expenditures beyond our income for every month in the calendar year of 1967.

This $9.7 billion is after we have taken into consideration the restoration of the telephone and automobile excise taxes, which are part of this bill.

Mr. President, I am supporting the bill because I believe we are confronted with a serious financial condition so far as the Government is concerned.

As I stated earlier, I opposed removing these taxes last year when everyone knew our deficit this year would exceed $6 billion.

With a war in Vietnam the only alternatives were to restore the taxes or to raise the debt.

Yes, I support the administration in this bill, but I will have no part of its effort to deceive the American people as to the true deficit. Even with this bill we are not paying for the expenditures to meet the cost of the war in Vietnam.

Officials in the administration boast of the great achievements of their planned deficit program and boast that as the result of this deficit planning they have in the last 5 years brought down the unemployment rate to below 4 percent.

The chairman of the committee just mentioned that great achievement with pride, but they do not tell the people that the reason they were so successful in bringing the unemployment rate to below 4 percent is not an achievement of the Great Society but because there is a war going on in Vietnam and many American boys are being put into uniform and others are being employed in defense plants to make the implements of war. That is how the low unemployment rate has been brought about. Nor is the administration providing revenues to take care of the expenditures to conduct the war in Vietnam. We are enjoying a wartime prosperity. I use the term "enjoying" advisedly because we should recognize we are in a wartime economy, and we should be paying for its cost instead of insisting on both butter and guns.

As to the achievements of the Great Society, the Secretary of the Treasury and the Director of the Budget boasted that the deficits of the Great Society were deliberately planned just as planned but controlled inflation was a part of their program.

Some day this administration is going to have to take direct responsibility for the inflation which it is causing. Since 1961, the 5 years in which the Great Society has been in office, the administration has spent $31½ billion more than it has taken in in revenues. That is an average of $500 million a month for every month it has been in office. Yet every year the President has been before this Congress and in his messages he has always boasted that we are achieving a balanced budget. The words sound well, but actions belie the words.

It is time that the administration told the American people the facts of life; namely, that this bill is a one-shot operation to take it beyond the 1966 congressional elections without having to call for a tax increase. They want to go before the American people and tell what they have done without raising taxes.

The administration should have the same degree of courage to tell the American people what the facts are as is being shown by our boys fighting on the battlefields of Vietnam.

The people should be told that with the approval of this bill, once the year 1967 rolls around, we will automatically be moving into a deficit of around $900 million a month.

Unless Congress can cut some of the expenditures that are being asked for under the Great Society there will have to be a tax increase that will shock many people. Of course the administration may not admit this point until after the votes are counted next November.

According to the press, the administration is asking a special committee of Congress, beginning March 16, to study proposals to give the President standby authority to raise taxes. This standby authority to raise taxes is a devious way to have a tax increase approved by Congress without exactly describing it that way. Under the plan the standby authority will be enacted in this session of Congress, yet in the 1966 congressional elections the administration and the Members of Congress will be able to say that they have not raised the people's taxes but that Congress has only given the President standby authority if the Vietnam war makes it necessary. Then after the elections are over the increase can be ordered into effect, but by then the ballots will have been counted.

I for one do not intend to support any such standby authority. If the administration wants to increase taxes let the President tell the American people exactly what the fiscal situation is which faces the people and what kind of an increase it recommends. If the administration wants to increase taxes let it have the courage to ask for an increase in taxes and let Congress approve or disapprove it.

As one member of the Senate Finance Committee I serve notice that I intend to do all I can to block this request.

This would be a tax rise with a political twist.

The administration boasts that the cash budget is in balance. That boast is meaningless. When we talk about a cash budget we are talking about trust funds under the social security program, the railroad retirement program, and the civil service retirement program, and all of the other trust funds. To include moneys in those trust funds to show that there is a balanced cash budget is misleading the American people. It should follow its own directive to have truth in Government.

Certainly no reasonable Government official is going to propose that we move in and tap these trust funds—the social security fund, the medicare fund, and the other retirement funds.

I think it should be made clear to the American people that the present administration, this Great Society administration, is the most spendthrift government that we have ever had in the history of our country; that during the 5 years it has been in office it has spent at the rate of $500 million a month more than it has taken in, that currently it is operating at the rate of $600 million a month more than it has taken in, and based on present plans the deficit next year will be at the rate of $800 million a month more than the revenues.

This administration is leading us down the road to bankruptcy and inflation, and the Johnson administration will have to take full responsibility for it. What I would like to see the administration do is to tell the American people what the budgetary facts are with same courage that our boys are showing in Vietnam.

Mr. CARLSON. Mr. President, I wish to express my appreciation to the distinguished Senator from Connecticut [Mr. RIBICOFF] for allowing me a few minutes to speak on this matter.

As a member of the Finance Committee, I voted to report the bill. I expect to vote for it on final passage. But I feel I would be derelict in my duty if I did not state that I think there has been a very weak effort on the part of the administration to prevent inflationary pressures that are now confronting the Nation, destroying the purchasing power of the American public and threatening the American economy. In addition to that, I personally do not feel that the administration is providing for the expenditures needed for the war in which we are involved in Vietnam.

Mr. President, as the distinguished Senator from Delaware [Mr. WILLIAMS] mentioned, if we are to continue to expand these ever-increasing Great Society programs, it is a meager effort to take care of that phase of it.

I did not rise today to speak on the bill as a whole. I expect to participate in this debate and I shall discuss several phases of the bill as we go through it.

But I wish to speak out against one item in the bill and I feel that I must speak strongly against a reimposition of what I say is the most unfair of the nuisance taxes, the tax on telephones.

This has been an eventful several months. For years I—and others in this body—have been pointing out the injustice and inequity of this temporary tax which has been extended from time to time for over two decades.

Then last year the administration began swinging around to my point of view.

Last year our committee reported out a bill which would lop 7 percent from the telephone excise tax in January, 1966, with the remaining 3 percent to go by 1969.

The President hailed the action as he signed the excise tax bill of 1965.

In January, the first tax cut was seen in millions of telephone bills. And in January, even before most customers had received their first bills reflecting the tax reduction, the administration asked Congress to restore the cut.

I understand some people are calling the telephone excise the yo-yo tax.

But this tax is no joke. It is discriminatory, unfair and regressive.

This is a tax on the people who use the telephone—not the telephone companies. Over 55 million telephone customers will be paying about $700 million a year.

In my State of Kansas, 650,000 telephone users will pay nearly $11 million a year in this tax which is added to every telephone bill. Ending the tax would mean that many millions added to the purchasing power of Kansans—money which would add to the economic health of the Sunflower State.

By any principle of taxation, the telephone tax is a bad tax. It falls most heavily on those least able to pay.

This is not a luxury we are talking about. The telephone is in 85 percent of the Nation's homes. On the many farms and ranches of Kansas it is one of the most valued tools.

Bureau of Census figures for 1960 show that 20 percent of the households with telephones—approximately 7,800,000—had incomes of less than $3,000 a year. More than half of the telephone households had annual incomes of less than $6,000.

Last month, William C. Mott, of the United States Independent Telephone Association, representing 2,400 telephone companies, large and small, appeared before our committee.

He said it was difficult to explain to customers why they alone were to have to bear a total reimposition of the excise tax on an essential and necessary service.

It is difficult—

He declared—

because they don't understand why a service which everyone knows is necessary and essential should receive no tax relief while the race track goer, the cabaret habitue, the country club set, and buyers of jewels and furs are given complete tax relief.

Year after year as this discriminatory tax has been extended, I have been strongly urging its removal. And I do so again.

To sum up:

First. This tax falls hardest on those least able to pay—the lower income groups.

Second. It is discriminatory also in that telephone is the only household utility so taxed.

Third. The public generally regards this tax as unfair, particularly because it applies to a service it regards as essential, not a luxury.

It does not it make sense to let the so-called luxury taxes disappear while we reimpose an excise tax on telephones.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that I may yield to the Senator from Massachusetts [Mr. KENNEDY], without losing my right to the floor.

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

* * * *

ADDITIONAL COSPONSORS, AMENDMENT NO. 495

Mr. PROUTY. Madam President, before calling up my amendment No. 495, I ask unanimous consent that the names of the distinguished Senator from Wyoming [Mr. SIMPSON] and the distinguished Senator from Indiana [Mr. HARTKE] be included as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 495

Mr. PROUTY. Mr. President, I call up my amendment No. 495.

The PRESIDING OFFICER (Mr. BARTLETT in the chair). The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from Vermont [Mr. PROUTY] offers an amendment identified as No. 495, as follows:

At the end of the bill, add the following:

"SEC. . (a)(1) Section 202 of the Social Security Act is amended by adding at the end thereof the following:

"'*Benefit payments to persons not otherwise entitled under this section*

"'(w)(1) Every individual who—

"'(A) has attained age seventy, and

"'(B)(i) is not and would not, upon filing application therefor, be entitled to any monthly benefits under any other subsection of this section for the month in which he attains such age or, if later, the month in which he files application under this subsection, or (ii) is entitled to monthly benefits under any other subsection of this section for such month, if the amount of such benefits (after application of subsection (q)) is less than the amount of the benefits payable under this subsection to individuals entitled to such benefits, and

"'(C) is a resident of the United States (as defined in section 210(i) of the Social Security Act), and is (i) a citizen of the United States or (ii) an alien lawfully admitted for permanent residence who has resided in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application under this section, and

"'(D) has filed application for benefits under this subsection, shall be entitled to a benefit under this subsection for each month, beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. Subject to paragraph (2), such individual's benefit for each month shall be equal to the first figure in column IV of the table in section 215(a).

"'(2) The amount of the benefit to which an individual is entitled under this subsection for any month shall be equal to one-half of the amount provided under paragraph (1) if—

"'(A) such individual is a married woman, and

"'(B) if the husband of such individual is entitled, for such month, to benefits under this subsection.'

"(2) The following provisions of section 202 of such Act are each amended by striking out 'or (h)' and inserting in lieu thereof '(h), or (w)':

"(A) subsection (d)(6)(A),

"(B) subsection (e)(3)(A),

"(C) subsection (f)(4)(A),

"(D) subsection (g)(3)(A), and

"(E) the first sentence of subsection (j)(1).

"(3) Section 202(h)(4)(A) of such Act is amended by striking out 'or (g)' and inserting in lieu thereof '(g), or (w)'.

"(4) Section 202(k)(2)(B) of such Act is amended by striking out 'preceding'.

"EFFECTIVE DATE

"(b) The amendments made by subsection (a) shall apply only in the case of monthly benefits under title II of the Social Security Act for months beginning after September 1966 based on applications filed on or after July 1, 1966, or the date of enactment of this Act, whichever is the earlier.

"(c)(1) Section 227 of the Social Security Act is repealed as of the close of September 1966.

"(2) Any individual, who (for the month of September 1966) is entitled to a monthly insurance benefit under section 202 of the Social Security Act by reason of the provisions of section 227 thereof, shall be deemed to have applied for benefits under section 202(w) of such Act, and all applications which are filed for monthly benefits under section 202 of such Act by reason of the provisions of section 227 and which are pending on the date of enactment of this Act shall be deemed to be applications for benefits under such section 202(w).

"REIMBURSEMENT OF TRUST FUNDS

"(d) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, and to the Federal Hospital Insurance Trust Fund, respectively, from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

"(1) so much of any payments made or to be made during such fiscal year from such Fund with respect to individuals whose entitlement thereto is attributable to the provisions contained in section 202(w) of the Social Security Act,

"(2) the additional administrative expenses resulting, or expected to result, to such Fund on account of such payments, and

"(3) any loss in interest to such Fund resulting from the making of any such payments,

in order to place such Fund in the same position at the end of such fiscal year as that in which it would have been if the preceding subsections of this section had not been enacted."

Mr. PROUTY. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, I point out first that this amendment has been cosponsored by the distinguished Senator from Hawaii [Mr. FONG], the distinguished Senator from Idaho [Mr. JORDAN], the distinguished Senator from Pennsylvania [Mr. SCOTT], the distinguished Senator from New Hampshire [Mr. COTTON], the distinguished Senator from Kentucky [Mr. COOPER], the distinguished Senator from Alabama [Mr. SPARKMAN], the distinguished Senator from Colorado [Mr. ALLOTT], the distinguished Senator from Oregon [Mr. MORSE], the distinguished Senator from West Virginia [Mr. RANDOLPH], the distinguished Senator from North Dakota [Mr. YOUNG], the distinguished Senator from Alaska [Mr. GRUENING], the distinguished Senator from Wyoming [Mr. SIMPSON], and the distinguished Senator from Indiana [Mr. HARTKE].

Mr. President, this amendment responds to a great inequity in the present social security laws—an inequity which we tried, but failed, to abolish in the first session of the 89th Congress. It is an inequity caused by the nature of the social security system itself.

One and one-half million older Americans are not eligible to participate in social security.

Designed as a scheme of basic protection against want, the social security system has expanded its coverage over the years so that now over 90 percent of employed Americans benefit by its protective shield. Such near universal coverage has not always been the case.

Of the 1½ million Americans over age 65 not eligible for social security coverage, a great number are retirees from some of the most important productive or necessary occupations in American labor—teachers, firemen, policemen, and self-employed farmers. Many retired before their jobs were covered by the social security system. Many worked in our State or local governments, earning less than their fellow employees covered by social security.

For example, Mr. President, what is to become of those presently retired teachers who are not now eligible for social security? The plight of these important people was brought home to me recently at hearings before the Senate District Committee on legislation relating to teacher's retirement. Some District retired teachers who are not eligible for social security earned as little as $1,200 per year during their working life. Now, without social security, they are asked to live out the twilight of their years on a pittance from the teacher's retirement fund.

Men and women who devoted 20 or more years of service to teaching the young of our Nation's Capital, earning $1,200 per year in the process and denied participation in social security, now must live out the rest of their years on pensions, which they paid for out of their meager salaries, but which now yield less than welfare payments. Yes, Mr. President, we are denying social security benefits to those whose fully funded pension plans bring them less than they could receive on welfare. What justice is there for these people? What sense does the social security system make to them? What is being done to protect them against the ravages of poverty? The shocking answer is, "Nothing."

The situation in which these District of Columbia retired teachers find themselves is, I am afraid, typical of a great many personal deprivations across this great country. Who are the deprived? Those denied participation in social security during their productive years.

The situation of our self-employed farmers is no less severe. As you well know, it was not until more recent times that farmers could participate in social security programs. For those who time passed by—for those who grew old before protection was available—for those disabled under a system which recognized their plight too late, the social security system has been a bright dream in a picture book—looked at, read about but never available in times of need.

The Congress grappled with this question in 1965. To my mind we declared a major war on poverty among the aged, then equipped the army with popguns. The transitional insurance provisions of the Social Security Amendments of 1965, provide less than minimum benefits to 355,000 older Americans, those with at least three quarters of covered employment. We ignored the remaining 1.5 million without any covered employment. While setting out to alleviate long-term, hard-core poverty among our elderly poor, we enacted a short-term program with inadequate equipment and rushed to the aid of those in less severe distress.

Look closely at what we did in 1965. The transitional insurance provisions of the 1965 amendments to the Social Security Act pay a monthly benefit of $35—which is $420 per year or $1.15 per day—to those age 72 or over having at least three quarters of social security coverage. In other words, benefits less than the $44 Congress considered to be the bare-bones minimum for the lowest earning beneficiary were paid to those who evidenced some ability to work in covered employment during the years immediately preceding their retirement.

Mr. President, for the 355,000 Americans over age 65 who had three quarters of social security coverage the transitional insurance provisions, meager as they were, held a promise of hope. But, the provisions were a sad disappointment to the many, many hundreds of thousands of older Americans who had no quarters of coverage because the system did not permit them to participate. They were a bitter pill to those whose hard and earnest labors during a lifetime of marginal existence on the farms and in the classrooms brought no lasting financial rewards. They brought great sorrow to those whose dimming eyes and weakened hearts will not reach the 72d year.

In contrast, Mr. President, in the same act which propounded this mythical solution to a very real problem are provisions establishing broad spectrum medical care for the elderly. I refer my colleagues to a provision of the medicare title which reflects the incongruity of the transitonal insurance plan.

Section 103 of title I, "Health Insurance for the Aged and Medical Assistance," blankets in for medical care all those over age 65 or those who become age 65 before 1968, or those who have at least three quarters of coverage. As a result, any person 65 or over is eligible for hundreds of dollars of medical care without regard to social security coverage. But the same person would not be eligible for even the minimum cash benefit unless he had some covered employment.

This disparate approach to providing protection for the otherwise unprotected makes little senes. As written, the law launches an attack on the symptoms and byproducts of poverty among the elderly poor, but not the poverty itself. The 1½ million older Americans not eligible for cash benefits must wait until their poverty—their hunger—inadequate clothing and housing—cold stoves and heaters bring sickness, disease, and despair.

Poverty breeds sickness; among the elderly poor food, poor housing, poor clothing and poorly heated living quarters bring illness and disease, which in turn bring eligibility to participate in the medicare program under social security.

To those not eligible to participate—to those with no benefits at all, social security holds no bright ray of hope. There can be no promise of fulfillment in a program which absorbs an old person after all hope—all dignity—all health is gone.

Mr. President, I ask my colleagues to take a close look at the features of my amendment. Look at them in compari-

son to the transitional insurance provisions of the 1965 act and the medicare blanketing-in provisions.

First, I propose to blanket in all age 70 and above who are not otherwise eligible for social security benefits. These people would receive the minimum monthly benefits, which are now $44 per month, without regard to covered employment. They would receive benefits to insure them against abject poverty in their later years.

Unlike the blanketing-in proposals of the 1965 act, people becoming 70 in all future years will be eligible for benefits under my amendment. Unlike the 1965 amendments, there is no provision in my amendment which phases out later beneficiaries unless they acquire some quarters of coverage before reaching age 70.

I think it is preposterous to expect a great many of our older Americans, who had never worked in covered employment in years preceding their retirement, to get a covered job in their 70th year. Nor do I think it is equitable to provide medical care to all those now 65 without regard to covered employment while denying such coverage to all becoming 65 after 1968.

My amendment assumes that if we blanket in all those reaching age 70 in 1966, we must, in fairness and equity, blanket in those reaching age 70 in later years. The blanketing-in provisions of present law penalize later retirees. It asks them to pay twice—once for those presently of retirement age—through general revenues—and again for their own subsequent retirement. Under present law those nearest retirement age or those who have reached 65 but not 72 may have to seek some covered employment so as to be eligible for benefits at age 72.

Mr. President, the question of blanketing in should always be considered in the light of the economic realities inherent in the program. As social security coverage approaches universality the cost of my amendment diminishes. As more and more people work in covered employment and as more categories of employment come within the scope of the social security system fewer and fewer older Americans will fall outside the shield of its protection. What I ask my colleagues to do today is to bring hope to those whose jobs were covered after they retired.

Mr. President, I think it is of particular importance to look at my amendment's funding technique in comparison to that of the transitional insurance.

The report of the Senate Finance Committee on the transitional insurance program points out how $140 million was to be disbursed from the old age trust fund for benefits to the transitionally insured. It required substantial manipulatin of the underlying tax base and scale of covered salaries to produce this $140 million. As a net result future participants in the system and future employers must pay for benefits disbursed in earlier years. Each subsequent retiree, then, has paid a share of the retirement of the transitionally insured.

Blanketing in of all age 70 and above, providing a floor of protection against the needs of our elderly poor, is a responsibility properly belonging to the Nation as a whole.

While Federal moneys to fight the war on poverty came from the pocket of each taxpayer, the aged poor are ignored. While the elderly are expected to support this program, they reap few of its benefits. The war on poverty is being fought on other fronts. Older Americans are a lost battalion.

My amendment is a call to do battle against poverty among the aged. It is a battle belonging to each of us—a battle belonging to the present. My amendment funds the program entirely from general revenues and, accordingly, makes no impact whatsoever on the actuarial balance of the trust funds. In fact, by supplanting the transitional insurance program in existing law, my amendment enables further development of programs under the trust fund.

Mr. President, this brings me to a related question intimately connected with the amendment I now propose.

My amendment brings all those age 70 and above not otherwise eligible for social security under a program of minimum benefits. In the light of the cost of living and the great impact of ill health on the earning capacity of our older Americans, the present minimum of $44 makes little or no sense. As you know, I have long pushed for an elevation of the minimum level of benefits to a flat $70. If the system is to provide a basic floor of protection against want it must do more for the millions of Americans who, if covered at all, are only rewarded by a miserly scale of benefits.

A modest but adequate standard of living for older Americans, living in one of America's larger cities, as seen by the Bureau of Labor Statistics, is in the neighborhood of $3,200. Under present benefit levels, $44 per month nets a single retiree $528 per year. The older couple receives annually only $792 from social security. It is clear that social security at present minimum levels comes nowhere close to meeting the real needs of older couples. And, if social security is the aged couple's only income, there is no doubt they must live out their final years in abject poverty.

I am sorry my amendment is not broader of scope. I am sorry it brings 1½ million Americans under such a woefully inadequate scale of benefits. I am sorry it does not begin to provide real protection against want. But, it is a fundamental first step. It will provide bread and potatoes where before there were none.

My point, Mr. President, is this: While my amendment would have an impact on poverty among our elderly, it would only be the initial engagement in a war for meaningful, long-term protection against the devastating poverty that afflicts older America.

Unfortunately, Mr. President, my amendment is not a grandiose scheme to right all the wrongs that are done our elderly in the name of the war on poverty. It is a program that I consider minimal if we are ever to come to grips with the pressing problems of poverty.

I have heard the cost of this program discussed at some length. But there are same legislative matters, which, because of reasons of fundamental fairness, justice, and equity require that cost be put in perspective in the light of the values to be attained.

At a time when the President has assured us that the budget deficit will be one of the smallest of recent years—at a time when great poverty haunts many hundreds of thousands of older Americans—at a time when other Federal programs spend billions of dollars for everything from sewers to space—there must be and there is a way to bring food to the mouths—clothing to the backs and hope to the hearts of our forgotten old people.

This amendment does not propose a novel scheme. The financing for the amendment already has a precedent in existing law.

The portent of the amendment is along the lines of the Canadian public pension program which puts a flat-rate pension of $75 in the hand of every applicant over age 70.

Robert M. Clark, in his famous study, "Economic Security for the Aged in the United States and Canada," stated that in interviewing well over 300 persons in connection with this report:

> I have never discussed social security with anyone so devoted to principles of individualism that he did not favor action at some level of government to provide basic minimum of social security for everyone. Nor have I encountered anyone so imbued with extreme collectivist doctrines that he denied the desirability of at least a minimum positive role for private initiative in providing for social security. I hasten to add that the concept of a basic minimum to be provided by the state varies all the way from an amount barely sufficient for survival to an amount that would provide a comfortable and financially carefree retirement.

The objectives of my amendment have been acclaimed by such diverse parties in interest as the U.S. Chamber of Commerce and the AFL–CIO. Every organization of older Americans that I have talked to unqualifiedly supports my amendment. In fact, last year I had an overwhelming number of letters suggesting that my amendment should be adopted before medicare—that in the scale of values my amendment was of more direct consequence and of more immediate benefit to those whose povertous afflictions would ultimately lead to ill health.

Why, in Vermont alone there are 2,500 people age 70 and over who are on public assistance but are not eligible to receive social security benefits. They receive not $1 of the $9.3 billion in cash benefits distributed nationally; nor do they receive a penny of the more than $23 million distributed in Vermont alone.

My amendment is not novel—it is fundamental—it is necessary—it is long overdue.

Mr. President, there are more than 18 million people over age 65 in our country today. It is estimated that by the year 2000 one-third of our population

will be 65 and over. If 1960 income averages hold steady, nearly 4 percent or some 1,300,000 will have no money income whatsoever. Unless we now chart a course leading to meaningful programs of protection for older Americans we may come upon a period when our national resources must be largely directed toward correcting old wrongs.

My amendment, Mr. President, would, by blanketing in under social security those age 70 and above not otherwise eligible for benefits, put a paltry $1.45 each day into the pocket of a needy older American. While the poverty program in some of our larger cities has been putting thousands of dollars into the hands of a chosen few—the party hacks who bleed the poor to enrich the party—it has declined to put $1.45 into the hands of a needy old woman. While it has spent millions of dollars to set up new bureaucracies to tell the poor why they are poor, it has not had the courage, the boldness or the daring to tell older America why it does not provide $1.45 for food and clothing.

That is the remarkable feature of the so-called war on poverty, Mr. President. It is fought on the wrong battlefields at the wrong time for the wrong reasons. While legions of our older Americans are losing daily battles against invading poverty, a well-oiled, well-heeled war machine wheels past them, showering promises on ears deafened by time, waving banners before eyes dimmed by despair.

The National Council of Senior Citizens reports that nearly 5.4 million persons age 65 and over live in poverty. The elderly constitute more than one-half of all the poor people living alone. Their poverty is often invisible—by no means are they all congregated in slums, but are found in the rooms of old homes, in mining and railroad towns and in shacks in rural areas.

The older they get the poorer they become—literally thousands of them fail to survive the rigors of our winters. In this supposedly civilized and enlightened age that is a timeless tragedy exceeding comprehension.

Leon Keyserling, the former Chairman of the Council of Economic Advisers, pointed out in a recent antipoverty conference in New York that of those receiving social security benefits, nearly 58 percent of the married couples, 58 percent of the unattached men, and 64 percent of the unattached women live in poverty. Among recipients of public assistance who do not receive old-age benefits under social security, almost 100 percent of the married couples age 65 and over live in poverty. Quoting Mr. Keyserling:

> During the years since the original Social Security Act of 1935, the marshaling of the national conscience, the marshaling of our national resources, the marshaling of quantitative income help for the old has lagged terribly. It has lagged not only behind the cost of living, but also behind the productive resources of the Nation, behind our per capita worth, behind our capacity as distinguished from our obligation to provide a decent standard of living for our old people * * *. We have the economic and financial resources to do this, allowing for all other priorities of our national needs—and we should do it.

Mr. President, these elderly people if their health, strength and skills had permitted, would have come under social security had they been able to work a few more years. But when they retired from the work force, the act was not broad enough to provide them with even a small retirement increase. Today these men and women 70, 80, 90 years old must live from hand to mouth, in many cases not knowing where their next meal is coming from.

My amendment would come to grips with this problem completely by blanketing in once and for all all Americans over 70 years of age not otherwise eligible for benefits.

Mr. President, I feel that the Congress has been derelict in understanding and responding to the needs of these people. We have succeeded in setting our older people as a group apart from the mainstream of American life. The elderly are with us, but not of us.

They trouble us precisely because we are such an affluent society. They have become a standing embarrassment, a mute reproach to the social conscience of the Nation.

Mr. President, it is high time that we took action to correct this great inequity.

Mr. PASTORE. Mr. President, will the Senator from Vermont yield for a question?

Mr. PROUTY. I am glad to yield to the Senator from Rhode Island.

Mr. PASTORE. The Senator's amendment has great personal and human appeal, there is no question about it. There may be many citizens not covered by social security who do need some assistance once they have reached the age of 70. In our kind of society, it is hard for them to find gainful employment, or to obtain some income without becoming beggars so to speak. Therefore, the question I should like to ask the distinguished Senator is: How much will it cost?

Mr. PROUTY. I have the figures before me.

Mr. President, in response to the inquiry of my good friend, the Senator from Rhode Island [Mr. PASTORE], let me indicate the summary of the costs as I see them.

First. In 1965 Robert Myers, Social Security actuary, informed the Senate Finance Committee that there were 1.75 million Americans aged 65 and over not eligible for social security.

Second. The Task Force on Economic Growth and Opportunity of the United States Chamber of Commerce, the AFL–CIO, the National Council of Senior Citizens, the American Association of Retired Persons and the National Retired Teachers Association claim that this figure should be 1.5 million.

Third. On March 2 of this year Robert Myers maintained there were 1.8 million age 70 and above not eligible for social security.

Fourth. Using the figures cited by the chamber task force the cost of the Prouty amendment—not including an allowance for any reduction in State welfare payments which may take place—can reasonably be expected to be $450 million.

Using the Myers figures, the net cost of my proposal would be $760 million.

I have struck a median figure between the high and the low level estimates of my proposal. I think it can reasonably be expected not to exceed $600 million.

I am sure that the labor organizations and the United States Chamber of Commerce task force have competent actuaries in a position to make reasonably good estimates.

Mr. PASTORE. I understand the Senator's amendment would be paid out of the trust fund, which would be reimbursed by the general treasury.

Mr. PROUTY. That is correct.

Mr. PASTORE. It is my understanding that we have a permanent debt ceiling of $285 billion. I recall that we have lifted the debt ceiling many times and it is now set temporarily at $324 billion. The national debt is $323.7 billion. That means we have a margin of only about $300 million.

If the amendment is adopted and the bill passes with the amendment, it will cost between $450 and $760 million.

Does the Senator make any provision for raising the ceiling of the debt limit?

Mr. PROUTY. Obviously the Senator from Vermont is not in a position to do that. I think there are many unnecessary items in the budget, and some that are much less important than taking care of 1½ million people who are in desperate need.

I do not know what is going to happen to the debt ceiling. If the deficit is held to what it is estimated to be, we may not have a problem.

Mr. PASTORE. But the Senator realizes that we have passed a bill providing for expenditures of $4.8 billion in order to carry out our obligation and commitment in Vietnam. It is because of that commitment and a hesitancy to raise the debt at this time that the administration is asking for money to pay for that obligation. Yet the Senator's amendment seeks to increase the debt by $450 to $760 million.

What the Senator from Rhode Island would like to have answered at this juncture is how we are going to cut taxes or give greater allowances at a time when we are trying to have a tax adjustment in order to meet our commitment in Vietnam.

I wonder if the Senator from Vermont can inform us how we can have our cake and eat it, too. That is what it amounts to.

Mr. PROUTY. I think taking care of a million and a half elderly citizens, 70 years of age and over, who are in desperate need, is entitled to a high priority; it is a very important consideration.

Let me refer to one of thousands of letters I have received over the past years. This one comes from the La Crosse Retired Teachers Association in Wisconsin. A study conducted by the association shows that 500 retired teachers receive less than $25 a month, while 637 receive $50 a month, and none of these 1,100 retired teachers was eligible for social security.

I have many others that I shall put in the RECORD, but that is typical.

Mr. PASTORE. May I say to the Senator, unless a motion to table is made,

that I am looking rather sympathetically at the amendment, because if the Senator from Vermont or any Senator on the other side of the aisle is going to be Santa Claus, I would like to consider these people in my State, too; but if we are to begin to live up to our responsibilities, we had better act in a responsible way.

Such an important measure should have the benefit of committee consideration and calm judgment. These older people will be hurt by any quick rejection of their cause in a hasty floor discussion. They will be hurt even more by an attempt at an empty gift gesture with no practical money source to make it good.

It is not logical or helpful to tie their case with its considerable cost to a bill intended to increase the Government's income for Vietnam.

I shall vote to table the amendment although my heart will not be in it—for I favor a practical approach to the problem of their need.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. PROUTY. I yield to the Senator from Oregon.

Mr. MORSE. Mr. President, the amendment of the Senator from Vermont [Mr. PROUTY] provides long delayed justice to the individuals who, by various chances of working conditions, have reached the age of 70 without an entitlement to social security coverage. The cost of furnishing them coverage would come out of General Treasury funds, under this amendment.

In my opinion, it is only a matter of time before this measure is enacted, and I only hope it will be now, rather than later.

It provides the "70 and over" age group with only the minimum coverage. But it seeks to correct the gaps in the law and in the circumstances of individuals whereby the intended universality of social security has not been achieved.

These people are dying by the day, week, and month. I think any further delay is going to continue to work an injustice on these citizens.

I warmly commend the Senator from Vermont for offering the amendment. I am pleased to be a cosponsor, to speak for it, and to vote for it.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. PROUTY. I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I want to compliment the Senator from Vermont, not only for offering this amendment, but for the very masterful way in which he has marshaled the facts concerning the need for it.

I am a cosponsor of the amendment. I have long been associated with the Senator from Vermont in his efforts to secure help for these very people, those who are under social security, who are receiving a minimum amount, and those not under social security.

With all the benefits and alleged benefits being spread around this country, it is inconceivable that we should not do something to right the wrong in the case of this group.

I am very happy to be joining the Senator from Vermont in fighting for this very necessary and worthy amendment.

Mr. PROUTY. I appreciate what the Senator has said. I recall last year he voted twice not only in support of an amendment similar to the pending amendment, but also to increase the minimum payments for social security beneficiaries. I appreciate the Senator's help. I know his support is going to add luster to this amendment.

Mr. LONG of Louisiana. Mr. President, this amendment is a social security amendment. It will cost $790 million. The Government needs revenue. We are trying to come as close to balancing the budget as we can. If this amendment is adopted, it will put the budget still further out of balance.

The amendment would provide a windfall in many State welfare programs, because a large portion of the people who need this help are already covered by the State welfare programs which are already matched by Federal funds.

With the Federal Government running a deficit, and the Federal Government being $320 billion in debt, it does not seem appropriate to put the Federal Government still deeper into debt.

Some of the States operate on a surplus. The State of Louisiana would not object to having a windfall, but the constitution of the State of Louisiana requires it to float a bond issue and borrow if it is going to have a deficit.

The State of Virginia, also, is not permitted to operate on a deficit. I see in the Chamber the Senator from Virginia [Mr. BYRD]. He was a State legislator and he knows that the State of Virginia does not operate on a deficit. They have no debt. Imagine that. Under this amendment it is proposed that we put the Federal Government deeper in debt by going to the aid of State budgets, when some of the States do not have a debt at all.

I have sympathy for helping the aged, and there are all sorts of things we can do for the aged. We did a lot last year. The social security and medicare bills we passed last year cost the Government several billion a year. Most of that would go to the aged and add to the cost of the social security increase.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr LONG of Louisiana. I yield to the Senator from Florida.

Mr. SMATHERS. Is it not a fact that one of the worst fallacies in the area of this particular proposal is that of the roughly 1,800,000 people who would be covered under the amendment there are many hundreds of thousands who are already retired on a military retirement, a Federal retirement, or some private company retirement, and they are not asking for help? Some of these are actually quite well-to-do people and yet this is going to give them $44 a month and their spouses $22 in addition. They do not need it or want it. The other 1,100,000 who would be benefited by this particular amendment offered by the Senator from Vermont, are under the old age assistance program. The State legislaturcs in each of these States would have to meet and devise a suitable means test to determine whether or not they are going to have this increase permitted because it may be, as the Senator from Louisiana pointed out, that the States would do nothing and the Federal Government would do all of it.

It would take at least a year and a half to get underway and cover people who do not need or have asked to be covered. It throws us into debt more deeply than we are now.

Here is a measure to meet the present cost of Vietnam and what are we doing but adding an amendment that will have a total cumulative 5-year cost of $3.4 billion. That does not make sense.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. If I may continue for a moment, I will yield to the Senator from Vermont.

In the State of Louisiana, we have a popular Governor who ran for office and committed himself to pay raises for schoolteachers. Ever since then the administration has been trying to find enough money to meet that commitment. They have found financing for part of it but not all of it. If we were to give them an additional amount from the Federal Government they could say, "Let's put that into the schoolteacher pay raise."

In that event this measure would not be for the old people but for the schoolteacher pay raise. They will say, "The Federal Government took these people off of our hands. We will give money we saved to the schoolteachers." It would not be the aged who would benefit but the schoolteachers.

Approximately 1.8 million persons would be blanketed in under this proposal.

Of this group, about 1 million are estimated to already be receiving old-age assistance from the States. This amendment would replace State funds now received by the needy and they would receive the check instead from the Federal Government.

The increased benefits would go to those who least need it—not those on welfare, but to the well-to-do who are not on welfare. They do not need it nor do they expect it. It would be foolish to spend the money in this fashion, especially when the Federal Government is running a deficit.

The proposal is arbitrary because there is no justification for selecting the age of 70 as the starting point. Why not the age of 68 or the age of 66? If a person were 68 or 66 years of age he might need the money more than a person a year or two older who is well off financially. The selection of age in this fashion would invite further reduction to perhaps 65.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I will yield in just a moment.

Last year Congress provided increased benefits for public assistance as well as designing a new program to allow greater

Federal participation in the medical assistance programs of the States. Further, the medicare programs afforded hospital and medical benefits to all our elderly heretofore unprotected against medical costs. All of these programs allow our elderly to use previously unavailable funds and have greater purchasing power for nonmedical necessities.

The amendment is a crude way of getting Federal general fund revenue for the aged. It would merely replace Federal dollars for the State dollars going to persons on old-age assistance, with no assured increase in payments for the individual recipient. The substitution of Federal funds will enable the State to merely pocket the saving and then the State is free to spend it for any purpose, and the needy aged may not be the advantaged group. A straight increase in the old-age assistance matching formula would be a much more effective conduit of general revenue funds to the needy aged and it would avoid the windfall payments to the States who are well able to meet their own requirements.

I submit that the Committee on Finance has not ignored the needs of the aged in this country. We brought before the Senate last year, and I am sure we will again this year, measures to help provide additional benefits to the aged. The social security bill last year increased the cost to the Government by over $7 billion a year. Most of that $7 billion was for the benefit of the aged. We will take a look at our program sometime during the year, and as we study the figures, and the measures available, and the various services where we could better provide for the aged, we will recommend to the Senate what we believe would be the best program to be worked out after.

There are untold numbers of provisions that can be voted for each year by those who wish to benefit the aged. However, I do not think that it should be added to this revenue-raising bill.

I have seen many suggestions, all containing varying degrees of merit which would give benefits of one kind or another to the aged.

I believe that the Senate would be better advised to study all of these proposals and suggestions and at least let the Department of Health, Education, and Welfare recommend those that they think we can afford at this time.

I yield to the Senator from Vermont.

Mr. PROUTY. Mr. President, first I recognize the responsibility of the distinguished Senator from Louisiana who opposed this legislation. Regardless of how he might feel about his job, as chairman of the committee, he is the spokesman for the administration. When I refer to the Senator's opposition, I am not thinking of him as an individual. I know that when a similar amendment was introduced last year the Senator gave a great deal of time and thought to it. I appreciated that very much.

We have to assume, I think, that he is speaking for the administration. It is his responsibility to do that when he opposes this amendment or those similar to it.

Mr. LONG of Louisiana. May I say to the Senator that I am not speaking for the administration. I have not checked as to the Department of Health, Education, and Welfare or the Treasury Department's view. I would assume that the Treasury Department does not want it on this revenue-raising bill. It defeats the purpose of the bill.

The purpose of the bill is to seek to raise close to $5 billion to help balance the budget and to pay the extraordinary costs imposed on us because we have a war going on in Vietnam. What we are supposed to be doing today is raising revenue, not spending it.

Mr. PROUTY. Mr. President, will the Senator yield further?

Mr. LONG of Louisiana. I yield.

Mr. PROUTY. In view of the fact that I and other Senators have sponsored legislation similar to this over the last 4 years, and no hearings have ever been held by the Senate Finance Committee, I think it is logical to assume that the administration is strongly opposed to legislation of this nature. I shall place in the RECORD, at the proper time, a great many figures on this subject; but I invite the Senator's attention to the 1965 amendments to the Social Security Act, which provide incentives and penalties for certain reductions in State public assistance programs resulting from amendments to the Social Security Act. I shall place them in the RECORD in memorandum form.

However, the Senator from Louisiana well knows that if a State reduces its old-age assistance because of an increase in social security payments, it proportionately loses some of the Federal grant unless that money is used for some other State public assistance program, such as aid to the blind, aid to dependent children, and similar programs. Is it not accurate then to say that in such a situation my amendment has positive benefits?

A substantial number of States have already taken advantage of the voluntary exemption up to $5. I hope others will do so.

Mr. LONG of Louisiana. From my point of view, that is one more thing that is wrong with the amendment. It should not give States windfalls in their budgets, it seems to me that there is no reason to enable them to reduce taxes while the Federal Government is increasing its taxes.

Mr. PROUTY. I shall also place in the RECORD, in the form of a memorandum, the 1965 actuarial report of the Civil Service Commission, which makes some startling observations.

To those who would not like to see my amendment apply to recipients of Federal pensions I would point out that of the more than 200,000 surviving widows and children of civil service retirees, 38 percent receive less than $50 a month; 79 percent receive less than $100 a month; 93 percent receive less than $150 a month. Ninety-nine percent of all surviving widows and children receive less than the so-called poverty level of $3,000 per year Of the 170-some thousand widows on the civil service retirement rolls as of June 30, 1965, the average age was 65.8, the average annuity a meager $80 per month.

The situation of surviving widows and children is not necessarily the most desperate. Look at the unfortunate figures relating to employee annuitants.

Four hundred forty-nine thousand and seven hundred receive less than $50 a month; 126,100 receive less than $100; 214,300 receive less than $150 per month; 307,600 receive less than $200. Viewing the so-called poverty level as $250 per month, 377,500 civil service employee annuitants out of a grand total of 508,500 receive less than poverty-scale annuities.

That poverty scale was established by this administration, which apparently is overwhelmingly opposed to the adoption of this amendment.

Mr. President, alarmingly enough, nearly 74 percent of all civil service employee annuitants receive less than the magical poverty level.

So let him who sees injustice, in including Federal pensioners in my bill come forward and identify himself.

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

Mr. LONG of Louisiana. Mr. President, I do not desire to deter Senators from making speeches on the amendment. If any Senator desires to discuss the amendment further, I shall yield for that purpose. However, unless some Senator desires to discuss it, I am prepared to move to table the amendment on the theory that it is a social security amendment, which more appropriately should be attached to a social security measure than to the revenue-raising bill now before the Senate.

Mr. PROUTY. I understand what the Senator has in mind. Unless other Senators wish to speak at this time, I should like to have a live quorum. Following the quorum call, I should like to be permitted to speak briefly, after which I shall be prepared to vote.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 45 Leg.]

Aiken	Hartke	Nelson
Allott	Hickenlooper	Neuberger
Anderson	Hill	Pastore
Bartlett	Holland	Pearson
Bayh	Hruska	Pell
Bennett	Inouye	Prouty
Bible	Jackson	Proxmire
Boggs	Javits	Randolph
Brewster	Jordan, N.C.	Ribicoff
Burdick	Jordan, Idaho	Robertson
Byrd, Va.	Kennedy, Mass.	Russell, S.C.
Byrd, W. Va.	Kennedy, N.Y.	Russell, Ga.
Carlson	Long, Mo.	Saltonstall
Case	Long, La.	Scott
Clark	Magnuson	Simpson
Cooper	Mansfield	Smathers
Cotton	McCarthy	Smith
Curtis	McClellan	Sparkman
Dirksen	McGee	Stennis
Dominick	McIntyre	Symington
Douglas	McNamara	Talmadge
Eastland	Metcalf	Thurmond
Ellender	Miller	Tower
Ervin	Mondale	Tydings
Fannin	Monroney	Williams, N.J.
Fong	Montoya	Williams, Del.
Gore	Morse	Yarborough
Gruening	Morton	Young, N. Dak.
Harris	Mundt	Young, Ohio
Hart	Murphy	

The PRESIDING OFFICER (Mr. BARTLETT in the chair). A quorum is present.

Mr. PROUTY. Mr. President, I point out that at the appropriate time, a motion will be made to table my amendment. I wish to make it very clear, particularly to the 1,500,000 elderly citizens, 70 years of age or over in this country who would benefit under this amendment, that a vote for a motion to table is a vote against the amendment. I repeat, a vote for a motion to table is a vote against the amendment.

I understand some of these elderly people, or some of their representatives, are in the gallery. I want them to report that to the people they represent: that a vote to table this amendment is a vote against a meaningful program of benefits for older Americans and, in my judgment, is a vote against 1,500,000 elderly citizens in this country who need help desperately at this time. So let there be no mistake about that.

I think it is unfortunate, Mr. President, that all of a sudden, the Senate of the United States is urged not to stand up and vote on the merits of this amendment. It seems to me that we should have sufficient courage to vote "Yes" or "No" on the merits of the amendment, and not on a procedural motion. And so again, Mr. President, let me make it very plain to the old folks of this country that a vote to table this amendment is a vote against the amendment.

Mr. President, after making the parliamentary situation clear, I should like to proceed to explain briefly what my amendment purports to do.

There are 1.5 million Americans age 70 and above who have no social security protection. The system has passed them by. Their jobs were not covered by social security during their working years. They are for the most part the teachers, policemen, firemen, and self-employed farmers who retired before social security coverage came to their profession.

Many of these 1.5 million older Americans either have no outside income or they receive small pensions based in part on salaries of the 1930's and 1940's. For example, some retired teachers with 20 or more years service have pensions of $25 per month. A number are on public assistance.

My amendment would "blanket in" under the protection shield of social security all of these people who reach age 70 without the benefit of social security coverage. They would receive the minimum monthly benefit which is now $44.

The precedent for my amendment was set in the 1965 amendments to the Social Secruity Act when all older Americans not covered by social security were made eligible for medicare at age 65. Additionally, the transitional insurance provisions added to the social security law by those amendments were an effort to make a start in the direction of my amendment.

My proposal is the logical extension of the "blanketing in" provisions of the 1965 Social Security Amendments. Its adoption is essential if we are to meet our commitments to fight poverty among our elderly poor. It is supported in principle by the U.S. Chamber of Commerce, the AFL-CIO, the American Association of Retired Persons, the National Retired Teachers Association, the National Council of Senior Citizens, and virtually every informed person or organization conversant with the plight of the aged needy.

Some weeks ago, when he appeared before the Committee on Aging, Mr. Shriver, Director of the OEO, stated in substance that the poverty program was not designed to help the elderly poor. He said, in effect, that while the program trys to bring some help to the elderly poor, it basically was not designed for that purpose.

I commended Mr. Shriver for being honest and forthright in making that statement. I asked him if it was not true that what the elderly poor in this Nation needed more than anything else was more money in their pockets, and in substance he agreed.

I now quote from Mr. John Edelman, legislative director of the National Council of Senior Citizens, when he appeared before the Committee on Aging.

He said:

> We have adopted, both by convention and by subsequent action of our executive council, a program for considerably more substantial increases in the social security benefits than even those pointed out by Mr. PROUTY. We applaud Senator PROUTY's efforts in this direction, and in the long run, we feel he is aiming at the most fundamentally necessary thing which needs to be done to alleviate the conditions of the elderly in the United States today. We support blanketing in all persons aged 70 under social security for a least a minimum benefit, and will continue to work for it very actively and very militantly.

Mr. President, let me quote briefly from a few of the thousands of letters that I have received on this question from old people throughout the country. Nothing tells more about my amendment—nothing better states its need—than the correspondence I have received over the years.

From Mrs. C, an 89-year-old widow with no social security, no pension, and little hope, a plea to buy bread for her table.

From Mrs. T, the widow of a minister with 50 years' service, a sorrowful request for redemption from the indignity of poverty.

From Miss C, a retired teacher with 50 years' service, a searching request for money to help her preserve her failing eyesight.

From Mrs. S, of Appleton, Wis., a touching note telling how much my amendment would mean to her. Her total income is $45 per month—she does not receive any welfare payments.

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From Mrs. M, of Little Rock, Ark., the story of an acquaintance who retired from teaching at age 70 and took a job as a waitress to get social security coverage.

From Miss M, of Rhode Island, a statement of the retired teachers great need for my amendment, relating how 250 of them receive pensions of less than $2,000 a year.

From Miss S, of Milford, Mich., afflicted with chronic allergic asthma, complicated by emphysema, who receives a pension of $113 a month, over half of which goes for medicines and I quote:

> I have at times considered just giving up with an overdose of sleeping pills at times—it is so discouraging. I have been a good citizen all my life but I really don't feel like one now.

From Mr. H, of New Fairfield, Conn., the holder of a Ph. D., these tragic words:

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From Mrs. U, from Moxville, N.C., a short, sad biography. For the past 14 years she was the sole support of her aged mother, who recently died at 97. Her pension over this period was less than $50 a month. Now her eyes are dimming and she writes me of her fear that she will not live to see the benefits of my amendment.

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From Mr. E, of Huntington Station, N.Y., a comment familiar to those of us who have long studied the problems of the aged, he cannot find a job so as to qualify for social security. You see, he is 78 and employers tell him he is too old to work.

These letters are typical of the thousands I have received in recent years stressing the plight of the forgotten elderly and pleading for relief from the oppressions of poverty. These people are not the cold statistics of a census. These are real people in real distress.

Much has been said about the cost of the program. First, I remind Senators who are present in the Chamber that the Dominion of Canada, which clearly does not possess the financial resources of the United States, pays a pension of $75 a month to every citizen reaching the age of 70.

If our country, the greatest and most powerful country in the world cannot

duplicate the effort of our northern neighbor, I believe we must take a new look at our entire social security system. Turning to some of the costs of the poverty program, I quote from hearings on the supplemental 1966 appropriations for the poverty program:

PER PERSON COSTS OF OTHER FEDERAL PROGRAMS IN RELATIONSHIP TO THE $44 PER PERSON PER MONTH $528 PER YEAR COST OF THE PROUTY AMENDMENT

UNDER THE POVERTY PROGRAM

From hearings on supplemental 1966 appropriations

Cost of opertaing Job Corps camp per enrollee: $4,500, over 9-month period annualized, this cost is $6,035.

Capital costs of Job Corps camp per enrollee: $500, as amortized over 10 years.

Travel costs of enrollee: $70.

Readjustment allowance per enrollee: $50 per month, plus $30 per month living allowance.

Maximum clothing allowance per enrollee: $140.

In the 1966 supplemental, Shriver asked for $235 million for job camps to meet a design capacity of 50,000 enrollees. The Prouty amendment asks for three times that amount to provide social security protection for 30 times the number of people. The goal is 100,000 enrollees at an annualized cost of $600 million poverty dollars. For one-third again the cost, the Prouty amendment benefits 1,500 percent more people.

The poverty program benefits 50,000 young people in the prime of life. The Prouty amendment benefits 1.5 million older Americans in their dim and often desperate years.

The Job Corps enrollee is paid enough to send $600 back to his parents each year. The aged, 70 years and over, not eligible for social security, are denied $528 if the Prouty amendment is defeated.

The appropriation requested for 280,000 work trainees was $255 million, or roughly $911 per trainee. The amount requested per each Prouty beneficiary, $44 per month, $528 per year.

UNDER MANPOWER DEVELOPMENT AND TRAINING ACT

According to the Department of Health, Education, and Welfare, it costs nearly $2,500 per year to keep a man and his family on welfare for a year (hearings on Manpower Development and Training Act, Feb. 2, 1964, Senate, according to Commissioner Keppel). MDTA costs $1,200 to $1,300 per trainee.

UNDER PROGRAMS OF VOCATIONAL REHABILITATION

Depending upon degrees of disability, rehabilitation services run from $500 to $1,500 per person.

In summary then, it appears that the Prouty cost-benefit ratio far exceeds cost-benefit ratios of existing Federal assistance programs. Additionally, the program benefits a category of beneficiaries too long neglected.

Mr. President, I should like to quote from the task force report of the U.S. Chamber of Commerce. It states in part:

There remain over 1.5 million people age 65 and over who are not eligible for social security retirement benefits. These are principally retired Federal Government employees, veterans, and others who, either because of age or occupation, were not included in the Social Security Act of 1935 and subsequent amendments. The number of aged persons not covered by social security is decreasing each year as people in the upper age brackets die and as more people reaching retirement age are eligible for social security because of prior employment.

Since 1935 the Social Security Act has been amended to include more groups, such as, for example, military personnel and self employed persons. Members of the medical profession, as a result of the amendments of 1965, are the most recent group to be added. Social security is a public program and no group of working people should be exempted from paying taxes to support it or from benefiting from it.

The task force's recommendations state:

All Americans 65 years of age and over not eligible for social security retirement benefits should be brought into the program.

Mr. President, a little earlier, when there were few Senators in the Chamber, I pointed out some of the problems of the recipients of Federal pensions. I should like to reiterate their plight again for emphasis:

Of the more than 200,000 surviving widows and children of civil service retirees, 38 percent receive less than $50 a month; 79 percent receive less than $100 a month; 93 percent receive less than $150 a month. Ninety-nine percent of all surviving widows and children receive less than the so-called poverty level of $3,000 per year. Of the 170,000-some widows on the civil service retirement rolls as of June 30, 1965, the average age was 65.8, the average annuity a meager $80 per month.

The situation of surviving widows and children is not necessarily the most desperate. Look at the unfortunate figures relating to employee annuitants: 49,700 receive less than $50 a month; 126,100 receive less than $100; 214,300 receive less than $150 per month; 307,600 receive less than $200. Viewing the so-called poverty level as $250 per month, 377,500 civil service employee annuitants out of a grand total of 508,500 receive less than poverty-scale annuities.

Mr. President, alarmingly enough, nearly 74 percent of all civil service employee annuitants receive less than the magical poverty level.

So, let him who sees injustice in including Federal pensioners in my bill come forward and identify himself.

I wish to point out that there can be a fair and reasonable difference of opinion as to the cost of this program; the figures are quite intricate. I invite the attention of the Senate to an amendment which I offered last year on the floor of the Senate to increase minimum benefits to $70 per month per individual.

During the debate, the distinguished Senator from Louisiana estimated the cost of my amendment at that time at $3 billion. I estimated the cost at around $1.2 billion.

Subsequent to action on the bill, I received a memorandum from Mr. Myers, the Social Security actuary, in which he said in part:

A discussion of the cost estimates that I had made for this proposal and for earlier versions thereof is contained on page 15337 of the CONGRESSIONAL RECORD for July 8. Unfortunately, some of the cost information that I furnished to both Senator LONG and Senator PROUTY was not completely clear and I hope that this memorandum will clarify the situation.

He pointed out—and I am not referring to the amendment presently pending before the Senate—that the actual additional cost of my amendment over the Finance Committee bill was $1.8 billion, rather than $3 billion suggested by the distinguished Senator from Louisiana.

I am not suggesting that Mr. Myers deliberately—I know he did not—give different information to the Senator from Louisiana than he did to me. We approached the question from different standpoints. I think the Senator from Louisiana and I were both accurate, based on the information given us.

In closing, let me reemphasize that the Canadian Government pays to each citizen 70 years and older $75 a month, and $150 to a couple, if a man and wife are both living.

It seems to me this country can do no less.

May I repeat, if and when the motion to table is made, I want it clearly understood a vote to table this amendment is in fact a motion to kill the amendment. It is merely a procedure by which some Senators, if they wish to do so, can tell people back home, "I voted only to table; I did not vote against the amendment." But a vote to table is a vote against the Prouty amendment. I hope there will be no misunderstanding about it.

I am sorry we have had no opportunity to act on this measure over the 3 to 4 years since its introduction. I must assume the administration is opposed to the proposal. Otherwise it would have the support of the distinguished Senator from Louisiana.

I am perfectly willing to yield the floor at this time, and I am ready to vote at any time; but, once again, I wish to say that a vote to table is a vote against the Prouty amendment

Mr. LONG of Louisiana. Mr. President, this amendment should not be agreed to. I should like to point out why it does not make good sense. I explained the amendment to the Senate last year. The Senate tabled the amendment at that time.

I made the statement then and it is equally appropriate now that, rather than adopt the amendment, it would be just as well to climb to the top of the Washington Monument and scatter hundred dollar bills in a high wind.

In Louisiana we cannot get the policemen and firemen to come under the social security system. They prefer to be covered by the State pension system because they get higher retirement benefits under that system. After serving 20 years, a policeman can retire on full retirement benefits and receive full retirement benefits.

This amendment provides that, even while either the retired fireman or policeman is drawing a pension, which could be $500 a month or more, he would nevertheless be entitled to social security benefits of $44 a month for himself and $22 for his wife.

If any distinguished Member of this legislative body is 70 years of age, he receives the full retirement benefit of $900 a month. Under this amendment, he would also receive a further benefit of $44 a month for himself and $22 for his wife.

Further, a member of the armed services generally draws retirement benefits far greater than provided by social security. Under this amendment, he will get additional benefits of $44 a month for himself and $22 for his wife, even though there was no need shown for it.

One would think, if we were going to adopt this amendment, there would at least be a requirement to show a need. This need has certainly not been demonstrated. There is no question of need involved.

The Senator from Vermont has talked about schoolteachers. We cannot get the schoolteachers in Louisiana to enter the social security retirement program. They fear that if they do so, they would jeopardize their own pensions, under which they are guaranteed much better benefits than they would receive under the social security program. They do not want to take the chance, by coming under social security, that the State legislature would not appropriate the large sums of money necessary to provide for their present retirement benefits.

Yet under this bill, in addition to the State retirement benefits, each retired schoolteacher would receive $44 for himself and $22 for his wife.

Even more inequitable, under this amendment, a person can be a millionaire, draw a good private pension, and still be entitled to $44 a month for himself and $22 for his wife.

This is certainly a poorly conceived amendment, almost as inept as another amendment, which might have been offered. This other measure, namely, amendment No. 490, was also introduced by Senator PROUTY as a proposed amendment to the pending tax measure. It would provide benefits for everybody around the world who is aged 70 and over. It would include Mao Tse-tung, Charles de Gaulle, and everybody else. The Senator apparently will want to provide a pension for everybody in the world. The Senator may not call amendment 490 up.

At least, we can say the pending amendment applies only to American citizens. But it is equally objectionable, for there is no requirement of need or of contribution. Every State has a welfare program to take care of anyone who is truly in need. But those who are not in need and who have not contributed 5 cents to the social security trust fund would, under the amendment, receive benefits. There is no reason why we should be providing payments to people who can take care of themselves and have not made any contributions to the program.

For example, the Federal Government provides a better retirement program than people have under social security. Why should Federal retirees receive additional benefits under the social security system?

How about State employees? Many of them do not want it. If they want to come under social security, all they have to do is elect to do so.

When I tried to persuade such individuals to come under the social security program in my State, they demanded that I take any such proposal off the statute books for fear that the State legislature might not vote to provide the amounts of money necessary under their own retirement system.

The Government is about $320 billion in debt. Some States have no debt at all. This amendment would give some States a big windfall as to their own State programs, at the expense of the Federal Government, and put the Federal Government more deeply into debt.

Mr. President, there is no need for the amendment. In the event that someone had a case for people who are really in need, we would be glad to consider it on the Finance Committee and vote additional help for these less fortunate persons. Not only is there no need for this amendment, it does not belong on a tax raising bill.

H.R. 12752 is to enable us to move toward balancing the budget, and the proposed measure would unbalance the budget.

If we are going to vote for this amendment, we might as well go ahead with voting other measures which might provide for those who think they have no need for additional Federal benefits.

Because of the foregoing arguments, I shall move to table the amendment.

Mr. PROUTY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LONG of Louisiana. I yield.

Mr. PROUTY. Mr. President, I ask unanimous consent to submit some memorandums in the RECORD.

There being no objection, the data were ordered to be printed in the RECORD, as follows:

SUMMARY OF COST ANALYSIS

1. In 1965, Robert, Meyers, social security actuary, informed the Senate Finance Committee that there were 1.75 million Americans aged 65 and over not eligible for social security.

2. The U.S. Chamber of Commerce, the AFL–CIO, the National Council of Senior Citizens, the American Association of Retired Persons, and the National Retired Teachers Association claim that this figure should be 1.5 million.

3. On March 2, Robert Meyers maintained there were 1.8 million age 70 and above not eligible for social security.

4. Using the figures cited by the chamber the cost of the Prouty amendment (not including an allowance for any reduction in State welfare payments which may take place) can reasonably be expected to be $450 million.

5. Using Meyers figures the net cost of the Prounty proposal is $760 million.

6. Striking a median figure between the high and low estimates the Prouty proposal can reasonably be expected to cost around $600 million.

MEMORANDUM ON COST

On April 30, 1965, Robert J. Myers, social security actuary, submitted a written estimate on the cost of blanketing-in all persons age 65 or over for benefits of $35 per month with $17.50 payable to the wife of the beneficiary.

This stated that there were 1.75 million Americans aged 65 and over not eligible for social security. Mr. Myers indicated that the number of such beneficiaries would diminish each year reaching a level of 1.25 million by 1990. On March 2, 1966, Mr. Myers said that there were 1.8 million people age 70 and above who would be brought within the scope of my amendment.

Clearly, there is a wide discrepancy in Mr. Myers' underlying data. How can there be 1.75 million age 65 while there are 1.8 million age 70 only 1 year later, particularly in light of the statement by Mr. Myers that the group not now eligible for social security is decreasing in size each year.

The U.S. Chamber of Commerce in its task force report on poverty and the aged notes that there are 1.5 million Americans age 65 and above not now eligible for social security. This statistic is confirmed by the National Council of Senior Citizens and the American Association of Retired Persons and the National Retired Teachers Association.

The difference in the ultimate cost figure is, of course, quite substantial. If the base figure of 1.5 million older Americans ineligible for social security is used for all those age 65 and above, the cost of the Prouty proposal viewed as a product of the annual benefit ($528) times the number of beneficiaries the cost is maximized at $792 million. The actual cost will be much less. For example, a portion of the 1.5 million will be wives who would receive one-half the minimum benefit. Additionally, the 355,000 transitionally insured (now financed from the OASDI trust fund) would be absorbed and included in the 1.5 million, releasing the present cost of transitional insurance, $140 million for other social security purposes. Finally, beneficiaries of the Prouty amendment might elect to go off public assistance, thereby diminishing the total Federal cost by virtue of the public assistance title of the Social Security Act.

The Prouty amendment does not blanket in at age 65. It blankets in at age 70. Using the Chamber's base of 1.5 million at age 65 it is fair to assume a base of 1.25 million at age 70. Using a base of 1.25 million would develop a maximum cost of $660 million from which reductions would be made for payments to wives, diminishment in public assistance payments, and a $140 million credit for the transitionally insured absorbed into the Prouty proposal. The net cost out of general revenue might be fairly represented by $450 million.

Taking Mr. Myers' highest estimate of 1.8 million beneficiaries age 70 and above less the credit for transitional insurance, wives' payments and reductions in public assistance, his estimate can be fairly read to require payment of some $700 million out of general revenues.

Striking a median cost figure between the high buyer's estimate and the low estimate a payment of some $575 million out of general revenues might be expected.

A more definite cost appraisal is not possible due to the wide fluctuation of the estimates provided by the social security actuary from 1965 to the present.

PER PERSON COSTS OF OTHER FEDERAL PROGRAMS IN RELATIONSHIP TO THE $44 PER PERSON PER MONTH OR $528 PER YEAR COST OF THE PROUTY AMENDMENT

UNDER THE POVERTY PROGRAM (FROM HEARINGS ON SUPPLEMENTAL 1966 APPROPRIATION)

Cost of operating Job Corps camp enrollee: $4,500, over 9-month period; annualized, this cost is $6,035.

Capital costs of Job Corps camp enrollee: $500, as amortized over 10 years.

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Depending upon degrees of disability, rehabilitation services run from $500 to $1,500 per person.

In summary then, it appears that the Prouty cost-benefit ratio far exceeds cost-benefit ratios of existing Federal assistance programs. Additionally, the program benefits a category of beneficiaries too long neglected.

MEMORANDUM ON STATE PUBLIC ASSISTANCE PROGRAMS

The 1965 amendments to the Social Security Act provided an incentive and a penalty for certain reductions in State public assistance programs resulting from amendments to the Social Security Act.

The incentive was provision for voluntary exemption of up to $5 of income in computing a welfare recipient's eligibility for continued or new participation in a State welfare program.

The penalty occurs under section 405 in the 1965 amendments and requires the diminishment of Federal public assistance grants to States to the extent that the State does not maintain expenditures from State and local funds as was spent under approved plans in a base period against which current quarter expenditures would be measured.

The net effect of adding these provisions to the Social Security Act is to pursuade States to maintain their level of public assistance expenditures without setting off benefits received by welfare claimants from social security.

While these two provisions do not guarantee the complete pass-through of social security benefits to welfare recipients without a reduction in the welfare payment they clearly limit the instances in which a State will elect to make such public welfare reductions.

For example, since the effective date of the 1965 amendments, 11 States have implemented part or all of the allowable $5 exemption. Two States are going to implement it and an additional 12 jurisdictions have the matter actively under consideration.

Because of the maintenance of effort provisions, section 405, should a State reduce a beneficiaries welfare payment that money is more likely to stay within the States public assistance program—to aid the blind, children of unemployed parents, the physically handicapped—and accordingly the Prouty Amendment will support State public assistance programs.

Subject: States which have passed the OASDI benefit increase on to old-age assignment recipients by exercising the option in section 409 (a) of the Social Security Amendments of 1965 allowing the disregarding of up to $5 a month of any income.

The Welfare Administration informs us that as of February 3, 1966, the following States had exercised the option as to $5 a month or less: Arkansas, $3; Delaware, $5; Florida, $4; Idaho, $5; Indiana, $5; Georgia, $4; Hawaii, $5; Missouri, $5; Vermont, $4; South Dakota, $5; Wyoming, $5.

Two more jurisdictions say that they are going to implement the provision: Michigan and Puerto Rico.

Twelve more jurisdictions state that implementation is under consideration at the present time: District of Columbia, Kentucky, Nevada, New Hampshire, North Carolina, Oklahoma, South Carolina, Tennessee, Virgin Islands, Virginia, West Virginia, and Wisconsin.

The rest of the jurisdictions have indicated that they do not intend to implement the provision at the present time.

MEMORANDUM ON GENERAL REVENUE FUNDING

1. Amendment 490 which has been superceded by amendment 495 provided that the OASDI trust fund should be reimbursed on a "contribution-benefit" formula. That is to say from general revenues money should be covered into the trust fund to the extent that it would equate the contribution a Prouty beneficiary would have made to the trust fund if he had been covered by social security.

2. Amendment 495 which will be offered provides for funding from general revenues on a "cost-benefit" ratio. That is to say $1 is covered into the OASDI trust fund from general revenues for every dollar in benefits paid.

3. Under the principle of the funding technique in amendment 490 the cost of the Prouty plan is borne both by the taxpayers and the trust fund. Inasmuch as minimum beneficiaries never contribute as much to the fund as they take out, the Treasury would have to cover into the trust fund only the contributions beneficiary would have made if he had been covered. To the extent that such contribution does not pay for actual cash benefits the trust fund absorbs the difference.

4. Under the general revenue funding principle of amendment 495 no burden is placed on the trust fund, hence on contributors to the trust fund. All of the costs are borne out of general revenues, hence by the taxpayers.

EXCERPTS FROM CORRESPONDENCE—WHO BENEFITS BY THE PROUTY AMENDMENT

Mr. President, nothing tells more about my amendment—nothing better states its need—than the correspondence I have received these many months from people whose destiny turns on my amendment. Let me read to you some telling excerpts:

From Mrs. C. an 89-year-old widow with no social security, no pension, and little hope, a plea to buy bread for her table.

From Mrs. T, the widow of a minister with 50 years' service, a sorrowful request for redemption from the indignity of poverty.

From Miss C, a retired teacher with 50 years' service, a searching request for money to help her preserve her failing eyesight.

Fom Mrs. S, of Appleton, Wis., a touching note telling how much my amendment would mean to her. Her total income is $45 per month—she does not receive any welfare payments.

From the La Crosse County Retired Teachers Association, the results of a study which notes that 500 retired teachers receive less than $25 per month from their pension while 637 receive only $50. None of these 1,100 retired teachers was eligible for social security.

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From Mr. E of Huntington Station, N.Y., a comment familiar to those of us who have long studied the problems of the aged, he cannot find a job so as to qualify for social security. You see, he is 78 and employers tell him he is too old to work.

These letters are typical of the thousands I have received in recent years stressing the plight of the forgotten elderly and pleading for relief from the oppressions of poverty. These people are not the cold statistics of a census. These are real people in real distress.

Mr. LONG of Louisiana. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Nevada [Mr. CANNON], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Minnesota [Mr. MCCARTHY], the Sena-

tor from South Dakota [Mr. McGOVERN], the Senator from Utah [Mr. MOSS], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also anounce that the Senator from Connecticut [Mr. DODD] and the Senator from Ohio [Mr. LAUSCHE] are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut [Mr. DODD] would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Califoria [Mr. KUCHEL] is absent because of illness.

The result was announced—yeas 37, nays 51, as follows:

[No. 46 Leg.]

YEAS—37

Anderson	Holland	Pastore
Bayh	Jackson	Pell
Bible	Jordan, N.C.	Proxmire
Brewster	Long, Mo.	Robertson
Byrd, Va.	Long, La.	Smathers
Case	Mansfield	Stennis
Douglas	McClellan	Symington
Eastland	McGee	Talmadge
Ellender	McNamara	Tydings
Ervin	Metcalf	Williams, N.J.
Harris	Monroney	Yarborough
Hart	Montoya	
Hill	Neuberger	

NAYS—51

Aiken	Gruening	Nelson
Allott	Hartke	Pearson
Bartlett	Hickenlooper	Prouty
Bennett	Hruska	Randolph
Boggs	Inouye	Ribicoff
Burdick	Javits	Russell, S.C.
Byrd, W. Va.	Jordan, Idaho	Russell, Ga.
Carlson	Kennedy, Mass.	Saltonstall
Clark	Kennedy, N.Y.	Scott
Cooper	Magnuson	Simpson
Cotton	McIntyre	Smith
Curtis	Miller	Sparkman
Dirksen	Mondale	Thurmond
Dominick	Morse	Tower
Fannin	Morton	Williams, Del.
Fong	Mundt	Young, N. Dak.
Gore	Murphy	Young, Ohio

NOT VOTING—12

Bass	Fulbright	McCarthy
Cannon	Hayden	McGovern
Church	Kuchel	Moss
Dodd	Lausche	Muskie

So the motion of the Senator from Louisiana [Mr. LONG] to lay on the table the amendment of the Senator from Vermont [Mr. PROUTY] was rejected.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Vermont [Mr. PROUTY]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MILLER (when his name was called). On this vote I have a live pair with the junior Senator from Oklahoma [Mr. HARRIS]. If he were present and voting, he would vote "nay." If I were at liberty to cast my vote, I would "yea." I withhold my vote.

The rollcall was concluded.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Nevada [Mr. CANNON], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Utah [Mr. MOSS], the Senator from Maine [Mr. MUSKIE], and the Senator from Oklahoma [Mr. HARRIS] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. LAUSCHE], and the Senator from Virginia [Mr. BYRD] are necessarily absent.

On this vote, the Senator from Virginia [Mr. BYRD] is paired with the Senator from Connecticut [Mr. DODD].

If present and voting, the Senator from Virginia would vote "nay," and the Senator from Connecticut would vote "yea."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL] is absent because of illness.

The result was announced—yeas 45, nays 40, as follows:

[No. 47 Leg.]

YEAS—45

Aiken	Hartke	Pastore
Allott	Hruska	Pearson
Bartlett	Jackson	Pell
Boggs	Javits	Prouty
Brewster	Jordan, Idaho	Randolph
Burdick	Kennedy, Mass.	Ribicoff
Byrd, W. Va.	Kennedy, N.Y.	Russell, S.C.
Carlson	Magnuson	Russell, Ga.
Cotton	McClellan	Scott
Curtis	McIntyre	Simpson
Dominick	Mondale	Smith
Eastland	Morse	Sparkman
Fannin	Mundt	Tower
Fong	Murphy	Young, N. Dak.
Gruening	Nelson	Young, Ohio

NAYS—40

Anderson	Hill	Proxmire
Bayh	Holland	Robertson
Bennett	Inouye	Saltonstall
Bible	Jordan, N.C.	Smathers
Case	Long, Mo.	Stennis
Clark	Long, La.	Symington
Cooper	Mansfield	Talmadge
Dirksen	McGee	Thurmond
Douglas	McNamara	Tydings
Ellender	Metcalf	Williams, N.J.
Ervin	Monroney	Williams, Del.
Gore	Montoya	Yarborough
Hart	Morton	
Hickenlooper	Neuberger	

NOT VOTING—15

Bass	Fulbright	McCarthy
Byrd, Va.	Harris	McGovern
Cannon	Hayden	Miller
Church	Kuchel	Moss
Dodd	Lausche	Muskie

So Mr. PROUTY's amendment was agreed to.

Mr. LONG of Louisiana. Mr. President——

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. PROUTY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCOTT. Mr. President, I move to lay that motion on the table.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Louisiana had addressed the Chair previously, and the Chair recognized him.

Mr. LONG of Louisiana. Mr. President, I wish to discuss the amendment.

I think Senators ought to have an opportunity to hear the arguments made on this amendment. I should like to acquaint Senators with what this amendment does.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Louisiana yield?

Mr. LONG of Louisiana. Mr. President, I do not yield.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator for Louisiana yield for that purpose?

Mr. SCOTT. Mr. President, who has the floor?

Mr. PROUTY. Who has the floor?

Mr. LONG of Louisiana. I do. I refuse to yield.

The PRESIDING OFFICER. The Senator from Louisiana has the floor, and the Chair did not recognize the Senator from Vermont to make his motion.

Mr. LONG of Louisiana. Mr. President, I have the floor. I do not yield at this moment.

Mr. DIRKSEN. Mr. President, wait a minute. Do not be impatient.

Mr. LONG of Louisiana. May I say, Mr. President, that I am not impatient but I still do not yield the floor. I should like to ask the Chair to protect my rights.

Mr. President, I do not want to yield.

Mr. DIRKSEN. I insist.

Mr. LONG of Louisiana. I believe I do have the floor, and I do not yield.

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG of Louisiana. I was recognized by the Chair.

Mr. SCOTT. Mr. President, I should like to propound a parliamentary inquiry, which I understand is in order.

Mr. LONG of Louisiana. I was recognized by the Chair.

The PRESIDING OFFICER. Will the Senator yield for a parliamentary inquiry?

Mr. LONG of Louisiana. No. I do not yield at this point.

Mr. PASTORE. May we have order, Mr. President?

Mr. PROUTY. Mr. President, a point of personal privilege.

Mr. LONG of Louisiana. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PROUTY. Mr. President, a point of personal privilege.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Louisiana has the floor. Does the Senator from Louisiana yield?

Mr. DIRKSEN. Mr. President, let us have a formal ruling as to whether or not——

Mr. LONG of Louisiana. Mr. President, I will yield for a question, and I will not yield for anything but a question. The Chair recognized the Senator from Louisiana when I addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor. The Senator from Vermont spoke a few seconds after the Chair had recognized the Senator from Louisiana.

Mr. HICKENLOOPER. Mr. President, may we have order?

The PRESIDING OFFICER. The regular order has been requested, and the Senator from Louisiana has the floor and will hold the floor if the Chair is able to enforce that ruling.

Mr. DIRKSEN. Mr. President, I would like to know, when a vote has been taken——

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that, without any prejudice to my right to the floor, and without yielding to any Senator the right to make a motion, I might yield for a brief statement by the Senator from Illinois; I repeat, with the understanding that I do not prejudice my right to the floor and I do not yield to him for the purpose of making a motion.

Mr. DIRKSEN. Mr. President, I fully agree to those conditions.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DIRKSEN. Mr. President, when the result was announced, the Senator from Vermont was in the well of the Senate, and he moved to reconsider. It seems to me that even without formal recognition by the Chair, that motion can be made. That has been customary; and I moved to table that motion.

Now, did the Senator from Vermont have the floor, or did he not have the floor?

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. DIRKSEN. I yield.

Mr. MANSFIELD. I had tried to seek recognition for the purpose of asking for the yeas and nays on the motion to reconsider of the distinguished Senator from Vermont, but I was not recognized. So, as I understand it, due to the fact that the Senator from Louisiana was given the floor, there was no motion to table made which would have any validity.

The PRESIDING OFFICER. The Senator from Montana has stated the situation correctly. The Senator from Vermont will have the privilege, before any other business is transacted, of making a motion to reconsider.

Mr. LONG of Louisiana. Mr. President, I did not agree to that.

Mr. PROUTY. Well, Mr. President, a parliamentary inquiry.

Mr. LONG of Louisiana. My understanding, Mr. President, is that the person who holds the seat of the majority leader when all the Senators are shouting at the same time according to custom is entitled to be recognized first. That has been the procedure as long as I have been a Member of this body.

I wish to speak about the motion while a number of Senators are present, since very few Senators were present when I presented my arguments.

This is the same measure that was voted down by a vote of 55 to 36 last year. I merely wish to explain to the Senators how little sense this proposal makes. Here is what it would do.

In the State of Louisiana, for example, as in some of the other States, we permit policemen to retire after 20 years of service.

Mr. PASTORE. Mr. President, we cannot hear the speaker.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. LONG of Louisiana. In the State of Louisiana, just as one example, as in many other States, we let policemen retire after 20 years of service, and they can draw full retirement after 20 years. They do not wish to be covered by social security, because the retirement benefits under our policeman's retirement program are so much greater than they are under social security.

In my State, it is not at all unusual for a man to retire as a policeman and then go to work as a fireman; and after 20 years, he is eligible for a second full retirement, so that he can draw two pensions, both of which exceed the maximum benefit under social security.

The amendment upon which we have just voted now proposes to say that, starting at age 70, in addition to drawing two pensions, that a person could also draw a third pension, under social security, of $44 for himself and $22 for his wife, even though he has not contributed 1 cent to social security. Not 1 red copper penny must he have put into the social security fund. To pay for this amendment, we will have to take from the general revenues much of the money we hope to raise in the pending tax legislation. The amount required for the first year would exceed what we would raise by the increased tax on telephones. It would cost $790 million to provide these social security benefits to many who do not need them.

In addition, people in the armed services have their retirement program, and in many instances the maximum benefit under that program exceeds the maximum benefit under social security.

What would the Senator's amendment provide? It would provide that those people, in addition to drawing a military pension—which we provide with taxpayers' funds—would also draw $44 for themselves and $22 for their wives.

The amendment is so broad as to provide benefits even for Members of Congress, persons who are serving here right now provided they are not covered under social security. Every retired Senator 70 years of age or older would start immediately drawing a pension of $44, plus $22 for his wife in addition to his Government pension. So I say to my fellow Senators, you are voting yourselves a pension right now if you are over the age of 70 and not drawing social security benefits.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield to the Senator from Rhode Island.

Mr. PASTORE. I think the Senator from Louisiana is making a good point. I think there is considerable substance to the arguments that have been made by the Senator from Vermont [Mr. PROUTY]. There are some people who have reached the age of 70 who may need some help.

But after all, this is a piece of legislation that should be studied thoroughly. I realize that what this legislation would do is put everyone under the umbrella. Once you have reached the age of 70, you could be a millionaire, and you would still be entitled to collect $44 every single month.

I do not think the Senator from Vermont means anything as far-reaching as that. He has been reading letters here of people who desperately need some help; and we ought to do something for those people. But I think this is a measure which should be thoroughly studied, and that this is not the way to do it.

I believe there is substance to the arguments made on both sides, but I would hope we would not go off, willy-nilly, because it is attractive, this afternoon, to subscribe to the Senator's amendment.

Mr. LONG of Louisiana. Mr. President, I wish to go one step further. I wish to point our that anyone who is in need of such help can get it right now, under public welfare. We just finished increasing the matching formula to provide adequately for those under old age assistance.

So what it boils down to is a matter of whether the Senate wishes to embark on this program of providing monthly payments to people who have not paid one penny for it, who have no claim nor title whatever to it, and who have no need of it. If we are going to embark on such a course may our merciful Lord shed some help on this fair land of ours. If we are going to start voting pensions for people who do not need them, who have no requirement for them whatever, who are drawing pensions already, in some cases, of $700 every month, many thousands of dollars every year, people who have large annuities, who have all kinds of resources, then I would say there is no hope of ever balancing the budget, no hope of ever having any fiscal responsibility in this country.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. SMATHERS. Is it not a fact that the bill with which we are involved here is basically a bill which seeks to raise revenue in order to meet our growing commitments in South Vietnam? Is that not the purpose of the bill?

Mr. LONG of Louisiana. That is what we are trying to do.

Mr. SMATHERS. Is it not a fact that this amendment, if adopted, would cost the taxpayers an estimated $3.4 billion in 5 years?

Mr. LONG of Louisiana. Yes, it would.

Mr. SMATHERS. Is it not a fact that we have in this country a somewhat inflationary condition already, and that if we adopt the amendment of the Senator from Vermont, it would feed the fires of inflation about as much as anything we could do?

Mr. LONG of Louisiana. There is no doubt about it; because it would put the money, for the most part, in the hands of people who have no need of it whatever.

Mr. SMATHERS. Would the Senator not agree that people who talk about believing in fiscal responsibility should by all means not vote for this amendment?

Mr. LONG of Louisiana. I agree.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield to the Senator from New Mexico.

Mr. ANDERSON. I am 70 years old. Will the Senator explain to me why I should receive an extra $66 a month which I do not receive?

Mr. LONG of Louisiana. I just do not understand it. May I say to the Senator, if he retires, he will have a very fine pension available to him.

Why we have to provide additional pensions is something I cannot understand. It may be that there are some needy persons who need help, but for the most part they are being taken care of by public welfare. If we are going to start providing pensions for persons whether they need it or not, where they may be drawing three different payments, one from the armed services as a retiree, one from the police association as a former policeman, another as a schoolteacher or a former fireman, and in addition, provide $66 for the man and his wife even though they might still be working and drawing a large income, I canot hazard a guess where it will stop.

All of that is provided for by this measure. Further, if we are going to provide benefits at the age of 70, what is sacred about that number? Why not make it 35? Why not provide here and now that everyone shall draw a pension of $1,000 a month and no one will have to work any more. It makes about that much sense.

Mr. ANDERSON. The Senator is talking theoretically. However, if I should retire, I would draw a pension from the Senate. I have also served 35 years as an officer of an insurance company and I would draw a pension from them. Therefore, why should I receive $66 on this? I do not see it at all.

Mr. LONG of Louisiana. I agree with the distinguished Senator from New Mexico.

To me, it seems unnecessary to vote $66 for Senators and their wives. To now accept the principle that everyone in good health, with plenty of money, and no need whatever, can receive a Federal benefit even though they are receiving two or three other pensions is disastrous. That is the one principle that seems to me, once we accept it in this vote; namely, that the Government will give us money whether we need it or not just cries out for everyone to dig into Uncle Sam's Treasury and take a barrelful of money home.

Once we adopt that principle, there will be little hope that the Government will ever be solvent.

Mr. DIRKSEN. Mr. President, will the Senator from Louisiana yield, without losing his right to the floor?

Mr. LONG of Louisiana. I yield for a question only, without losing my right to the floor.

Mr. DIRKSEN. Of course, because there must be an observation made here.

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). Does the Senator from Louisiana yield to the Senator from Illinois?

Mr. LONG of Louisiana. I yield, without losing my right to the floor.

Mr. DIRKSEN. The distinguished Senator from Louisiana cannot quarrel with me, because I gave him the vote. I share the logic which he has expressed but, of course, before us at the moment is the fact that here is a vote of 45 to 40. The Senate has voted. Now we are ready to reconsider the vote. I know of no good reason why we should not proceed with reconsideration, because the author of the amendment will so move, and we need not go through all this argument again. We had it last year. We have it today. The amendment has been printed. It has been before the Senate for a long time.

Mr. LONG of Louisiana. Let me say that one of the finest speeches I heard in this body was made on the Republican side of the aisle by former Senator Homer Capehart. I recall, during one night session, he took the floor and stated, "Why do we do these things? Why don't we think?"

I should like to suggest that we think once in a while and have some idea of what we are voting on.

I did not debate the amendment in detail on it, because last year, by a vote of 55 to 36, the Senate rejected this very amendment. It was my thought that it was not necessary to go into great detail explaining the matter from the point of view of those opposed to it.

Mr. President, in due course, the motion to table will be made, but of course Senators know that once that motion is made, it is not debatable.

Mr. DIRKSEN. The Senator is correct.

Mr. LONG of Louisiana. I believe that I should have a word or two to say before that motion is made.

Mr. ANDERSON. The Senator knows, of course, that was a different situation last year. Last year was not an election year. [Laughter.]

Mr. MANSFIELD. Mr. President, will the Senator from Louisiana yield, without losing his right to the floor?

Mr. LONG of Louisiana. I yield to the Senator from Montana, under those conditions.

Mr. MANSFIELD. Is it not true that the adoption of this amendment will, as the distinguished Senator from Florida has stated, cost the Federal Treasury $3.5 billion over the next 5 years?

Mr. LONG of Louisiana. Yes; the Senator is correct.

Mr. MANSFIELD. Is it not true that every Member of Congress, even though we have fairly good pension funds to which we all contribute, would become eligible either upon retirement or at the age of 65, I believe it is, to also receive an additional $44 a month?

Mr. ANDERSON. Sixty-six dollars, with husband and wife.

Mr. LONG of Louisiana. It is $44 plus $22 for one's wife.

Mr. MANSFIELD. That would mean, then, that every Member of this body would be eligible, without having to pay one dime, if this amendment were adopted, and I would acquire an additional $44.

Mr. LONG of Louisiana. Provided, of course, if we did not draw social security.

Mr. MANSFIELD. Let me say that I would hate to vote for such an amendment and then have to face my constituents who would know that I had voted a pension of $44 for myself.

Mr. LONG of Louisiana. The Senator from Montana is correct.

Mr. PROUTY. Mr. President, will the Senator from Louisiana yield for a question, with the understanding that he will not lose his right to the floor?

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Vermont under those conditions?

Mr. LONG of Louisiana. I yield, under those conditions.

Mr. PROUTY. Mr. President, the criticisms made about my proposal apply to the social security system itself. The social security system imposes no true means test. I am sure that my good friend from Louisiana recognizes that we should not try to establish a means test. If the Senator wishes to do anything about it at some time in the future, that is one thing; but let me point out—the Dominion of Canada pays to every individual 70 years of age or older, $75 a month. It is certainly not the intention to add pensions to that of the distinguished Senator from Montana, or other Senators present. This is something that can be studied in the future, but it will mean changing the nature of the entire social security program to do it. What my amendment is intended to do is to take care of 1,500,000 elderly people 70 years of age or older who are desperate. There is no question about that. Do we want them to have a retirement annuity or do we want them to stand in the breadlines. If we wish to preserve some degree of human dignity in people who are retired—teachers and other professional people who were working before the social security program became effective, or were too old to qualify under the law which was approved last year, we can do it.

All of the associations of retired persons, the AFL–CIO, and the task force of the U.S. Chamber of Commerce feel that every older person should be brought in under the social security program.

I believe the actual cost of my program is going to be considerably less than the figure which has been mentioned by the distinguished Senator from Louisiana. I believe his figures have been inflated. I believe that it can be demonstrated quite effectively that that is the case.

Mr. President, I have placed many memoranda in the RECORD. I believe that Senators, if they were not in the Chamber at the time of this debate, will find that I justified the costs of a program in light of the old people who would be covered by this amendment.

I do not wish to continue this discussion. I am ready for the vote, when the Senator from Louisiana will permit me to do so, but I must say that this is unusual procedure.

Mr. LONG of Louisiana. Free debate has never been unusual. I have waited until the Senator was through speaking before I made the motion to table.

The Senator contends that I was in error in the estimate I made about one of his amendments. The Senator usually introduces his amendments on the floor and keeps changing them, which makes it rather difficult to know what the correct estimates are. The estimate I have, and one I made, came from someone regarded as the best man in the business—I am talking about Mr. Robert Myers, who estimated what this amendment would cost.

May I say that some things are a little bit difficult to explain. Here is amendment No. 490, which bears the Prouty name. It provides for monthly benefits of $44 and $22 for the spouse. This one says that everybody who has reached the age of 70 is entitled to the benefits. It does not limit it to American citizens. This amendment would make Mao Tse-tung eligible for the benefits. It would provide Khrushchev the benefits——

Mr. PROUTY. That is not the amendment before the Senate. Amendment No. 490 utilized an approach to eligibility paralleling the approach taken by the transitional insurance eligibility provisions of section 227 of the Social Security Act. Nevertheless, amendment No. 490 is not before the Senate.

Mr. LONG of Louisiana. It was introduced and I have it here in my hand.

Mr. PROUTY. That amendment has not been called up.

Mr. LONG of Louisiana. But here it is, and it provides that everybody in the world age 70 and over would be eligible for the $44 monthly benefit and his spouse $22.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, I move to lay that motion on the table, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the motion to reconsider.

The yeas and nays have been ordered.

Mr. DOUGLAS. Mr. President——

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider.

Mr. DOUGLAS. Mr. President, will the Chair state what is the question before this body?

The PRESIDING OFFICER. The Senate will be in order. The question is on the motion to table the motion to reconsidered.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Nevada [Mr. CANNON], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Utah [Mr. MOSS], the Senator from Maine [Mr. MUSKIE], and the Senator from Missouri [Mr. SYMINGTON] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD], and the Senator from Ohio [Mr. LAUSCHE] are necessarily absent.

On this vote, the Senator from Connecticut [Mr. DODD] is paired with the Senator from Missouri [Mr. SYMINGTON]. If present and voting, the Senator from Connecticut would vote "yea," and the Senator from Missouri would vote "nay."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL] is absent because of illness.

The result was announced—yeas 44, nays 43, as follows:

[No. 48 Leg.]

YEAS—44

Aiken	Fong	Nelson
Allott	Gruening	Pearson
Bartlett	Hartke	Prouty
Boggs	Hickenlooper	Randolph
Brewster	Hruska	Ribicoff
Burdick	Jackson	Russell, S.C.
Byrd, W. Va.	Javits	Russell, Ga.
Carlson	Jordan, Idaho	Scott
Cooper	Kennedy, N.Y.	Simpson
Cotton	McIntyre	Smith
Curtis	Mondale	Sparkman
Dirksen	Morse	Tower
Dominick	Morton	Young, N. Dak.
Eastland	Mundt	Young, Ohio
Fannin	Murphy	

NAYS—43

Anderson	Inouye	Pastore
Bayh	Jordan, N.C.	Pell
Bennett	Kennedy, Mass.	Proxmire
Bible	Long, Mo.	Robertson
Byrd, Va.	Long, La.	Saltonstall
Case	Magnuson	Smathers
Clark	Mansfield	Stennis
Douglas	McClellan	Talmadge
Ellender	McGee	Thurmond
Ervin	McNamara	Tydings
Gore	Metcalf	Williams, N.J.
Harris	Miller	Williams, Del.
Hart	Monroney	Yarborough
Hill	Montoya	
Holland	Neuberger	

NOT VOTING—13

Bass	Hayden	Moss
Cannon	Kuchel	Muskie
Church	Lausche	Symington
Dodd	McCarthy	
Fulbright	McGovern	

So Mr. PROUTY's motion to lay on the table Mr. MANSFIELD's motion to reconsider the vote by which the Prouty amendment was adopted was agreed to.

89TH CONGRESS
2D SESSION

H. R. 12752

IN THE SENATE OF THE UNITED STATES

MARCH 9, 1966

Ordered to be printed with the amendments of the Senate numbered

AN ACT

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Adjustment Act of 1966".

* * * * *

* * * * *

SEC. 102. ESTIMATED TAX IN CASE OF INDIVIDUALS.

(a) INCLUSION OF SELF-EMPLOYMENT TAX IN ESTIMATED TAX.—Section 6015(c) (relating to definition of

estimated tax in the case of an individual) is amended to read as follows:

"(c) ESTIMATED TAX.—For purposes of this title, in the case of an individual, the term 'estimated tax' means—

"(1) the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, plus

"(2) the amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

"(3) the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1."

(b) ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX.—

(1) Section 6654 (a) (relating to addition to the tax for underpayment of estimated tax by an individual) is amended by inserting after "chapter 1" the following: "and the tax under chapter 2".

(2) Section 6654 (d) is amended to read as follows:

"(d) EXCEPTION.—Notwithstanding the provisions ot

the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

"(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

"(2) An amount equal to 70 percent ($66\frac{2}{3}$ percent in the case of individuals referred to in section 6073 (b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402 (a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

"(A) The taxable income shall be placed on an annualized basis by—

"(i) multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

"(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

"(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment).

"(B) The term 'adjusted self-employment income' means—

"(i) the net earnings from self-employment (as defined in section 1402 (a)) for the months in the taxable year ending before the

month in which the installment is required to be paid, but not more than

"(ii) the excess of $6,600 over the amount determined by placing the wages (within the meaning of section 1402(b)) for the months in the taxable year ending before the month in which the installment is required to be paid on an annualized basis in a manner consistent with clauses (i) and (ii) of subparagraph (A).

"(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income and the actual self-employment income for the months in the taxable year ending before the month in which the installment is required to be paid as if such months constituted the taxable year.

"(4) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year."

(3) Section 6654(f) (relating to definition of tax

for purposes of subsections (b) and (d) of section 6654) is amended to read as follows:

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term 'tax' means—

"(1) the tax imposed by this chapter 1, plus

"(2) the tax imposed by chapter 2, minus

"(3) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)."

~~(15)~~*(4) Section 6211(b)(1) (relating to definition of a deficiency) is amended by striking out "chapter 1" and inserting in lieu thereof "subtitle A".*

~~(16)~~ ~~(4)~~*(5)* Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(34) ESTIMATED INCOME TAX.—The term 'estimated income tax' means—

"(A) in the case of an individual, the estimated tax as defined in section 6015(c), or

"(B) in the case of a corporation, the estimated tax as defined in section 6016(b)."

(17) ~~(5)~~ *(6)* Section 1403 (b) (cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to declarations of estimated tax on self-employment income, see section 6015."

(c) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Section 1402 (e) (3) (relating to effective date of waiver certificates) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of sections 6015 and 6654, a waiver certificate described in paragraph (1) shall be treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1966.

* * * * *

* * * * *

(35) *SEC. 303. (a)(1) Section 202 of the Social Security Act is amended by adding at the end thereof the following: "Benefit Payments to Persons Not Otherwise Entitled Under This Section*

"(w)(1) Every individual who—

"(A) has attained age sevcnty, and

"(B)(i) is not and would not, upon filing application therefor, be entitled to any monthly benefits under any other subsection of this section for the month in which he attains such age or, if later, the month in which he files application under this subsection, or (ii) is entitled to monthly benefits under any other subsection of this section for such month, if the amount of such benefits (after application of subsection (q)) is less than the amount of the benefits payable under this subsection to individuals entitled to such benefits, and

"(C) is a resident of the United States (as defined in section 210(i) of the Social Security Act), and is (i) a citizen of the United States or (ii) an alien lawfully admitted for permanent residence who has resided

in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application under this section, and

"(D) has filed application for benefits under this subsection, shall be entitled to a benefit under this subsection for each month, beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. Subject to paragraph (2), such individual's benefit for each month shall be equal to the first figure in column IV of the table in section 215(a).

"(2) The amount of the benefit to which an individual is entitled under this subsection for any month shall be equal to one-half of the amount provided under paragraph (1) if—

"(A) such individual is a married woman, and

"(B) if the husband of such individual is entitled, for such month, to benefits under this subsection."

(2) The following provisions of section 202 of such Act are each amended by striking out "or (h)" and inserting in lieu thereof "(h), or (w)":

(A) subsection (d)(6)(A),

(B) subsection (e)(3)(A),

(C) subsection (f)(4)(A),

(D) subsection (g)(3)(A), and

(E) the first section of subsection (j)(1).

(3) Section 202(h)(4)(A) of such Act is amended by striking out "or (g)" and inserting in lieu thereof "(g), or (w)".

(4) Section 202(k)(2)(B) of such Act is amended by striking out "preceding".

EFFECTIVE DATE

(b) The amendments made by subsection (a) shall apply only in the case of monthly benefits under title II of the Social Security Act for months beginning after September 1966 based on applications filed on or after July 1, 1966, or the date of enactment of this Act, whichever is the earlier.

(c)(1) Section 227 of the Social Security Act is repealed as of the close of September 1966.

(2) Any individual, who (for the month of September 1966) is entitled to a monthly insurance benefit under section 202 of the Social Security Act by reason of the provisions of section 227 thereof, shall be deemed to have applied for benefits under section 202(w) of such Act, and all applications which are filed for monthly benefits under section 202 of such Act by reason of the provisions of section 227 and which are pending on the date of enactment of this

Act shall be deemed to be applications for benefits under such section 202(w).

REIMBURSEMENT OF TRUST FUNDS

(d) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, and to the Federal Hospital Insurance Trust Fund, respectively, from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) so much of any payments made or to be made during such fiscal year from such Fund with respect to individuals whose entitlement thereto is attributable to the provisions contained in section 202(w) of the Social Security Act,

(2) the additional administrative expenses resulting, or expected to result, to such Fund on account of such payments, and

(3) any loss in interest to such Fund resulting from the making of any such payments,

in order to place such Fund in the same position at the end of such fiscal year as that in which it would have been if the preceding subsections of this section had not been enacted.

* * * * *

89TH CONGRESS
2D SESSION

H. R. 12752

AN ACT

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 1966

Ordered to be printed with the amendments of the Senate numbered

TAX ADJUSTMENT ACT OF 1966

The Senate resumed the consideration of the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

* * * *

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 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.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. GORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on passage. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Idaho [Mr. CHURCH], the Senator from Arizona [Mr. HAYDEN], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Utah [Mr. Moss], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also announce that the Senator from New Hampshire [Mr. MCINTYRE] is absent because of illness.

I further announce that the Senator from Connecticut [Mr. DODD] and the Senator from Ohio [Mr. LAUSCHE] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. CHURCH], the Senator from Connecticut [Mr. DODD], the Senator from Arizona [Mr. HAYDEN], the Senator from Ohio [Mr. LAUSCHE], the Senator from South Dakota [Mr. MCGOVERN], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Utah [Mr. Moss], and the Senator from Maine [Mr. MUSKIE] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL] is absent because of illness.

The Senator from Arizona [Mr. FANNIN], the Senator from South Carolina [Mr. THURMOND], and the Senator from

Pennsylvania [Mr. SCOTT] are necessarily absent.

If present and voting, the Senator from California [Mr. KUCHEL], the Senator from Arizona [Mr. FANNIN], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from South Carolina [Mr. THURMOND] would each vote "yea."

The result was announced—yeas 79, nays 9, as follows:

[No. 52 Leg.]

YEAS—79

Aiken	Harris	Murphy
Allott	Hart	Neuberger
Anderson	Hartke	Pastore
Bartlett	Hill	Pell
Bayh	Holland	Prouty
Bennett	Hruska	Proxmire
Bible	Inouye	Randolph
Boggs	Jackson	Ribicoff
Brewster	Javits	Robertson
Burdick	Jordan, N.C.	Russell, S.C.
Byrd, Va.	Jordan, Idaho	Russell, Ga.
Byrd, W. Va.	Kennedy, Mass.	Saltonstall
Cannon	Kennedy, N.Y.	Simpson
Carlson	Long, Mo.	Smathers
Case	Long, La.	Smith
Clark	Magnuson	Sparkman
Cooper	Mansfield	Stennis
Cotton	McCarthy	Symington
Curtis	McClellan	Tower
Dirksen	McGee	Tydings
Douglas	McNamara	Williams, N.J.
Eastland	Metcalf	Williams, Del.
Ellender	Mondale	Yarborough
Ervin	Monroney	Young, N. Dak.
Fong	Montoya	Young, Ohio
Fulbright	Morton	
Gruening	Mundt	

NAYS—9

Bass	Hickenlooper	Nelson
Dominick	Miller	Pearson
Gore	Morse	Talmadge

NOT VOTING—12

Church	Kuchel	Moss
Dodd	Lausche	Muskie
Fannin	McGovern	Scott
Hayden	McIntyre	Thurmond

So the bill (H.R. 12752) was passed.

Mr. LONG of Louisiana. Mr. President, I find that the amendment offered by the Senator from Indiana [Mr. HARTKE] failed to read as the Senator explained.

Mr. HARTKE. In the technical drafting of the amendments, the amount of the tax eliminated was to revert to what it was at the first of the year—3 percent. As the drafting service prepared the bill, that provision was eliminated entirely. That was not the intention. I have explained this to the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, that is what the Senate thought it was voting for. So I ask unanimous consent that the Senator from Indiana be permitted to modify his amendment in accordance with the explanation he has given to the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Hartke amendments (No. 504) as modified and agreed to, are as follows:

On page 51, beginning with line 18, strike out all through line 12 on page 52 and in lieu thereof insert:

"(a) POSTPONEMENT OF CERTAIN RATE REDUCTIONS.—Section 4251 (relating to tax on communications) is amended—

"(1) By striking out subsection (a) and inserting in lieu thereof the following:

"'(a) IN GENERAL.—

"'(1) Except as provided in subsection (b), there is hereby imposed on amounts paid for—

"'(A) local residential telephone service, a tax equal to the percent of the amount so paid specified in paragraph (2)(A), and

"'(B) local telephone service, toll telephone service, and teletypewriter exchange service, a tax equal to the percent of the amount so paid specified in paragraph (2)(B).

The taxes imposed by this section shall be paid by the person paying for the services.

"'(2)(A) The rate of tax referred to in paragraph (1)(A) is as follows:

"'Amounts paid pursuant to bills first rendered—

	"'Percent
During 1966	3
During 1967	2
During 1968	1

"'(B) The rate of tax referred to in paragraph (1)(B) is as follows:

"'Amounts paid pursuant to bills first rendered—

	"'Percent
Before April 1, 1968	10
After March 31, 1968, and before January 1, 1969	1'

"(2) By inserting at the end of subsection (c) the following new sentence: 'For purposes of paragraphs (1)(B) and (2)(B) of subsection (a), in the case of communication services rendered before February 1, 1968, for which a bill has not been rendered before April 1, 1968, a bill shall be treated as having been first rendered on March 31, 1968.'

"(b) LOCAL RESIDENTIAL TELEPHONE SERVICE.—Section 4252 (relating to definitions for purposes of the tax on communication services) is amended—

"(1) by striking out the last sentence of subsection (a) and inserting in lieu thereof the following:

"'The term "local telephone service" does not include any service which is toll telephone service (as defined in subsection (b)), private communication service (as defined in subsection (d)), or local residential telephone service (as defined in subsection (e)).'; and

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

"'(e) LOCAL RESIDENTIAL TELEPHONE SERVICE.—For purposes of this subchapter, the term "local residential telephone service" means (1) the communication service furnished to a subscriber which provides access to a local telephone system, and the privilege of telephonic quality communication with persons having telephone or radio telephone stations constituting a part of such local telephone system, if the telephone station which is furnished to the subscriber is located in a personal residence of the subscriber and is not used principally in the conduct of any trade or business, and (2) any facility or service provided in connection with such communication service.'"

On page 52, line 13, strike out "(b)" and insert "(c)".

On page 52, line 22, strike out "(c)" and insert "(d)".

On page 52, lines 22 and 23, strike out "subsections (a) and (b)" and insert "this section".

Mr. LONG of Louisiana. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the bill be printed with the amendments numbered; and that in the engrossment of the amendments of the Senate to the bill H.R. 12752, the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section and subsection numbers, designations, and cross references thereto.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG of Louisiana. Mr. President, I move that the Senate insist on its amendments to the bill H.R. 12752 and ask for a conference with the House thereon; and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG of Louisiana, Mr. SMATHERS, Mr. ANDERSON, Mr. WILLIAMS of Delaware, and Mr. CARLSON conferees on the part of the Senate.

TAX ADJUSTMENT ACT OF 1966

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. KING of California, BOGGS, KEOGH, BYRNES of Wisconsin, CURTIS, and UTT.

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1323

TAX ADJUSTMENT ACT OF 1966

MARCH 14, 1966.—Ordered to be printed

Mr. MILLS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 12752]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 18, 22, 23, 24, 25, and 34.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 26, 27, 28, 29, 30, 31, 32, and 33, and agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Sec. 302. Benefits at age 72 for certain uninsured individuals.

(a) MONTHLY BENEFITS.—Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"*BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS*

"*ELIGIBILITY*

"*SEC. 228. (a) Every individual who—*

"*(1) has attained the age of 72,*

"*(2)(A) attained such age before 1968, or (B) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,*

"*(3) is a resident of the United States (as defined in subsection (e)), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 210(i)) continuously during the 5 years immediately preceding the month in which he files application under this section, and*

"*(4) has filed application for benefits under this section,*

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

"*BENEFIT AMOUNT*

"*(b)(1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be $35.*

"*(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be $35 and the amount of the wife's benefit for such month shall be $17.50.*

"*REDUCTION FOR GOVERNMENTAL PENSION SYSTEM BENEFITS*

"*(c)(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he is eligible for such month.*

"*(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) $17.50.*

"*(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—*

"*(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) $35, and*

"(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) $17.50.

"(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

"(A) such individual shall be deemed to have filed application for such benefits,

"(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

"(C) to the extent that entitlement depends on such individual or his spouse having retired, such individual and his spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

"(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Secretary shall allocate the amount of such benefit to the appropriate calendar months.

"(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than $1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for the month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

"(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

"(8) Under regulations prescribed by the Secretary, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than $5 may be accumulated until they equal or exceed $5.

"SUSPENSION FOR MONTHS IN WHICH CASH PAYMENTS ARE MADE UNDER PUBLIC ASSISTANCE

"(d) The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

"(1) such individual receives aid or assistance in the form of money payments in such month under a State plan approved under title I, IV, X, XIV, or XVI, or

"(2) such individual's husband or wife receives such aid or assistance in such month, and under the State plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance,

unless the State agency administering or supervising the administration of such plan notifies the Secretary, at such time and in such manner as may be prescribed in accordance with regulations of the Secretary, that such payments to such individual (or such individual's husband or wife) under such plan are being terminated with the payment or payments made in such month.

"SUSPENSION WHERE INDIVIDUAL IS RESIDING OUTSIDE THE UNITED STATES

"(e) The benefit to which any individual is entitled under this section for any month shall not be paid if, during such month, such individual is not a resident of the United States. For purposes of this subsection, the term 'United States' means the 50 States and the District of Columbia.

"TREATMENT AS MONTHLY INSURANCE BENEFITS

"(f) For purposes of subsections (t) and (u) of section 202, and of section 1840 a monthly benefit under this section shall be treated as a monthly insurance benefit payable under section 202.

"ANNUAL REIMBURSEMENT OF FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND

"(g) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the Secretary of Health, Education, and Welfare deems necessary on account of—

"(1) payments made under this section during the second preceding fiscal year and all fiscal years prior thereto to individuals who, as of the beginning of the calendar year in which falls the month for which payment was made, had less than 3 quarters of coverage,

"(2) the additional administrative expenses resulting from the payments described in paragraph (1), and

"(3) any loss in interest to such Trust Fund resulting from such payments and expenses,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if such payments had not been made.

"DEFINITIONS

"(h) For purposes of this section—

"(1) The term 'quarter of coverage' includes a quarter of coverage as defined in section 5(l) of the Railroad Retirment Act of 1937.

"(2) The term 'governmental pension system' means the insurance system established by this title or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (A) pensions, (B) retirement or retired pay, or (C) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death).

"(3) The term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

"(4) The determination of whether an individual is a husband or wife for any month shall be made under subsection (h) of section 216 without regard to subsections (b) and (f) of section 216."

(b) CERTAIN APPLICATIONS UNDER 1965 AMENDMENTS.—For purposes of paragraph (4) of section 228(a) of the Social Security Act

(added by subsection (a) of this section), an application filed under section 103 of the Social Security Amendments of 1965 before July 1966 shall be regarded as an application under such section 228 and shall, for purposes of such paragraph and of the last sentence of such section 228(a), be deemed to have been filed in July 1966, unless the person by whom or on whose behalf such application was filed notifies the Secretary that he does not want such application so regarded.

And the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with the following amendments:

On page 19 of the Senate engrossed amendments, strike out line 4 and insert:

Sec. 303. Temporary duty-free entry for gifts from members of Armed Forces in combat zones.

(a) *GIFTS COSTING $50 OR LESS.—Subpart B of part 1 of the appendix to*

On page 19 of the Senate engrossed amendments, in the matter following line 7, after "may prescribe" insert a comma.

On page 19 of the Senate engrossed amendments, in the fourth line from the bottom of the page, strike out "(b)" and insert: (*b*) *CLERICAL AMENDMENT.—*

On page 19 of the Senate engrossed amendments, in the last line, strike out "(c)" and insert: (*c*) *EFFECTIVE DATE.—*

And the Senate agree to the same.

W. D. MILLS,
CECIL R. KING,
HALE BOGGS,
EUGENE J. KEOGH,
JOHN W. BYRNES,
JAMES B. UTT,
Managers on the Part of the House.

RUSSELL B. LONG,
GEORGE A. SMATHERS,
CLINTON P. ANDERSON,
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. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, 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 following Senate amendments made technical, clerical, clarifying or conforming changes: 1, 2, 3, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 23, 24, 25, 27, 28, 29, 30, 31, and 32. With respect to these amendments (1) the House recedes, or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS

Amendments Nos. 4 and 5: The bill as passed by the House and the Senate permits employees to claim withholding allowances (which are to have the same effect as withholding exemptions for purposes of income tax withholding) equal to the number determined by dividing by $700 the excess of (1) estimated itemized deductions, over (2) an amount equal to the sum of a specified percentage of the first $7,500 of estimated wages and 17 percent of the remainder of the estimated wages. Under the bill as passed by the House, the percentage of the first $7,500 of estimated wages was 12 percent. Under Senate amendment No. 4, this percentage is reduced to 10 percent. The House recedes.

Under the bill as passed by the House, any fraction resulting from the computation was to be disregarded except that, if the number determined was one-half or more but less than 1, it was to be increased to 1. Under Senate amendment No. 5, fractional numbers are not to be taken into account. The House recedes.

The conferees on the part of the House and on the part of the Senate are concerned about the extent of overwithholding which prevails under existing law and which it appears will continue at a reduced level under the graduated withholding system provided by this bill, even with the withholding allowances as provided in the agreement reached by your conferees. For that reason, it has requested the Treasury Department to continue to survey and study ways and means of reducing overwithholding, particularly in the case of seasonal and intermittent employment, and has asked the Treasury Department, as it gains some experience under the system provided by the bill, to report back from time to time to the House Committee on Ways and Means and the Senate Committee on Finance as to any practicable means of reducing the remaining overwithholding.

Amendment No. 7: Under the bill as passed by the House, an employee's estimated itemized deductions for any estimation year could not be greater than the amount of the deductions (other than the deductions referred to in secs. 141 and 151 of the code and other than the deductions required to be taken into account in determining adjusted gross income under sec. 62 of the code) shown on his Federal income tax return for the taxable year preceding his estimation year. Under Senate amendment No. 7, if the employee did not show such deductions on his return for such preceding taxable year, the amount of his estimated itemized deductions is not to exceed the lesser of $1,000 or 10 percent of the wages shown on such return. The House recedes.

OPTION OF INDIVIDUALS TO DISREGARD BALANCES DUE AND OVERPAYMENTS OF $5 OR LESS

Amendment No. 18: This amendment added a new section 5 to the code under which individuals were given an election to disregard balances due and overpayments of $5 or less where their withholding and other tax credits and payments of estimated tax for a year were within $5 of their tax liability for the year as shown on their returns. This election would have been effective for taxable years after 1966.

The Senate recedes.

Although the House conferees did not agree to Senate amendment No. 18, they recognize the desirability of simplifying tax collection and refund procedures, an objective toward which this amendment was directed. For this reason, the conferees, both on the part of the House and on the part of the Senate, are requesting the Treasury Department to study and report back to the House Committee on Ways and Means and the Senate Committee on Finance as to the practicability and desirability of forgoing taxpayments and refunds in cases where the amount due at the time the final return is filed is small because of substantial payments through withholding or payments of estimated tax, or both. This study and report to the committees is to be made in conjunction with the study on ways of relieving overwithholding referred to earlier in this statement.

FLOOR STOCKS TAX ON PASSENGER AUTOMOBILES, ETC.

Amendment No. 19: The bill as passed by the House provided for a floor stocks tax on passenger automobiles and trailers (other than house trailers) suitable for use in connection with passenger automobiles which on the day after the enactment of the bill are held by dealers and have not been used and are intended for sale. Under this provision the tax was 1 percent of the price for which the article was sold by the manufacturer, producer, or importer. The tax was to be paid by the dealer and be collected from him by the manufacturer, producer, or importer. The tax was to be paid at such time after 60 days after the date of enactment of the bill as may be prescribed by the Secretary of the Treasury or his delegate.

Senate amendment No. 19 strikes out this provision of the bill.

The House recedes.

LOCAL RESIDENTIAL TELEPHONE SERVICE

Amendment No. 22: The bill, as passed by the House, increased the tax on communication services to 10 percent (the rate in effect on December 31, 1965) for the period from the effective date of this provision through March 31, 1968. Senate amendment No. 22 provided that this temporary increase was not to apply to local residential telephone service, as defined in the amendment, and that the tax rates provided by existing law (3 percent for calendar year 1966, 2 percent for calendar year 1967, and 1 percent for calendar year 1968) were to continue to apply to this service.

The Senate recedes.

EFFECTIVE DATE OF INCREASE IN COMMUNICATIONS TAX

Amendment No. 26: Under the bill as passed by the House, the amendments made by section 202 of the bill (relating to communication services) were to take effect, under the rules prescribed by the bill, on the first day of the first month which begins more than 15 days after the date on which the bill is enacted. Under Senate amendment No. 26 the effective date is April 1, 1966.

The House recedes.

DISALLOWANCE OF DEDUCTION FOR CERTAIN INDIRECT CONTRIBUTIONS TO POLITICAL PARTIES

Amendment No. 33: This amendment adds a new section 276 to the code providing that no deduction otherwise allowable under chapter 1 of the code shall be allowed for any amount paid or incurred for—

(1) advertising in a convention program of a political party, or in any other publication if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate,

(2) admission to any dinner or program, if any part of the proceeds of such dinner or program directly or indirectly inures (or is intended to insure) to or for the use of a political party or a political candidate, or

(3) admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified with a political party or a political candidate.

The new section also defines the term "political party" and provides that proceeds are to be treated as inuring to or for the use of a political candidate only if (*a*) such proceeds may be used directly or indirectly for the purpose of furthering his candidacy for selection, nomination, or election to any elective public office, and (*b*) such proceeds are not received by such candidate in the ordinary course of a trade or business (other than the trade or business of holding elective public office). The new section applies to taxable years beginning after December 31, 1965, but only with respect to amounts paid or incurred after the date of the enactment of the bill.

The House recedes.

INFORMATION RETURNS MADE BY THE DEPARTMENT OF AGRICULTURE

Amendment No. 34: Section 6041(a) of the code now requires information returns to be made by persons engaged in trade or business and by officers and employees of the United States with respect to certain payments of $600 or more in a taxable year. The return sets forth the amount of the payments and the name and address of the recipient. Senate amendment No. 34 added a new subsection (e) to section 6041 providing (1) that information returns which are required under section 6041(a) with respect to payments under programs administered by the Department of Agriculture are to be rendered by the Secretary of Agriculture or by one or more officers or employees of the Department of Agriculture designated by the Secretary of Agriculture to make such returns on his behalf, and (2) that the Secretary of Agriculture (or the officer or employee rendering the return) is to furnish to each person whose name is set forth in the return a written statement showing the aggregate amount of payments to the person as shown on the return.

The Senate recedes.

Although the conferees on the part of the House, because of problems of administering the amendment, did not agree to Senate amendment No. 34, it was recognized that there is a problem in correlating the different payments which may be made to a farmer during a year at different times or by different offices or agencies of the Department of Agriculture. It was thought that a means should be developed administratively to report with respect to any farmer a total of the payments made to him which should be reported for tax purposes. Also, a study should be made of the feasibility of reporting to the farmer amounts paid to him which are reported to the Internal Revenue Service. These studies should be made by the Department of Agriculture in cooperation with the Department of the Treasury and a report made to the House Committee on Ways and Means and the Senate Committee on Finance early in the next Congress.

SOCIAL SECURITY BENEFITS FOR CERTAIN AGED UNINSURED INDIVIDUALS

Amendment No. 35: This amendment adds a new section to the bill to provide monthly benefit payments under section 202 of the Social Security Act to individuals who meet the requirements of the new provisions. Under the Senate amendment, an individual would be entitled to the new benefits if he has filed application for the benefits and (*a*) has attained age 70, (*b*) either (i) is not and would not (upon filing application) be entitled to monthly benefits under existing section 202 for the month in which he attains age 70 or (if later) the month in which he files application for the new benefits, or (ii) is entitled to such benefits but the amount is less than the amount of the new benefits, and (*c*) is a resident of the United States (as defined in sec. 210(i) of the Social Security Act) and is a citizen of the United States or an alien lawfully admitted for permanent residence who has resided in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application for the new benefits.

Under the Senate amendment, the amount of the new monthly benefit would (in effect) be $44, except that the amount would be $22 in the case of a married woman whose husband is entitled to the

new benefits. Under the Senate amendment the new provisions would apply for months after September 1966, and section 227 of the Social Security Act (relating to transitional insured status) would be repealed as of the close of September 1966.

The Senate amendment authorized appropriations to be made from time to time to the Federal old-age and survivors insurance trust fund and to the Federal hospital insurance trust fund to place each trust fund in the same position in which it would have been but for the Senate amendment.

Under the conference agreement, the House recedes with an amendment in the nature of a substitute for the Senate amendment. Subsection (a) of section 302 of the bill as agreed to in conference adds a new section 228 to the Social Security Act providing for benefits at age 72 for certain uninsured individuals.

Under subsection (a) of the new section 228 an individual is (subject to the limitations provided by sec. 228) to be entitled to benefits if he—

(1) has attained age 72;

(2) attained such age before 1968 or has not less than three quarters of coverage (whenever acquired) for each calendar year elapsing after 1966 and before the year in which he attained such age;

(3) is a resident of the United States (as defined in the second sentence of subsec. (e) of the new sec. 228), and is a citizen of the United States or an alien lawfully admitted for permanent residence who has resided in the United States (as defined in sec. 210(i) of the Social Security Act) continuously during the 5 years immediately preceding the month in which he files application under new section 228; and

(4) has filed application for benefits under new section 228.

Entitlement is to begin with the first month after September 1966 in which the individual becomes entitled to such benefits and is to end with the month preceding the month in which he dies.

Subsection (b) of the new section 228 provides that the benefit amount for any month is to be $35, except that if both husband and wife are entitled (or upon application would be entitled) to benefits under new section 228 for any month, the husband's benefit for such month is to be $35 and the wife's benefit is to be $17.50.

Subsection (c) of the new section 228 provides for the reduction of the benefits under this new provision on account of periodic benefits for which the individuals concerned are eligible under governmental pension systems (as defined in new subsec. (h)(2)).

Under paragraph (1) of the new subsection (c) the amount of the new benefit for any individual is first reduced by the periodic benefits under governmental pension systems for which such individual is eligible.

Paragraphs (2) and (3) relate to husbands and wives and in effect provide that the new benefit amount to which one spouse is entitled will be further reduced, in the manner specified, by a portion of the periodic benefits for which the other spouse is eligible under governmental pension systems.

Paragraph (4) of the new subsection (c) provides in effect that, in determining the eligibility of individuals for periodic benefits under governmental pension systems, applications for such benefits shall be

deemed to have been filed and the individuals concerned shall be deemed to have retired.

Paragraph (5) of the new subsection (c) provides that where a periodic benefit is payable on a basis other than a calendar month, the Secretary of Health, Education, and Welfare is to allocate the amount of such benefit to the appropriate calendar months.

Paragraph (6) of the new subsection (c) provides that a monthly benefit amount under the new provision (determined before rounding under new subsec. (c)(7)) of less than $1 is to be reduced to zero. Where both husband and wife are entitled to benefits under the new provision for the month, their benefit amounts are to be reduced to zero only if, after such amounts are combined (but before rounding under new subsec. (c)(7)), they aggregate less than $1.

Paragraph (7) of the new subsection (c) provides that any benefit amount which is not a multiple of 10 cents is to be raised to the next higher multiple of 10 cents. In the case of a husband and wife, this rounding provision is to be applied separately to the benefit of each spouse.

Paragraph (8) of the new subsection (c) provides that, under regulations prescribed by the Secretary of Health, Education, and Welfare, where the amount otherwise payable under the new provision to an individual (or to a husband and wife) is less than $5, that amount may be accumulated. Where the amounts so accumulated equal or exceed $5, they will become immediately payable.

Subsection (d) of the new section 228 provides, in general, that the benefit to which any individual is entitled under section 228 for any month is not to be paid if he receives aid or assistance in the form of money payments in such month under a State plan approved under title I, IV, X, XIV, or XVI of the Social Security Act. Such benefit for any month is also not to be paid if such individual's spouse receives such aid or assistance in such month and the needs of such individual were taken into account in determining eligibility for (or the amount of) such aid or assistance.

Subsection (e) of the new section 228 provides that the benefit to which any individual is otherwise entitled under the new section 228 is not to be paid for any month during which the individual is not a resident of the United States. For this purpose, the term "United States" means the 50 States and the District of Columbia.

Subsection (f) of the new section 228 provides that monthly benefits under the new section are to be treated as monthly insurance benefits under section 202 of the Social Security Act for purposes of sections 202(t) (relating to suspension of benefits of aliens who are outside United States), 202(u) (relating to conviction for certain offenses), and 1840 (relating to payment of premiums for supplementary medical insurance benefits). It is to be noted that this treatment (as monthly benefits under sec. 202) does not apply, for example, with respect to section 226 of the Social Security Act (relating to entitlement to hospital insurance benefits) or to section 202(m) of such act (relating to minimum benefits).

Subsection (g) authorizes to be appropriated to the Federal old-age and survivors insurance trust fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the Secretary of Health, Education, and Welfare deems necessary on account of—

(1) benefit payments made under the new section 228 during the second preceding fiscal year (and all fiscal years prior thereto

which begin after June 30, 1966) to individuals who had less than three quarters of coverage as of the beginning of the calendar year in which falls the month for which such benefit payments were made;

(2) the additional administrative expenses resulting from such benefit payments; and

(3) any loss in interest to such trust fund resulting from such benefit payments and administrative expenses;

in order to place such trust fund in the same position at the end of such fiscal year as it would have been in if such benefit payments had not been made.

Subsection (h) provides definitions for the new section 228.

Paragraph (1) provides that the term "quarter of coverage" includes a quarter of coverage as defined in section 5(l) of the Railroad Retirement Act of 1937.

Paragraph (2) defines the term "governmental pension system" to mean the insurance system established by title II of the Social Security Act or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (*a*) pensions, (*b*) retirement or retired pay, or (*c*) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death).

Paragraph (3) provides that the term "periodic benefit" includes a benefit payable in a lump sum if it is in commutation of or a substitute for, periodic payments.

Paragraph (4) provides that the determination of whether an individual is a husband or wife for any month is to be made under the general rules of subsection (h) of section 216 without regard to the special rules in subsections (b) and (f) of such section.

The new subsection (b) of section 302 of the bill, as agreed to in conference, provides that, for purposes of paragraph (4) of the new section 228(a) of the Social Security Act (which requires the filing of an application as a condition of entitlement to the new benefits), applications filed before July of 1966 under section 103 of the Social Security Amendments of 1965 (which provides eligibility for hospital insurance benefits for certain uninsured individuals) shall be treated also as an application for benefits under the new section 228.

DUTY FREE TREATMENT OF GIFTS FROM SERVICEMEN IN COMBAT AREAS

Amendment No. 36: Under existing law (sec. 321(a) of the Tariff Act of 1930) bona fide gifts from abroad may be imported free of duty if the retail value in the country of shipment does not exceed $10. Senate amendment No. 36 adds a new item to the tariff schedules providing for the temporary duty free entry of articles constituting a bona fide gift from a member of the Armed Forces of the United States serving in a combat zone to the extent such articles in any shipment do not exceed $50 in aggregate retail value in the country of shipment and with such limitations on the importation of alcoholic beverages and tobacco products as the Secretary of the Treasury may prescribe. The provision would apply only if the articles are purchased in or through authorized agencies of the Armed Forces of the

United States or in accordance with regulations prescribed by the Secretary of Defense. For purposes of this provision the term "combat zone" is any area designated by the President by an Executive order under section 112(c) of the Internal Revenue Code of 1954 (relating to exclusion from gross income for certain combat pay of members of the Armed Forces). On April 24, 1965, the President designated Vietnam and adjacent waters as a combat zone.

The Senate amendment applies to articles entered after the date of the enactment of the bill and on or before December 31, 1967.

The House recedes with clerical amendments.

W. D. MILLS,
CECIL R. KING,
HALE BOGGS,
EUGENE J. KEOGH,
JOHN W. BYRNES,
JAMES B. UTT,
Managers on the Part of the House.

O

TAX ADJUSTMENT ACT OF 1966

Mr. MILLS. Mr. Speaker, I call up the conference report on the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax reductions, and for other purposes, 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.

Mr. MILLS (interrupting the reading of the statement). Mr. Speaker, in view of the fact that it is our intention fully to discuss and explain the conference report, I would ask unanimous consent to dispense with further reading of the

statement and ask that the statement be printed in the RECORD at this point.

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

There was no objection.

(For conference report and statement, see proceedings of the House of Mar. 14, 1966, pp. 5527–5530.)

The SPEAKER. The gentleman from Arkansas is recognized for 1 hour.

Mr. MILLS. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, the conference report which we bring to the House pertains to the bill H.R. 12752, the Tax Adjustment Act of 1966.

GENERAL

Before discussing the conference report in detail, I should like to point out that it has been barely 2 months since the President sent his tax proposals to the Congress. For the second time in 2 years, the Congress has acted with dispatch on a major tax bill. Our target was March 15. If this conference report is agreed to, we will hit that target. What is more, the action this time was on a bill to raise revenue and not on a bill to reduce taxes. Congress has demonstrated, in other words, that it can and will take action quickly, both to lower revenues and to raise them, whenever there is clear evidence of the need for quick action.

Let me turn now to the language as agreed to by the conferees. The conference agreement does not depart to any significant extent from the bill passed by the House on February 23. This is indicated by the fact that the bill as passed by the House provided for an increase in administrative-budget revenues of $1.2 billion in the fiscal year 1966 and an increase of $4.8 billion in the fiscal year 1967. The bill as agreed to by the conferees provides for an increase in administrative-budget revenues of $1.1 billion in the fiscal year 1966 and $4.8 billion in the fiscal year 1967. There is virtually no difference, then, in terms of revenue between the bill that was passed by the House and the bill agreed to by the conferees. This result is significant, for the bill passed by the Senate provided for substantially less revenue than the bill passed by the House. The Senate-approved bill would have provided $1.1 billion in administrative-budget revenues in the fiscal year 1966 and only $3.9 billion in the fiscal year 1967.

The language agreed to by the conferees represents a responsible approach in helping to meet the financial demands of the Vietnam conflict. These demands—which are the sole reason for this bill—cannot be met out of the revenues generated under existing tax rates. Significant additional revenues must be provided. Without these additional revenues, there would be too large a deficit in the budget. Such a deficit, occurring at a time when our economy is once again operating at close to full employment levels and capacity, might generate serious inflationary pressures.

All told, there were 36 numbered Senate amendments to the bill as passed by the House. Sixteen of these amendments, however, were technical, clerical, or conforming in nature. Of the remaining 20 amendments, 8 were connected with 2 relatively minor revisions in the provisions of the House-passed bill.

Of the 12 amendments that I would classify as substantive, the conferees on the part of the Senate agreed to recede on 6. The conferees on the part of the House receded on six of these amendments, three of which concern matters not directly related to the provisions of the bill passed by the House.

SOCIAL SECURITY BENEFITS FOR CERTAIN PERSONS AGED 72 AND OVER

Perhaps the most important Senate amendment to the bill, which in a greatly modified form was agreed to by the conferees, involves a social security amendment and not an income or excise tax matter. That amendment was sponsored by Senator PROUTY. It would have authorized a minimum social security benefit of $44 a month—$22 for a wife—to all persons not eligible for social security benefits who have attained age 70 now and in the future. People who qualified for monthly social security benefits of $35 or $17.50 under the special transitional insured status provision enacted last year for people already in their seventies would have had their benefits raised to $44 and $22. The benefits would have been paid regardless of the entitlement under other Government retirement systems—in other words, on top of any Federal, State, or local pension. It would have called for a first-year expenditure of $790 million from the general fund in fiscal 1967, $735 million in fiscal 1968 and so forth for a considerable number of years. The amendment would have resulted in a substantial drain on the railroad retirement account and would have left that system with a very large actuarial deficiency. In addition, it would have made these new benefits available to persons receiving old-age assistance, and, in most cases, their assistance payments would have been reduced by the amount of these benefits with the result that such individuals would not be better off than they now are. The effect of the amendment would have been to shift an additional part of the burden of support of the needy aged from State funds to Federal funds. It would have covered persons aged 70 or over for all future years instead of merely on a transitional basis. It would have repealed the transitional insured status provision which we enacted just last year.

Clearly, this amendment in the form in which it came to us from the other body would have accomplished its basic purpose in a very costly and inefficient manner.

The Senate conferees agreed to extensive modifications to bring it more in line with the legislation which the Congress enacted last year authorizing benefits for certain aged people at age 72 who have as little as three quarters of coverage.

Benefit amount: Under the conference agreement, the benefit amount, as in last year's law, would be $35 for the husband and $17.50 for the wife, instead of $44 and $22.

Transitional provision: A transitional provision has been included, similar to the one we provided last year for the uninsured aged under hospital insurance, so that persons who attain age 72 in 1968, or later, will be required to have at least three quarters of coverage. Eventually, the number of quarters required will merge with the regular insured status requirements of the law.

Number of persons covered: The provision agreed to by the conferees makes an estimated 370,000 persons who are now 72 or over, or who will reach the age of 72 in either 1966 or 1967, eligible to receive social security benefits who do not now receive such benefits. About two-thirds of these beneficiaries will be women and 80 percent of the women will be widows. Thus, the typical beneficiary might be said to be a widow aged 85, whose husband had been a farmer who died in the early 1950's.

Offset provision: Another modification made by the conference committee would be the imposition of an offset for amounts received under other governmental retirement systems against the entitlement under the new program. The objective is to guarantee to these aged individuals retirement payments of $35 a month for the husband, $17.50 for the wife, or a family total of $52.50. The offset would apply to payments made under Federal, State, or local governmental pension systems, and would include payments of first, pensions; second, retirement or retired pay; or third, annuities or similar amounts payable on account of personal services performed, but would not include any payment under any workers' compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death.

Of course, Mr. Speaker, I should mention that this offset provision will not apply to amounts payable under national service life insurance, or U.S. Government life insurance policies.

Examples of offset: Mr. Speaker, let me illustrate the manner in which this offset would work. First, take the case of a retired State employee, age 72, who is receiving a State pension of $25 and who has a wife age 72. Under this provision, he would receive an additional $10, bringing his pension and benefit receipts up to $35, and his wife would receive a benefit of $17.50, making a total family income from these sources of $52.50.

Take another example, an aged retired governmental employee who receives $10 a month from a local pension and whose wife receives $30 per month as a retired schoolteacher. Their total income from these other governmental sources is $40 per month. Under this language, an additional $12.50 would be payable to the husband, bringing their total up to $52.50.

A third case shows how this language excludes from the provision retired employees who are receiving substantial amounts from other governmental sources. Take the case of a retired Government employee who is receiving $300 a month. Under this language, he would not receive additional amounts, nor would

his wife. Or, take the case of a Government employee, age 69, who is still working but who—if he retired—could receive a pension of $200 per month, and who has a wife age 72. Neither would receive anything under this amendment. Mr. Speaker, I will insert at this point a table showing further illustrations:

ILLUSTRATIONS OF SOCIAL SECURITY BENEFITS PAYABLE UNDER AMENDMENT FOR CASES OF PERSONS RECEIVING GOVERNMENTAL PENSION SYSTEM BENEFITS

Case A–1: Government employee aged 69 working, but eligible for pension of $100; his wife is aged 72. Neither receive anything under this amendment.

Case A–2: Same as case A–1 except his potential pension is $40; his wife receives $12.50 under this amendment.

Case A–3: Same as case A–1, except his potential pension is $15; his wife receives $35 under this amendment.

Case B–1: Retired Government employee aged 72, with wife same age, receiving pension of $80 per month; neither receive anything under this amendment.

Case B–2: Same as case B–1, except husband's pension is $40; he receives nothing, and his wife receives $12.50 under this amendment.

Case B–3: Same as Case B–1, except husband's pension is $20; he receives $15, and his wife receives $17.50 under this amendment.

Case C: Husband and wife both aged 72 or over and both receiving Government pensions, as follows:

Government pension		Social security benefit under this bill	
Husband	Wife	Husband	Wife
$50	$20	----------	----------
20	50	----------	----------
40	10	----------	$2.50
10	40	$2.50	----------
30	10	5.00	7.50
10	30	12.50	----------

FINANCING

Mr. Speaker, let me explain the financing of the conference language. Under this substitute, the financing initially will come from the social security old-age and survivors insurance trust fund, which in turn will be reimbursed from the general fund of the Treasury beginning with the fiscal year ending June 30, 1969, and continuing in this manner for each year. The reimbursements will be for benefit payments to individuals who have less than three quarters of coverage, administrative expenses, and the loss of interest to the trust fund resulting from the benefit payments and administrative expenses. The basic concept, Mr. Speaker, is to place the trust fund in the same position at the end of each fiscal year beginning with June 30, 1969, as it would have been in if such payments had not been made.

In summary, this financing is sounder fiscally and follows more closely the benefit eligibility principles of past social security legislation. It reduces the Prouty amendment general revenue expenditures almost eightfold and will have no budget impact until fiscal 1969.

The first year cost under the Prouty amendment would have been around $790 million; the first year cost under this amendment will be about $95 million for fiscal year 1967, and about $115 million in fiscal year 1968. Thereafter, the cost for each fiscal year will decrease.

EFFECTIVE DATE

Mr. Speaker, the effective date for the benefits under the conference agreement will be for the month of October 1966.

SUMMARY

Mr. Speaker, your conferees believe the approach contained in this conference agreement is far preferable to the language contained in the Prouty amendment.

This approach has a number of advantages—

First. It is in accord with the general approach which we took last year with respect to the transitional insured status provision, and with respect to coverage of the uninsured aged under the hospital insurance provision;

Second. It provides for a washout effect of transitional benefits for the aged which will not inhibit the orderly extension of social security coverage;

Third. It would not substitute Federal funds for State funds as the base of public assistance payments;

Fourth. It will not add to the actuarial burdens of the railroad retirement system;

Fifth. It contains an offset so that inequitable results will not be obtained by putting this benefit on top of and without regard to benefits received under other governmental pension systems; and

Sixth. It will provide real assistance for many of our elderly citizens who are most in need of assistance.

FLOOR STOCK TAX ON AUTOMOBILES

A second important change in the bill passed by the House that was agreed to by the conferees concerns the floor stocks tax on passenger automobiles. The bill passed by the House provided that dealers and distributors would be assessed a tax equal to 1 percent of the manufacturer's price of the cars they held in inventory on the day after the date of enactment of this bill.

The conferees on the part of the House agreed to Senate amendments which delete the floor stocks tax from the bill. On the day following the date of enactment of the bill, the manufacturer's excise tax will rise from 6 to 7 percent with regard only to cars shipped by manufacturers and not with regard to new cars held by dealers or distributors on that date. It is estimated that this amendment will result in the collection of $25 million less in revenue in the fiscal year 1966 than the bill passed by the House.

WITHHOLDING ALLOWANCES

Two of the Senate amendments agreed to by the conferees on the part of the House concern the procedure for computing withholding allowances. Members will recall that the bill passed by the House included provisions intended to permit persons with relatively large itemized deductions to adjust their withholding in a manner that would prevent excessive overwithholding. The adjustment procedure consists of a method whereby withholding allowances may be claimed. Such allowances are to be treated as additional withholding exemptions for withholding purposes.

The withholding allowance procedure was developed by the Committee on Ways and Means because its members were concerned about the overwithholding which would otherwise be experienced by some taxpayers as a consequence of the adoption of graduated withholding rates. While the procedure approved by the committee did much to solve the problem, it was felt that even more should be done, particularly for those with incomes of less than $10,000 who have heavy itemized deductions and therefore would experience significant overwithholding. That is why a committee amendment was offered on the floor of the House when H.R. 12752 was considered. That amendment would have permitted a person whose estimated itemized deductions exceeded the applicable limits—12 percent of estimated wage income up to $7,500 and 17 percent of estimated wage income above $7,500—to claim a single withholding allowance if his excess itemized deductions exceeded $350 rather than a full $700.

The Senate considered the graduated withholding system further, having the benefit of the earlier deliberations of the House. As a result, the Senate modified the provision adopted on the floor of the House. The Senate amendments require that excess itemized deductions equal a full $700 before a withholding allowance can be claimed but, to offset this, reduce the percentage upon which excess itemized deductions are based from 12 percent of the first $7,500 of estimated wage income to 10 percent of such income. No change was made in the 17 percent requirement which applies to estimated wage and salary income in excess of $7,500.

The conferees on the part of the House agreed to the Senate amendments just explained. It was pointed out that the procedure adopted in the amendment submitted on the floor of the House would have resulted in underwithholding for some persons who were merely trying to reduce overwithholding. The House conferees agreed that it would be unfortunate if a taxpayer found himself faced with an unexpected tax bill at the end of the year simply because he followed an approved procedure for reducing overwithholding. Furthermore, in the opinion of the House conferees the objective of the provision adopted on the floor of the House will be largely achieved by reducing the percentage limit for the computation of excess itemized deductions from 12 to 10 percent of the first $7,500 of estimated wage income. The latter change will insure that persons with incomes of less than $10,000 and relatively large itemized deductions have ready access to the withholding allowance procedure.

INDIRECT CONTRIBUTIONS TO POLITICAL PARTIES

The two remaining Senate amendments of importance agreed to by the conferees on the part of the House involve matters not directly related to the provisions of the bill passed by the House. The first of these disallows deductions for indirect contributions to political parties. The amendment is intended to

clear up an area of uncertainty under existing law. It does so by clearly disallowing any deduction for advertising in a convention program of a political party or in any other publication if any part of the net proceeds of the advertising inures to the benefit of a political party or candidate. It also disallows deductions for payments made in connection with any dinner or program if any part of the proceeds inures to the use of a political party or candidate. Finally, it disallows deductions for admission payments to inaugural balls, galas, parades, concerts, or similar events. The amendment applies to taxable years which begin after December 31, 1965, with respect to amounts paid or incurred after the date of enactment of this act. The conferees on the part of the House agreed that it was desirable to remove any uncertainty concerning the deductibility of such payments.

DUTY-FREE GIFTS FROM SERVICEMEN IN COMBAT ZONES

The final Senate amendment of substance that was agreed to by the conferees on the part of the House concerns a tariff provision. It raises the value of gifts which may be sent into this country from abroad without payment of duty from $10 to $50 when the gifts are sent by members of our Armed Forces who are serving in a combat zone as designated by the President. In view of the fact that a similar regulation was in effect from December 5, 1942, until July 1, 1961, with respect to gifts from servicemen stationed abroad, the House conferees agreed that this privilege should be extended to our servicemen now in Vietnam.

The $50 limit will be computed on the basis of retail values in the country of shipment. The Secretary of the Treasury or his delegate is authorized to limit imports of alcoholic beverages and tobacco products. Furthermore, to qualify for the special $50 exemption limit, the gift articles will have to be purchased in or through authorized agencies of the Armed Forces.

The Treasury Department estimates that this amendment will involve an additional outflow of only $9 or $10 million as far as the balance of payments is concerned. The reduction in customs duties which will result from this amendment will be negligible. The new provision will apply on articles which enter the country after the date of enactment of this bill. The provision, however, will expire on December 31, 1967.

MISCELLANEOUS CHANGES

I mentioned earlier that eight amendments agreed to by the conferees on the part of the House concerned minor modifications of the provisions in the bill passed by the House. Six of these amendments involve a change in the effective date of the provisions concerning communications services. The bill passed by the House provided that the 10 percent tax on local and toll telephone service and teletypewriter exchange service was to be effective with respect to bills rendered on or after the first day of the first month which begins more than 15 days after the date on which this bill is enacted. The bill as agreed to by the conferees sets April 1, 1966, as the effective date for the communications tax provisions. That is, the 10 percent rate will be in effect on bills for taxable communications services rendered on or after April 1, 1966. Since Congress has acted with dispatch on this bill, the communications tax provision would, in all probability, have gone into effect on April 1 in any case. The modification merely clarifies the exact date on which the new provisions will become effective.

Two other minor technical amendments provide that in computing eligible withholding allowances, a taxpayer who used the standard deduction in the prior year may consider the amount of his itemized deductions for the prior year equaled 10 percent of his wages in that year or $1,000, whichever is less. These are simply amendments to clarify the provisions of the House bill.

SENATE AMENDMENTS DELETED IN CONFERENCE

OPTION OF INDIVIDUAL INCOME TAXPAYERS TO DISREGARD BALANCES DUE AND OVERPAYMENTS OF $5 OR LESS

The Senate added amendment under which individuals were given an election to disregard balances due and overpayments of $5 or less where their withholding and other tax credits and payments of estimated income tax for a year were within $5 of their tax liability for that year as shown on their tax returns. The conferees deleted this amendment. However, the conferees are requesting the Treasury Department to study and report back to the House Committee on Ways and Means and the Senate Committee on Finance as to the practicability and desirability of forgoing tax payments and refunds where the amount due at the time of the final return is small. This study and report is to be made in conjunction with a study on ways of relieving overwithholding which was also directed to be made.

EXEMPTION OF LOCAL RESIDENTIAL TELEPHONE SERVICE FROM RESTORATION OF TAX

The House-passed bill restored temporarily the 10-percent tax on local and long-distance telephone and teletypewriter services. This was the rate in effect prior to January 1, 1966. On January 1, 1966, the rate had dropped from 10 percent to 3 percent. A Senate amendment provided that this temporary restoration of the tax—through March 31, 1968—was not to apply to local residential telephone service. The conferees agreed to delete this amendment.

INFORMATION RETURNS

Under present law persons engaged in a trade or business and officers and employees of the U.S. Government who make payments of $600 or more to a person are required to file information returns with the Internal Revenue Service. This includes payments made by the Department of Agriculture to farmers. The Senate added an amendment requiring that copies of these information returns in the case of farmers were also to be furnished to the farmers. The conferees deleted this amendment. In this connection, a study is to be made by the Department of Agriculture in cooperation with the Department of the Treasury and a report is to be made to the House Committee on Ways and Means and the Senate Committee on Finance early in the next Congress. This study is to also include the administrative feasibility of making such reports.

REVENUE TABLES AND COMPARISON OF EFFECT OF BILL IN VARIOUS STAGES

Estimated revenue increase and expenditure increase (−) under H.R. 12752 as reported by the Ways and Means Committee, as passed by the House of Representatives, as reported by the Senate Finance Committee, as passed by the Senate, and as reported by the conference; fiscal years 1966 and 1967

[In millions of dollars]

	As reported by the Ways and Means Committee, Feb. 15, 1966		As passed by the House of Representatives, Feb. 23, 1966		As reported by the Senate Finance Committee, Mar. 2, 1966		As passed by the Senate, Mar. 9, 1966		As reported by the conference, March 1966	
	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967
Excises:										
Communication taxes:										
Local residential telephone		315		315		315				315
Long-distance service and local business telephone service		470		470		470		470		470
Automobile tax:										
Floor stocks	25		25							
Sales on and after effective date	35	420	35	420	35	420	35	420	35	420
Total excises	60	1,205	60	1,205	35	1,205	35	890	35	1,205
Corporate tax speedup	1,000	3,200	1,000	3,200	1,000	3,200	1,000	3,200	1,000	3,200
Graduated withholding for individuals	95	275	95	210	95	245	95	245	95	245
Increase in declaration requirement for individuals from 70 to 80 percent		150		150		150		150		150

Footnotes at end of table.

Estimated revenue increase and expenditure increase (—) under H.R. 12752 as reported by the Ways and Means Committee, as passed by the House of Representatives, as reported by the Senate Finance Committee, as passed by the Senate, and as reported by the conference; fiscal years 1966 and 1967—Continued

[In millions of dollars]

	As reported by the Ways and Means Committee, Feb. 15, 1966		As passed by the House of Representatives, Feb. 23, 1966		As reported by the Senate Finance Committee, Mar. 2, 1966		As passed by the Senate, Mar. 9, 1966		As reported by the conference, March 1966	
	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967
Taxpayer election to disregard final tax liability of +$5 to −$5							(1)	(1)		
Reimbursement of social security trust fund by general fund for benefits for certain aged individuals								−590		(2)
Total, administrative budget	1,155	4,830	1,155	4,765	1,130	4,800	1,130	3,895	1,130	4,800
Self-employment tax, quarterly declaration payments		200		200		200		200		200
Social security benefits for certain aged individuals								−590		[2] −95
Reimbursement of social security trust fund by general fund for benefits for certain aged individuals								590		(2)
Total, cash budget	1,155	5,030	1,155	4,965	1,130	5,000		4,095	1,130	4,905

[1] No revenue impact in fiscal years 1966 and 1967; estimated revenue loss for fiscal year 1968 is $10 million.

[2] Reimbursement from the general fund of its share of the benefits payable in fiscal year 1967 does not occur until fiscal year 1969.

Comparison of administrative budget receipts and expenditures with and without H.R. 12752 as reported by the Ways and Means Committee, as passed by the House of Representatives, as reported by the Senate Finance Committee, as passed by the Senate, and as reported by the conference; fiscal years 1966 and 1967 [1]

[In billions of dollars]

	As reported by the Ways and Means Committee, Feb. 15, 1966		As passed by the House of Representatives, Feb. 23, 1966		As reported by the Senate Finance Committee, Mar. 2, 1966		As passed by the Senate, Mar. 9, 1966		As reported by the conference, Mar. 14, 1966	
	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967
Expenditures without bill	106.4	112.8	106.4	112.8	106.4	112.8	106.4	112.8	106.4	112.8
Receipts without bill	98.8	106.2	98.8	106.2	98.8	106.2	98.8	106.2	98.8	106.2
Deficit without bill	7.6	6.7	7.6	6.7	7.6	6.7	7.6	6.7	7.6	6.7
Increase in expenditures under bill	0	0	0	0	0	0	0	[2] .6	0	(2)
Total expenditures (including those under bill)	106.4	112.8	106.4	112.8	106.4	112.8	106.4	113.4	106.4	112.8
Increase in receipts under bill	1.2	4.8	1.2	4.8	1.1	4.8	1.1	4.5	1.1	4.8
Total receipts (including those under bill)	100.0	111.0	100.0	111.0	100.0	111.0	100.0	110.7	110.0	111.0
Deficit after taking account of revenues and expenditures under bill	6.4	1.8	6.4	1.9	6.5	1.9	6.5	2.8	6.5	1.9

[1] Figures are based on President's budget message, and therefore totals include estimated effects of proposed legislation other than H.R. 12752. Figures are rounded and will not necessarily add to totals.

[2] As passed by the Senate this figure represents reimbursement in fiscal year 1967 of social security trust fund by general fund for $590,000,000 of benefits for certain aged individuals; as reported by the conference the amount and coverage of benefits were reduced and reimbursement by the general fund of the $95,000,000 of benefits payable in fiscal year 1967 does not occur until fiscal year 1969.

Mr. GERALD R. FORD. Mr. Speaker, will the distinguished gentleman from Arkansas, the chairman of the Committee on Ways and Means, yield?

Mr. MILLS. I am glad to yield to the distinguished minority leader, the gentleman from Michigan.

Mr. GERALD R. FORD. The Secretary of the Treasury made a very significant speech in my State of Michigan yesterday before the Economic Club of the City of Detroit. He talked about taxes, inflation and the problems of our economy. Prior to making that speech he had a press conference and in that press conference, he said the following, and I quote:

My whole speech implies there might be a need for further moderate tax increases depending on the factors I mentioned in the speech.

Has there been any indication by the Secretary to the committee or to the chairman that such a request is in prospect?

Mr. MILLS. Not to me—there has not been any such indication. We are all concerned, as I know the gentleman from Michigan is concerned, with what the future holds. But none of us, at least I am not capable of adequately predicting what we may have in the future with respect to the costs in Vietnam, for instance. Frankly, I do not know what the future holds in that respect. I think we must keep abreast of what is occurring on a day-to-day basis and do what we can to protect the value of the dollar and to protect other values here in the United States.

I am sure that my friend would say with me that if the time came where it was necessary to prevent inflation to consider a tax bill that we ought to give consideration to it and reach a conclusion based upon what the facts are at that particular time.

Mr. GERALD R. FORD. Do you believe based on the facts as you have seen them so far that there is such a need for the kind of Federal tax increase mentioned by the Secretary?

Mr. MILLS. If the gentleman will remember, during the course of the general debate on the bill itself, the problem as I see it is primarily with respect to the enormous deficit, and I called it enormous, under the present conditions that we have in the fiscal year 1966 on the basis of projection—and that is all we have to go by. For the fiscal year 1967, we have a projected deficit of $1,800 million and certainly that kind of deficit would not exert as much inflationary pressure as does the present deficit of some $6½ billion projected for fiscal year 1966. I do not know what the final cost will be in 1967. But I say we must watch it in order to see to it that we take pains to preserve and protect the value of the dollar and avoid any decrease in it and any runaway inflation in prices.

Mr. GERALD R. FORD. One of the problems in this fiscal year as has been well pointed out in the minority views of the Committee on Appropriations on the bill that we will have before us later

today is the fact that the Department of Defense in the last 6 or 12 months has so grossly underestimated its anticipated expenditures. If we go on the basis of experience in the last 12 months and forecast what will happen in the next 12 months based on the figures of the Department of Defense, it does not look too encouraging. The Defense Department expenditure forecasts have badly missed their mark. The spending forecasts were too low and as a result there has been serious upward pressure on our national economy. Better spending forecasts by the Defense Department might have helped the Johnson-Humphrey administration in its decisions in meeting the challenge of inflation. Defense Department spending estimates were wrong. The Nation is in an inflationary spiral. The administration must bear the burden for the errors which have been made.

Mr. MILLS. I caution my friend against reaching any conclusions now about the matter, and I hope that he will not, because regardless of how far off the Department of Defense may have been at some time in the past, I point out realistically how difficult it is for any administration to project what the total costs of Government may be some 12 months or 18 months ahead. We all remember when President Eisenhower in his 1959 budget estimated a half-billion dollar surplus, and it turned out he was off $12.9 billion, because we had a deficit of $12.4 billion. I do think that it should be pointed out that there has been in the past 2 or 3 years, with respect to the total rate of spending, some overestimation of that rate of spending in total amount. In the 1965 budget the original estimate was $97.9. The actual figure was $96.5 billion. In 1964 the estimate was $98 billion. The actual figure was $97.7 billion.

Mr. GERALD R. FORD. I would not necessarily agree, but the record must speak for itself.

Mr. MILLS. If you go over the 2- or 3-year period, I believe you will be able to see that they have been about as accurate as anyone could possibly be, and they have actually overestimated, because we have ended up spending less than the budget suggested we might spend in some of that period of time. Of course, we have had some increases in revenue over what was projected. So the best thing for us at the moment to do is to keep our eyes and ears open and be attuned to the developments that happen from day to day and reach conclusions as to what we should do when we have full information with respect to the coming fiscal year.

Mr. BROCK. Mr. Speaker, will the gentleman yield for clarification of amendment No. 33?

Mr. MILLS. I am glad to yield to the gentleman from Tennessee.

Mr. BROCK. It is my understanding that in certain States there are nonpartisan publications which are published and which receive ads in a standard business fashion. On occasion both political parties perform services for that publication, and they receive payment for those services. Is it the intention of the gentleman from Arkansas to eliminate that sort of activity on the part of political parties?

For example, there are the distribution services and the sales of the magazine.

Mr. MILLS. If the gentleman will read the statement on page 8 of the report that we prepared in explanation of the amendment, he will get a clearer understanding of what was intended in the amendment.

Does my friend, the gentleman from Wisconsin, wish to respond to the question? Frankly, I do not know what the answer is. Each case depends on the facts. Did the gentleman from Wisconsin follow the question? We were thinking in terms of the publications of each party. Your attention is called to paragraph (1). I do not know just what the situation would be if it were a nonpartisan publication. It depends on where the money goes, mainly.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Wisconsin.

Mr. BYRNES of Wisconsin. I think the issue is whether there is a potential in revenues from the particular undertaking, be it an advertising venture, a catalog, a ball, or some other activity of that nature—if it has a potential of inuring to the benefit of a political party.

Mr. MILLS. A banquet.

Mr. BYRNES of Wisconsin. Yes, a banquet. Then the expense of that advertising or the expense of the admission charge could not be deducted as a business expense.

Mr. MILLS. In the case which the gentleman mentioned, that, it seems to me, would be in the field of nonpolitical activity. But if the proceeds of that venture inured to the benefit of either or both parties in Tennessee, or to any of the political candidates in Tennessee, the expense would probably not be deductible as I read it.

Mr. BROCK. I did not have particular reference to that point. I am speaking of nonpartisan publications for which both political parties perform services.

Mr. MILLS. You would have to give me more facts and particularly whether or not the proceeds go to the benefit of candidates or a party. If they do, the expense would appear not to be deductible. I want to make it clear that there is uncertainty at the present time.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I am glad to yield to the gentleman from Florida.

Mr. PEPPER. As I understand the able chairman, if the conference report is adopted, henceforth advertisements of business groups, business corporations, and business enterprises in publications put out by political parties or their respective units would no longer be tax-deductible?

Mr. MILLS. I do not know whether they are now or not. I would say to my friend from Florida that we are making it clear here that they are not deductible when they inure to the benefit of a political party or a political candidate in the future.

Mr. PEPPER. Mr. Speaker, will the gentleman yield for one further question?

Mr. MILLS. I yield to the gentleman from Florida.

Mr. PEPPER. I wonder if the committee, having taken that rather salutary approach, has in any way provided in this conference report for the removal of any exemptions that may now exist for certain radio and publication expense?

Mr. MILLS. No, we have not done anything except what we have done in this amendment we are talking about in that direction.

Mr. PEPPER. I thought since the gentleman from the other body was attempting to stop one source of loss of revenue which was being received for political purposes, consideration might now be given henceforth by the able Ways and Means Committee to publications that are nothing but political publications and radio programs that are nothing but political, and the question as to whether they are entitled tax exemption.

Mr. MILLS. Consideration would have to be given to that in the future. We did not do so here.

Mr. Speaker, I am convinced that the conferees have done the best job that it is possible for them to do with respect to the subject matter of this conference. I would urge the Members of the House to accept the conference report. Let us get the bill signed into law within the period that the committee had as its target date on the commencement. Therefore, I urge you to vote for the conference report.

Mr. BURTON of California. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from California.

Mr. BURTON of California. Mr. Speaker, there is a matter affecting California, New York, and two other States. These States have a program called disability insurance.

It is a program paid for entirely by a payroll deduction system. It is financed, as a rule, by employee contributions only.

It provides weekly payments in situations other than work-connected disability and injury. It is quite analogous to the workmen's compensation law, but neither the conference committee nor the gentleman's statement clarified this matter.

Will I be correct in assuming that these unemployment compensation disability payments will be treated just as the workmen compensation payments for purposes of the $35 payment provisions in the report?

Mr. MILLS. We specifically said, Mr. Speaker, in the conference report that, for purposes of any reduction in the new benefits, workmen's compensation would not be taken into account.

I do not know enough about the gentleman's provision, in the State of California, frankly, to know whether or not benefits under the provision would be taken into account for purposes of the offset. I will have to check with the

gentleman later to find out more detail about his State provisions.

Mr. CURTIS. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield 10 minutes to the gentleman from Missouri.

Mr. CURTIS. Mr. Speaker, I did not sign the conference report, but I would like to report that as far as the tax aspects of this bill are concerned, which was the bill that passed the House, I think the conferees in conference did a good job. The one feature that was changed was where we accepted a Senate amendment other than a number of technical amendments, I might say, which the Senate offered, which were very necessary to this bill. This one matter of substance that was changed has to do with the floor stock provision for automobiles owned by the dealers amounting to $25 million.

This is a matter that some of us on our side of the aisle opposed in the Ways and Means Committee in the first place. I am satisfied that this is a better tax bill now, partly for the reason as the chairman explained, but also because the administration's agreement that because we have given the floor stock exemption when the automobile excise tax was lowered, therefore when we increase it we ought to put back the tax on floor stock, is unsound. There are certain things that only go one way and not the other. You can either have a valve or a conduit. This happens to be a valve. The reason for the treatment of the floor stock when the tax went down was that automobile dealers were caught with higher priced inventory, inventory assessed at a higher tax rate than the new automobiles delivered after the tax went down. They could never get rid of that inventory, or at least they would have a difficult problem doing so. So we eased that off and said, "No. The floor stock tax will be waived."

However, when you go in the other direction and you go up with the tax, then the dealers are left with inventory of lower taxed cars. Obviously there is no problem in their getting rid of the floor stock at a lower price. So I was pleased about the elimination in conference of the floor stock tax.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield on that point?

Mr. CURTIS. Yes. I yield.

Mr. BYRNES of Wisconsin. I think it should be pointed out and understood that this tax is one which is assessed against the manufacturer.

Mr. CURTIS. That is right.

Mr. BYRNES of Wisconsin. You cannot impose it on the dealer and still be consistent with the philosophy as to where the impact of the tax is and its nature. It is a manufacturers tax and not a delears tax to begin with.

Mr. CURTIS. The gentleman is absolutely right. And it became one of the issues in the Ways and Means Committee as to whether we changed that manufacturers tax to a retailers tax. But at any rate, it is an improvement and I *wanted to point it out.*

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. Yes. I will be glad to yield to the chairman of the committee.

Mr. MILLS. The gentleman made the argument in the committee that the committee should not include it in the first place.

Mr. CURTIS. That is right. Now, as to why I have opposed the conference report. I think this is a very serious matter that the House at some time or other is going to have to face up to. We bring these tax bills in here under closed rules on the floor of the House, thus denying really to every Member of the House the opportunity to amend, even under our rules of germaneness in the House, which are fairly strict rules. Then under the procedure followed the bill goes over to the Senate where they have no rules of germaneness or closed rules.

Any Senator can offer an amendment on a tax bill, whether it pertains to the bill or not. Then the matter comes back to the conference and your conferees, who are members of the Committee on Ways and Means, are constantly confronted with material that we have not had an opportunity of studying and have not had the opportunity, really, to give a good opinion on. Now, it so happens that the Constitution prohibits tax measures from originating in the Senate. The Senate does have a right to amend. They have assumed that means they can amend regardless of whether it is germane or not. Now, I am not asking the Senate to adopt the House rule of germaneness, but I am asking that there be a rule of germaneness that applies to this kind of procedure. Otherwise we are constantly confronted with situations like the one that now faces us. There are three nongermane amendments in this conference report. Not only are they not germane, but two of them do not have anything to do with the Internal Revenue Code. We are confronted with this situation.

Now let me point out the question on the benefits of people over the age of 70. That is the way the Senate put it in. This was an amendment that was not even considered in the Senate Finance Committee. It was written on the floor of the Senate. Then it comes in to conference, and obviously it needed changing.

So the conferees attempt to write then and there this new language that you find in the report. The committee or the conferees had to meet yesterday to amend it even further. The point is this is no way to legislate. The objectives may be sound. I could not agree with the objectives on this more because Congressman BYRNES has primarily, and I have joined with him over a period of years in seeking to do something about these people over the age of 70. So has Congressman MILLS.

This was rejected, I might say, in the Social Security Act of 1965, although part of it was in there. However, the technical language used is very important and very serious. The House never considered it and the Ways and Means Committee never considered it and the Senate Finance Committee never considered it. If we want to do proper justice to people over 70 or to any group, we had better pay attention to what is the orderly way to write legislation.

The amendment in regard to the GI's overseas and what they can send back home duty free is another item. There is no question that if a bill for this purpose were introduced and offered before the Committee on Ways and Means, we woud get it in proper language and vote it out and it would pass here unanimously.

It would be considered in the other body in the same way and passed unanimously, and this could become law within a month, but properly drafted and fully considered.

Mr. Speaker, instead of that, this matter is put on a tax bill where it has no business. We had not really considered it. We tried to write this language in conference. I might say that I do not believe we did a very good job.

Again, Mr. Speaker, we want to be for the GI's. That is not the issue. The issue, however, if we really want to help them, is to vote for their interests following an orderly procedure in writing legislation.

Mr. Speaker, finally, as far as the Williams amendment is concerned, this has to do really with the Corrupt Practices Act. There is no question but that this hits at a very small part of the entire problem involved, how political parties and political candidates are financed.

Again, Mr. Speaker, this was written in a fashion where there was not proper consideration given to the entire problem.

Mr. Speaker, the author of the amendment, Senator WILLIAMS, of the other body, admitted it. The Treasury Department said they had not studied it. It is obvious, based upon the few questions asked today on the floor that the House of Representatives has never considered it, and the Committee on Ways and Means has never considered it.

Mr. Speaker, this procedure, in my opinion, makes a shambles of the legislative process.

Now, Mr. Speaker, let me talk as a politician. If we in the House of Representatives want to be able to amend tax bills and have our thoughts made a part of them, we had better start paying attention to either knocking out the closed rule under which we have to consider tax bills, or stand firm on this constitutional right that tax measures can originate only in the House of Representatives. And, if our colleagues in the other body have some ideas as to how they would like to amend tax bills, let them come over and consult with the House Members. I am certain, Mr. Speaker, that any one of us would be happy to accommodate them, and introduce a bill along the line that they would like so that it can be considered by the Committee on Ways and Means, so that it can be considered on the floor of the House, with testimony backing it up at a public hearing, and with a written report upon the bill.

Mr. Speaker, as matters stand here we are considering things in this tax bill that should be properly studied and properly debated.

Finally, Mr. Speaker, I would like to refer to some remarks that the gentle-

man from Michigan [Mr. GERALD R. FORD] directed to the chairman of the Committee on Ways and Means in regard to future tax increases, if I could have the attention of the gentleman.

The gentleman from Michigan [Mr. GERALD R. FORD] asked questions of the chairman of the Ways and Means Committee, the gentleman from Arkansas [Mr. MILLS] as to whether or not the administration had approached him about tax increases. The chairman of the Committee on Ways and Means replied that it had not. However, it looks very apparent to me that the administration has approached some of our colleagues in the Congress along this line.

This, I feel, is true because, beginning tomorrow, a subcommittee of the Joint Economic Committee, headed by the gentlewoman from Michigan [Mrs. GRIFFITHS] who also serves on the Committee on Ways and Means, plans to hold hearings on this subject of tax increases.

Mr. Speaker, I am a little bit worried about this, because I too am a member of the Joint Economic Committee, and some of my colleagues on the Committee on Ways and Means have been looking at me as if I had something to do with this bypassing of the Committee on Ways and Means.

Let me assure you that I have not, and I have not been a confidant as to the scheduling of this subcommittee's hearings. However, it is very obvious to me that the Secretary of the Treasury and others are behind these hearings that will start tomorrow, to be conducted by the Joint Economic Committee.

Mr. Speaker, I am hopeful that the administration will be a little more forthright in what they are trying to do as far as increased taxes are concerned, even though they will not consult with the chairman of the Committee on Ways and Means.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from Arkansas.

Mr. MILLS. It might not be unusual for me not to be considered on every question involving taxes, but let me clarify the gentleman's statement. The gentlewoman from Michigan [Mrs. GRIFFITHS] discussed this matter with me. I believe it was her idea, frankly. I do not think she had to be put up to holding her hearings. She wanted to know if I had any feelings that the hearings should not be held. I told her that it was perfectly all right with me, since any legislation would have to originate in the Committee on Ways and Means along this line anyway.

The SPEAKER pro tempore (Mr. ALBERT). The time of the gentleman from Missouri has expired.

Mr. MILLS. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. CURTIS. Mr. Speaker, I thank the gentleman from Arkansas for clarifying this. I believe that is probably so, because the gentlewoman from Michigan [Mrs. GRIFFITHS] has been very interested in this area, and has been quite concerned about the economic aspects of our tax laws. However, if the situation is that way, let me say this: The administration certainly has seized the opportunity—and it is very clear that they are more than cooperating with the gentlewoman from Michigan [Mrs. GRIFFITHS] in bringing about these hearings. It seems quite clear that the administration, at least, is sending up a trial balloon to see just what reaction there will be to the increased taxes.

I will close my remarks by simply saying we certainly need tightening in the fiscal area. But the other side of fiscal coin other than taxes and debt is expenditures, and the administration still seems completely unconcerned about the necessary reforms in the expenditure area to avert inflation.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLS. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. JONES].

(Mr. JONES of Missouri asked and was given permission to revise and extend his remarks.)

Mr. JONES of Missouri. Mr. Speaker, I hope I will not use the entire 5 minutes, but I do not wish to let this opportunity pass without making a few brief remarks about this.

Last June when we passed the tax bill, I voted against it. I said at that time that we were not providing for the recouping of losses in that tax bill and I predicted at that time that it would be necessary to have a tax bill to replace the losses. When this bill came up here last month, I voted against it because I felt it was a discrimination when we had eliminated the taxes on many of the luxury items, which were not being restored, although we did reinstate excise taxes on telephones and automobiles.

Now, when the bill comes back here, I think it is a worse bill because of what the gentleman from Missouri [Mr. CURTIS] just said: the way we permit the other body to insert items that are not germane. I hope some time this House will have the intestinal fortitude to adopt a rule that any amendment that is not germane under the rules of the House of Representatives will not even be considered when they are placed in a bill by the other body.

Now, as to the statement about a study for increased taxes, I do not think anybody has to be smart to know that we are going to have another tax bill before this session is out. You do not have to have hearings to arrive at that conclusion. I think it is apparent that we are going to have it. Another thing that I think is very wrong—and someone said how can you vote against a bill that is going to give some old folks some money. If you are laboring under the delusion that you are doing something there under a program that has been studied and planned, you are just as wrong as you can be. Hearings were not held in either House or Senate, and the amendments were adopted on the floor of the Senate.

There are so many things that need to be done with reference to social security that we should not try to correct them by amendments to a tax bill. It does not make sense.

For instance, some time ago I introduced a bill (H.R. 11327), which has been referred to the Committee on Veterans' Affairs, providing that certain social security benefits may be waived and not counted as income. This became necessary when increases under the Social Security Act had the effect of reducing veterans' and widows' benefits by an amount in excess of those increases granted by social security. I do not think this was intentional, and I do believe that this inequity should be corrected.

If we are going to amend the social security laws, let us amend them and help everybody and remove the inequities. But this bill does not remove these inequities at all. It touches on some of them.

Mr. Speaker, these are some of the reasons I am going to vote against this conference report. I hope this administration will have the wisdom to come up here and say: "We need money for Vietnam and we are recommending and advising you to provide an adequate tax to pay for Vietnam, and after that situation is over, take off the tax." That will solve this problem.

Mr. Speaker, it is my opinion that as long as we vote for these makeshift, piecemeal, patchwork type of bills that do not accomplish the announced purposes of the bill, in this case, namely, to raise more revenue for the conduct of the war in Vietnam, we will continue to confuse the taxpayer and make it more difficult to solve the problem.

How much more simple it would be if we would decide just how much money is needed and then provide an increase in the form of a surtax or an "excise" tax on personal and corporation income taxes, with the understanding that after the specific need has been met the tax will be automatically eliminated.

As I have said before, I realize it is so simple it will not be considered by the bureaucrats who make the recommendations to Congress, but I am willing to put my money where my mouth is that before this session of Congress adjourns, the administration will be back to Congress requesting another increase in taxes, and Congress will go along with the request. I don't relish the idea of increasing taxes, and would welcome reductions in expenditures, but I do believe it is better to pay as we go, and face the issues as they arise.

Mr. MILLS. Mr. Speaker, I yield 10 minutes to the gentleman from Wisconsin [Mr. BYRNES].

Mr. BYRNES of Wisconsin. Mr. Speaker, I certainly sympathize with the position taken by the gentleman who just left the floor, and the position taken by my colleague, the gentleman from Missouri [Mr. CURTIS], with respect to the amendments which were put on by the other body which would not have been germane if presented here. In fact we prevent any Member of the House from even proposing such amendments, even if germane, by reason of the fact that we consider this type of legislation in the House under a closed rule.

Of course, this creates a situation which we all recognize is overly fair to the Senate and completely unfair so far

as many Members of the House are concerned.

However, what we are talking about here now is a conference report. There is the problem of compromising between the position taken by the other body and the bill as it passed the House. There were some very adamant positions taken by the Senate.

But I would also point out that here in this tax bill we do have some problems as far as timing is concerned. Should this bill be delayed for any length of time, it could mean that badly needed revenue would be lost as the result of that delay. Frankly, Mr. Speaker, I hope this conference report will be adopted because I think it is essential in view of the current fiscal situation and the inflationary pressures that exist today that we provide the additional revenue that will be produced by this bill.

I would go one step further and say, however, that unless there are some changes made in our thinking in the area of governmental expenditures and Government fiscal policy, we are today on a collision course toward increased taxes. The only question seems to be as to the date when those taxes will be asked for by the administration. Unless there is some retrenchment, and unless there is some recognition that we are in a wartime situation, and must accommodate to that situation and provide for those increased costs of that war, not by increased taxes but by a reduction in expenditures, then the only alternative open to us will be an increase in taxes which I am sure the administration will then recommend. I assume that it will probably try to avoid doing so before the November election. But a tax increase is in the making unless this Congress and this administration at an early date—and today is not too soon—changes some of its attitudes with reference to some of the domestic spending that is being proposed here at home.

For this reason, I think the adoption of this conference report is essential at this time. As I said in the debate on this bill, I do not think at this time we can enjoy the luxury of the alternative as to whether we raise taxes or cut expenditures, because we have already incurred a deficit for fiscal 1966 that approaches $6.5 billion at a time of unprecedented economic activity. It is too late to change the spending picture for fiscal 1966 to the degree that would obviate the need for this additional revenue.

Today we have no alternative but to provide the increased revenue that is in this bill. But, if we act properly today, we can still have an alternative for the future. We have the alternative of cutting back and retrenching by establishing some priorities for our domestic expenditures, and if we fail in that, the only alternative—and, make no mistake about it—will be an early and heavy increase in taxation to prevent economic chaos in this country.

Let me say just a few words about some of the amendments that were adopted.

Mr. CURTIS. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Missouri.

Mr. CURTIS. I should like to point out, and I want to see if the gentleman agrees, if there is a heavy increase in taxes, it will have to be partly in individual income taxes. It cannot be done merely in corporate taxes.

Mr. BYRNES of Wisconsin. There is no easy way to increase taxes. Let us make up our minds about that. If we have to get even $500 million more in revenue, it will be painful and it will be tough. Some of it we will, of course, have to find in the individual income tax sector.

Let me briefly make a few comments about the amendments that were adopted in the Senate.

I agree with my colleague from Missouri that the blanketing-in, that is, the coverage of our older people who, as I have pointed out, were either born too soon or Congress acted too late to provide them with the basic benefits we have provided for the great majority of our people, has long presented a problem that should be taken care of. Some 7 years ago I introduced the first bill to try to remedy this particular problem by a so-called blanketing-in process. What the Senate has done here is to adopt that principle. The conference report is in accord with the general philosophy and general purpose of proposals that I have been making for some 9 or 10 years.

As I have said, I do agree with my colleague from Missouri that it would be much better to do it in the normal procedure. To consider the proposal and report it out by the Ways and Means Committee for passage by this House instead of on the basis of a Senate floor amendment which is then adopted in principle by the conference.

The same thing is true as far as the duty on gifts is concerned.

In both of these cases, however, I must agree fully with the results. It is a step in the right direction. I cannot argue with the merits.

Nor would I argue with the merits of another amendment that was adopted, as far as general principle is concerned. That is the amendment related to the deductibility of an advertising expense that, in a sense, is really intended for political purposes.

Mr. BURTON of California. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from California.

Mr. BURTON of California. I would like to state my most emphatic commendation to the gentleman from Wisconsin for his farsighted, initial, and continuing leadership in the effort to see to it that the older people in our country who have not had the benefit of social security coverage not be penalized in their waning years.

I would hope that the gentleman would pursue his efforts and see to it that the Members of this House have, before the end of this session, an opportunity to expand the concept contained in the conference committee report because, as the gentlemen well knows, this report contains within it a dramatic change in the financing structure of the Social Security Act, but along sound conceptional lines. I am sure the gentleman from Wisconsin knows, most lamentably, it is the low-income veteran and it is the low-income person on public assistance that, as a result of the understandable compromise in the conference committee, does not get any increase in weekly or monthly benefits under this bill.

I am certain that the gentleman from Wisconsin shares my concern, that in the effort to correct this injustice that the gentleman from Wisconsin has been battling for so long—an injustice not remedied by this bill as to either first the lower income veteran of this Nation and second, the lower income aged who have to look to public assistance to maintain a minimal standard of living. These are among the people who should receive our primary interest, not our secondary consideration.

I am going to support the conference committee report, noting in fact that in many instances it will be the better-to-do, rather than the worst off of our older people, who are going to get the benefit. I do not quarrel with it. I would merely request that the gentleman from Wisconsin respond to my hope that he will pursue this matter.

Mr. MILLS. Mr. Speaker, will the gentleman from Wisconsin yield?

Mr. BYRNES of Wisconsin. I yield to my chairman.

Mr. MILLS. Mr. Speaker, let me say in the first place that we have not excluded veterans from the benefits of this program. On the contrary, we have specifically provided, in the "definition" subsection that a "governmental pension system," for purposes of the offset, does not include any payment by the Veterans' Administration to disabled veterans for service-connected disability. The conference report, on page 4, states "not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death."

In that instance, we have specifically excluded any such compensation that a veteran may receive in order to determine whether or not he comes up to the $52.50 of the family's payment.

Then with respect to the people on welfare, the gentleman from Wisconsin recognizes, I am sure, that if we provide this amount for those who are on public assistance, all in the world we will be doing will be, in effect, reducing the amount that the State makes available and increasing the amount that the Federal Government makes available. We would not increase by $1, in all probability, the total amount that is received by the average recipient from both sources.

I would think that the gentleman from California would appreciate the action of the conference committee in bringing back a proposition that takes care, to the extent that we have, of the people who are without any type of retirement system. Perhaps in time the gentleman from Wisconsin and the gentleman from Arkansas—all of us—will find it possible or advisable to do more. I think that at least this is a good beginning, and the conference committee should be at least commended for making this step.

I want to pay tribute to my friend from Wisconsin for having started the idea of doing something in the later years of their life for these people who, as he said, either were born too soon or the Congress acted too late to bring them under social security.

I remind the Congress that two-thirds of the people we are talking about in total are women, and 80 percent of that two-thirds are widows, signifying the fact that perhaps we did act too late with respect to the coverage of their spouses under social security. Here we are making up, at least, for that failure on our part.

Mr. BURTON of California. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from California.

Mr. BURTON of California. Mr. Speaker, I am sure the gentleman from Arkansas does not choose to leave the impression that those receiving the veteran's benefits, apart from the disability payment—the low-income veterans—by definition, those receiving a veteran's pension—as distinguished from disability payments—do not receive a nickel under this proposal. I am certain that the gentleman from Arkansas does not want to leave the record ambiguous in that regard.

Mr. MILLS. Of course I did not want to leave a wrong impression. That is why I read specifically what the conference report states. The gentleman from California is not anymore interested in veterans than are any of the members of this conference. And I do not want him to feel that any of us were deliberately trying to do something to these whom he describes as the poor veterans of the country.

We thought we were making a step in the right direction, that we would provide, out of the general funds of the Treasury, this particular benefit for those people who are included here. We can look at it later on and see whether we should do more and whether it is possible to do so.

Mr. BYRNES of Wisconsin. Mr. Speaker, we have taken a very important step by the action of the conferees toward the problems of these older people who have been our concern for some considerable period of time.

I would hope, with the gentleman, that we would continue to look at the problem that does exist in this area because of factors beyond the control of these people who are today over 72 and who have been left by the side of the road while we were going ahead, making social security universal, while we were increasing benefits, and so on. At least we are moving in the right direction.

I am pleased that the conferees did move at least this far.

I would conclude, Mr. Speaker, by reiterating what I said at the beginning. I would hope that this conference report would be accepted. I think it is essential that we act to pass this bill at the earliest possible date. In my judgment, it is the only responsible thing for this Congress to do.

Mr. POLANCO-ABREU. Mr. Speaker, the conference report on the Tax Adjustment Act of 1966 does not include the aged of Puerto Rico as beneficiaries of the social security amendments added to the bill.

This is a tragic circumstance which must have been an oversight on the part of the conferees who were working under great pressure.

There has been no opportunity for me to obtain an extension of these benefits for the people of Puerto Rico. The social security provisions of the bill were not included in the Tax Adjustment Act of 1966 when it was before the House of Representatives.

The pity of it is that the amendment does not have too much real meaning for most residents of the States or the District of Columbia. It provides for a fill-up pension to $35 for persons having a pension below this amount from Government sources. However, it would apply to all persons now over 72 who are not now receiving a Government pension and would give them $35 per month.

In Puerto Rico we have so many elderly citizens to whom $35 a month would be a godsend in the sense of providing them with the necessaries of life.

I am taking immediate corrective action by the introduction of legislation to take care of this situation.

Mr. HICKS. Mr. Speaker, when this bill to reimpose some excise taxes originally appeared on the floor of the House, I voted against it. Not because I am blind to the need for increasing revenues to finance the Vietnam war and to combat inflation, but because I regarded this means of doing so as too little and too late. I voted in protest against a palliative, a treatment of symptoms instead of the disease. Because of some vital changes in the bill by the other body and by the conference committee, I am obliged to change my vote today to "aye."

But I still consider it a palliative. I still think it indicates an unfortunate reluctance to face the issues squarely on the part of the Congress and of the executive branch.

Mr. Speaker, I do not like even to think of raising taxes. Apparently that attitude is not limited to myself. But I am convinced that I must think of it, that all of us must think of it very seriously. And, Mr. Speaker, I do not like to reduce spending on our worthy social program.

But the effect of inflation is both to raise taxes and reduce the effective financing of our social and all other programs. And in respect to inflation, it is later than most of us care to think.

Inflation, Mr. Speaker, to me is worse than a tax increase. At least the increased tax which is taken from the American taxpayer brings more money into the U.S. Treasury. Inflation is a penalty. It takes money from the taxpayer and puts it nowhere. And it takes money from the U.S. Treasury, too, in that it decreases the Government's buying power just as it decreases the individual's buying power.

A tax increase, while odious to all of us, is used for Government purposes. Inflation, just as odious, is a penalty which all of us pay and from which nobody benefits. And it is particularly hard on the poor and the people who must live on fixed incomes.

I am aware that there is another way to assist in curbing inflation aside from cutting spending and increasing taxes. The other way is wage and price controls.

Such controls will be a last desperate effort in the battle against inflation. None of us wants such controls. That is why we should take other and less painful action while there is still time.

I wish it were not necessary to increase taxes. But inflationary pressure is forcing us to do so, Mr. Speaker, and the need will become intense in a terribly short time. That is the way inflation works, something like a forest fire: it starts small and spreads wildly; it is much easier to put out when it starts than after it has spread.

The fire lookouts already have observed the smoke of the fires of inflation in our economy. I fear the economic forest is dry as tinder, that the wind is rising, that the prospects for rain are dim.

That being the case, it is my belief that right now we should be formulating a program to combat inflation. The administration is taking some action. The Congress is making some motions in this direction. Private interests are acting. But, if I may return to the forest fire analogy once more, our combined actions to date have been in the nature of clearing away smoke. We must face the uncomfortable fact that more drastic action is needed.

If we do not now make ready, at a minimum, standby remedial action with full deliberation and complete attention to all ramifications, we may well find ourselves in the position of being unable to halt inflation before tremendous harm is done, and find ourselves in the equally unhappy condition of overreacting to a situation that has gotten out of hand—and thus probably causing equal harm to the economy in another way.

I repeat, Mr. Speaker, that I am not happy about the prospect of an increase in taxes. If that is what is needed as the lesser of evils, however, then I say we had better face that issue squarely, and begin our deliberations at once.

Mr. CHAMBERLAIN. Mr. Speaker, I shall vote against passage of the conference report on H.R. 12752, the Tax Adjustment Act of 1966.

When this bill was before the House last month I stated that in view of the provision it contains for reimposing excise taxes on automobiles and telephone service, acknowledged by the President to be unfair and burdensome only last year, I simply could not in good conscience support it. At that time nor at this time however, would I want my actions to be interpreted as suggesting in any way an unwillingness to provide the needed funds for our fighting men in South Vietnam. I fully recognize that we are going to need more tax revenue, but I further believe that it can and should be raised on an equitable basis.

Neither should my vote today be construed to indicate a lack of interest and sympathy for certain of the amendments added to this bill by the other body which I would, in fact, be inclined to support

had they come to us on their own two feet and in not such objectionable company.

Mr. Speaker, since I have been in Congress I have protested these discriminatory taxes in good times and bad—in time of budget deficits and budget surpluses. There is simply no right time to vote for an unfair tax. I submit that the administration has not tried hard enough either through economies here at home or through recommendations for tax equality to properly provide the revenue needed to fulfill our most pressing commitments.

Mr. HORTON. Mr. Speaker, since the President's state of the Union message, which contained his request for postponing the repeal of telephone and automobile excise taxes, I have been on record as strongly opposed to reinstituting these regressive taxes as a means of procuring the needed funds to finance the war in Vietnam.

I was most encouraged when the Senate last week adopted the amendment to keep the excise on residential phone service at its present 3-percent rate. Unfortunately, the conference committee deleted the Senate amendment, with the result that the tax on local telephone service will again rise to 10 percent. Without any wavering in my strong support for well-reasoned legislation to obtain the needed additional funds for use in Vietnam, I am reluctant to support the conference report because of the unnecessary burden it places on people in the lower income levels, to whom an automobile and telephone service are necessities, not luxuries, today.

With this hesitation, I have decided to vote in favor of the conference committee's compromise, because of another provision it contains. I am referring to the provision that will provide social security benefits to over 300,000 American citizens who are reaching the age of 72 and are not covered by social security under present law. This provision is an important step in broadening our social security system to cover those who had retired or were near retirement when Congress acted to cover jobs they had held.

I have been urging the passage of this amendment to the Social Security Act for over a year now. Across-the-board monthly benefits for persons reaching age 72 who do not meet normal quarter-coverage requirements was a major part of H.R. 5039, which I introduced last year—many provisions of which were later enacted into Public Law 89-97.

Under this enlightened provision, persons who are not now receiving any State, Federal, or local pension, in most cases persons who are most in need, will receive $35 monthly through the social security system if they reach age 72 before 1968. For persons reaching age 72 after 1967, this new provision provides that fewer quarters of covered employment will be required for eligibility for social security benefits. Thus, over $120 million will be made available to persons who qualify under this section.

While I have very serious reservations about the wisdom of reimposing the same excise taxes which Congress worked so diligently to repeal just last year, I cannot with conscience vote down this very necessary and enlightened step in the broadening of our social security laws to cover needy senior citizens. I am gratified at the inclusion in this report of a major portion of my own social security legislative program.

Thus, with noted reluctance, I am casting my vote in favor of the conference committee's report on the Tax Adjustment Act.

Mr. CLEVELAND. Mr. Speaker, I rise to state that I will again vote, very reluctantly, for this tax increase measure, called the Tax Adjustment Act of 1966. As I stated on February 23, when the bill was first approved by the House—see page 3552 of the RECORD—only the administration's refusal to cut back on its unprecedented high level of domestic spending constrains me to vote for this bill. In this absence of fiscal restraint on the part of the administration, which increases the dangers of inflation it becomes necessary to provide the additional revenues in this legislation. The costs of the war in Vietnam and threat of inflation demands it.

At the same time, I wish to add a word of high praise for the amendment adopted in the Senate to give older persons at least some assistance by extending a measure of social security protection to many of those excluded from the program through no fault of their own. I am proud of the fact that my State's senior Senator, NORRIS COTTON, played such a prominent role in sponsoring this amendment and getting it adopted. With all the money being poured out by the Government on various welfare programs, it is good to know that at least some will now go to relieve the needs of senior citizens directly, without Federal controls or new battalions of bureaucrats. This is an antipoverty measure which I can support. It follows the precedent we established at Republican insistence, when we provided medical care for the elderly not covered by social security.

GENERAL LEAVE TO EXTEND

Mr. MILLS. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may include their remarks at this point in the RECORD on the conference report. Also, Mr. Speaker, I ask unanimous consent that I, the gentleman from Missouri [Mr. CURTIS], the gentleman from Wisconsin [Mr. BYRNES], and others who have spoken on this conference report may have permission to revise and extend our remarks and to include certain tables and charts that refer to this conference report.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the requests of the gentleman from Arkansas?

There was no objection.

Mr. MILLS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

Mr. MILLS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 288, nays 102, not voting 41, as follows:

[Roll No. 36]

YEAS—288

Adams	Glaimo	Murray
Addabbo	Gibbons	Natcher
Albert	Gilbert	Nedzi
Anderson, Ill.	Gilligan	Nix
Anderson, Tenn.	Gonzalez	O'Brien
Annunzio	Goodell	O'Hara, Ill.
Ashley	Grabowski	O'Konski
Aspinall	Gray	Olsen, Mont.
Ayres	Green, Oreg.	Olson, Minn.
Bandstra	Green, Pa.	O'Neill, Mass.
Barrett	Greigg	Patman
Bates	Grider	Patten
Battin	Griffin	Pelly
Beckworth	Griffiths	Pepper
Belcher	Halpern	Perkins
Betts	Hamilton	Philbin
Bingham	Hanley	Pickle
Blatnik	Hansen, Iowa	Pirnie
Boggs	Hansen, Wash.	Poage
Boland	Hardy	Poff
Brademas	Harvey, Mich.	Price
Bray	Hathaway	Pucinski
Brooks	Hawkins	Purcell
Broomfield	Hays	Quillen
Broyhill, Va.	Hébert	Race
Burke	Hechler	Redlin
Burleson	Helstoski	Rees
Burton, Calif.	Herlong	Reid, N.Y.
Byrne, Pa.	Hicks	Resnick
Byrnes, Wis.	Holland	Reuss
Cabell	Horton	Rhodes, Ariz.
Cahill	Hosmer	Rhodes, Pa.
Callan	Howard	Rivers, S.C.
Callaway	Hull	Rivers, Alaska
Carey	Hungate	Roberts
Carter	Huot	Rodino
Casey	Irwin	Rogers, Colo.
Celler	Jacobs	Rogers, Tex.
Chelf	Jarman	Ronan
Clark	Jennings	Rooney, N.Y.
Clausen, Don H.	Joelson	Rooney, Pa.
Cleveland	Johnson, Calif.	Rosenthal
Clevenger	Johnson, Okla.	Rostenkowski
Cohelan	Johnson, Pa.	Roush
Colmer	Jones, Ala.	Ryan
Conte	Karsten	St Germain
Cooley	Karth	St. Onge
Corbett	Kastenmeier	Saylor
Corman	Kee	Scheuer
Craley	Keith	Schisler
Culver	Kelly	Schmidhauser
Curtin	Keogh	Schneebeli
Daddario	King, Calif.	Schweiker
Dague	King, Utah	Senner
Daniels	Kirwan	Shipley
Davis, Wis.	Kluczynski	Shriver
Dawson	Krebs	Sickles
de la Garza	Kunkel	Slack
Dent	Kupferman	Smith, Iowa
Denton	Laird	Smith, N.Y.
Diggs	Leggett	Smith, Va.
Dingell	Lipscomb	Springer
Donohue	Long, La.	Stafford
Dorn	Long, Md.	Staggers
Dow	Love	Steed
Duncan, Oreg.	McDade	Stratton
Duncan, Tenn.	McDowell	Stubblefield
Dwyer	McFall	Sullivan
Dyal	McGrath	Sweeney
Edmondson	Macdonald	Teague, Calif.
Edwards, Calif.	Machen	Tenzer
Edwards, La.	Mackay	Thompson, N.J.
Ellsworth	Mackie	Thompson, Tex.
Evans, Colo.	Madden	Thomson, Wis.
Evins, Tenn.	Mahon	Todd
Fallon	Mailliard	Trimble
Farbstein	Marsh	Tunney
Farnsley	Martin, Mass.	Tupper
Farnum	Martin, Nebr.	Udall
Fascell	Matsunaga	Ullman
Feighan	May	Van Deerlin
Findley	Meeds	Vanik
Fino	Mills	Vigorito
Flood	Minish	Vivian
Flynt	Mink	Watkins
Fogarty	Mize	Watts
Foley	Moeller	Whalley
Ford, Gerald R.	Monagan	White, Idaho
Ford, William D.	Moore	White, Tex.
Frelinghuysen	Moorhead	Widnall
Friedel	Morgan	Wilson, Charles H.
Fulton, Pa.	Morris	Wright
Gallagher	Morrison	Yates
Garmatz	Morse	Young
Gathings	Moss	Zablocki
	Multer	
	Murphy, Ill.	
	Murphy, N.Y.	

NAYS—102

Abbitt	Fisher	Passman
Abernethy	Fountain	Pike
Andrews, George W.	Fulton, Tenn.	Quie
Andrews, Glenn	Gettys	Randall
Andrews, N. Dak.	Gross	Reid, Ill.
Arends	Grover	Reifel
Ashbrook	Gubser	Robison
Ashmore	Gurney	Rogers, Fla.
Bennett	Hagan, Ga.	Roybal
Berry	Haley	Rumsfeld
Bolton	Hall	Satterfield
Bow	Hansen, Idaho	Scott
Brock	Harsha	Secrest
Brown, Ohio	Henderson	Selden
Broyhill, N.C.	Hutchinson	Sikes
Buchanan	Jonas	Skubitz
Burton, Utah	Jones, Mo.	Smith, Calif.
Cameron	Jones, N.C.	Stalbaum
Cederberg	King, N.Y.	Stanton
Chamberlain	Kornegay	Stephens
Clancy	Langen	Talcott
Conable	Latta	Taylor
Cramer	Lennon	Tuck
Cunningham	McClory	Tuten
Curtis	McCulloch	Utt
Derwinski	McEwen	Walker, N. Mex.
Devine	McMillan	Watson
Dickinson	MacGregor	Weltner
Dole	Michel	Whitener
Dulski	Minshall	Whitten
Edwards, Ala.	Morton	Williams
Erlenborn	Nelsen	Wilson, Bob
	O'Hara, Mich.	Wolff
	O'Neal, Ga.	Wydler
	Ottinger	Younger

NOT VOTING—41

Adair	Fuqua	Mosher
Baring	Hagen, Calif.	Pool
Bell	Halleck	Powell
Boiling	Hanna	Reinecke
Brown, Calif.	Harvey, Ind.	Roncalio
Clawson, Del	Holifield	Roudebush
Collier	Ichord	Sisk
Conyers	Landrum	Teague, Tex.
Davis, Ga.	McCarthy	Toll
Delaney	McVicker	Waggonner
Dowdy	Martin, Ala.	Walker, Miss.
Downing	Mathias	Willis
Everett	Matthews	Wyatt
Fraser	Miller	

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Teague of Texas for, with Mr. Waggonner against.

Mr. Downing for, with Mr. Davis of Georgia against.

Mr. Delaney for, with Mr. Roncalio against.

Until further notice:

Mr. Baring with Mr. Harvey of Indiana.

Mr. Holifield with Mr. Collier.

Mr. Sisk with Mr. Adair.

Mr. Miller with Mr. Reinecke.

Mr. Willis with Mr. Roudebush.

Mr. Hagen of California with Mr. Martin of Alabama.

Mr. Brown of California with Mr. Bell.

Mr. Toll with Mr. Wyatt.

Mr. Fuqua with Mr. Mosher.

Mr. Landrum with Mr. Walker of Mississippi.

Mr. Powell with Mr. Fraser.

Mr. Ichord with Mr. Dowdy.

Mr. Matthews with Mr. McVicker.

Mr. Conyers with Mr. McCarthy.

Mr. Hanna with Mr. Pool.

Mr. RUMSFELD, Mr. LANGEN, Mr. BROYHILL of North Carolina, Mr. FOUNTAIN, and Mr. SKUBITZ changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TAX ADJUSTMENT ACT OF 1966—CONFERENCE REPPORT

Mr. LONG of Louisiana. 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. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes. I ask unanimous consent for the present consideration of the report.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. WILLIAMS of Delaware. Will the Senator yield so that we may have a quorum call in order to alert Senators that the tax measure is before the Senate?

Mr. LONG of Louisiana. Yes, after the conference report is laid before the Senate.

Mr. WILLIAMS of Delaware. Surely.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of Mar. 14, 1966, pp. 5527–5528, CONGRESSIONAL RECORD.)

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

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

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LONG of Louisiana. Mr. President, we have before the Senate at the present time the conference report on H.R. 12752, the Tax Adjustment Act of 1966. This is the bill that was passed by the Senate only last Wednesday. As you can see, the conferees acted expeditiously, and the legislative history demonstrates once again that the Congress can act on tax legislation with dispatch appropriate to the occasion.

It is just 2 months since the President sent his recommendations to the Congress. These recommendations, unlike those which resulted in the Excise Tax Reduction Act of 1965, called for raising tax revenues through excise tax increases and revisions in the timing of current payments of individual and corporation income taxes. Careful consideration was given to the President's recommendations and their objectives, but Congress did not overlooked the effect of those provisions which would cause unusual difficulties for taxpayers.

The bill, as agreed to by the conferees, does not depart appreciably from the revenue raising objectives of the President's recommendations. The conference report will raise $1,130 million in revenue in fiscal year 1966, and $4,800 million for the administrative budget, and a net additional $105 million for the social security trust fund in fiscal year 1967.

There were 36 amendments added to the House bill by the Senate, 14 of which involved technical amendments or corrections of clerical errors. The House readily concurred with the Senate's action on them. The remaining 22 amendments concerned 10 substantive provisions from which the House receded on 7, and the Senate receded on 3.

Three of these ten substantive issues were related to the introduction of the graduated withholding schedules on wage and salary income. The first issue represented Finance Committee amendments modifying the withholding allowances on graduated withholding for those with large itemized deductions. These amendments simplified the calculation of the withholding allowance by reducing the percentage on the first $7,500 of income above which allowances are taken into account from 12 percent to 10 percent. They also reduced the underwithholding implicit in the House-passed provision by requiring a full $700 excess of itemized deductions over the percentage minimum base before the first withholding allowance could be claimed. These adjustments met the requirement of reducing overwithholding on taxpayers in the $5,000 to $10,000 income class without providing underwithholding to any significant degree. The House receded on these amendments which will increase revenues by $35 million in fiscal year 1967.

On the second issue, the House also receded on Senate amendments added by the Finance Committee which provide a procedure for determining the withholding allowance for itemized deductions by taxpayers who used the standard deduction in the preceding year. The taxpayer in this case may treat as itemized deductions for the prior year the lesser of 10 percent of wages shown on his return for that year, or $1,000.

The third issue relates to the option of taxpayers to disregard a difference of up to $5 between the tax liability shown on their return and the amount of withholding and declaration payments that they have made. This was a floor amendment submitted by the junior Senator from Louisiana. In the discussions in conference, the House conferees pointed out that it involved a revenue loss of $10 million, which was not directly associated with any consideration of taxpayer equity. The House conferees urged further that it would be preferable to allow some passage of time to test how the withholding schedule in the bill would function and to check the accuracy of the system relative to the final tax liability. We can reconsider this provision after we have had that experience, if we find that a large number of taxpayers find themselves within this $5 range of their final tax liability and that the revenue losses involved for the Internal Revenue Service for the forgiveness of up to $5 is not large. Accordingly, your conferees receded on this amendment, with the understanding that the Treasury Department will conduct a thorough study of its feasibility.

On the fourth, the House receded on Finance Committee amendments which deleted a provision imposing a floor stock tax on 1 percent on passenger automobiles in the hands of dealers on the day the increased excise tax is to become effective on automobiles.

On the fifth issue also the House conferees receded on a Senate floor amendment that made April 1, 1966, the effective date for the restoration of the excise tax on telephone and teletypewriter service to 10 percent.

The sixth issue concerned the amendment the Finance Committee added to the bill which would allow deductions from income tax for certain indirect contributions to political parties. That was the amendment by the Senator from Delaware [Mr. WILLIAMS]. The House conferees also receded on this amendment.

The seventh issue involved the amendment the Senate Finance Committee added which would require the Department of Agriculture to supply farmers who receive $600 or more of annual payments under programs administered by the Department with copies of the same information returns which it presently is required to send to the Internal Revenue Service. The House conferees understood the problem at which the amendment was directed, but they insisted that it deserved careful, systematic study before legislation. Your conferees receded with the understanding that a study of the subject would be instituted.

The House conferees also receded to the Senate on the eighth issue—a floor amendment offered by Senator TOWER to raise the exemption level from duty for gifts sent by members of the Armed Forces serving in a combat zone to $50 retail value, from the present $10 exemption level applicable to all other U.S. citizens who send bona fide gifts to this country from abroad. The $50 duty-free provision will apply to articles purchased in or through authorized agencies of the Armed Forces and which enter the United States after the date of enactment, but on or before December 31, 1967. It is estimated that this will involve an additional outflow of $10 million with respect to the balance of payments, but its effect on customs duties will be negligible.

The two remaining amendments adopted by the Senate involve substantial amounts of money—a revenue loss of $315 million a year on local, residential telephone service and increased expenditures of $790 million for broadening coverage under the social security system for persons 70 years or olders presently ineligible for its minimum benefits. The conferees from the House, since both of these involved a large loss in the net funds which would otherwise be obtained under the bill, resisted them strongly.

With respect to the floor amendment offered by the Senator from Indiana [Mr. HARTKE] to retain the present 3 percent excise tax on local residential telephone service, the House conferees maintained that the $315 million revenue loss in fiscal year 1967 is much too great to sustain in a bill designed to increase revenues to avoid inflation in this period of increased military commitment. They also believed that since this tax will affect almost all the taxpayers in this country, its burden will be spread broadly and therefore not be particularly burdensome with respect to any single taxpayer or group of taxpayers. The House conferees were adamant about retaining this provision, and your conferees finally receded, but only after substantial concessions were obtained on the amendment I am about to discuss.

Mr. President, we found the House conferees were strongly opposed to the amendment offered by the Senator from Vermont [Mr. PROUTY] to provide persons age 70 years or older with monthly social security benefits of $44 and an additional $22 for a spouse.

The House conferees pointed out that this Senate amendment was drafted with loose language involving extremely complex considerations. They pointed out these aspects had broad implications which had not been fully considered. They further pointed out that neither the Finance Committee not the Ways and Means Committee had held hearings on its provisions to determine the full extent of the problems of the elderly poor, that is, how many are without any

retirement or assistance benefits, how many receive inadequate benefits, or how the Congress best can meet their needs?

The House conferees pointed out that this amendment provided benefits for many more persons than the needy aged now inadequately provided for under other systems. They noted that its provisions seriously contradicted the fundamental concepts of the self-supporting, contributory social security system, in that it did not require any minimum eligibility in covered work. They indicated that it repealed the transitional requirements for persons 72 years or older enacted last year, provided greater monthly benefits than the $35 a month made available to them last year, and authorized payment of this benefit in addition to other benefits an aged person may be receiving under pension plans.

Because of this feature, the Railroad Retirement Board estimated that the Prouty amendment as passed by the Senate would have cost the Railroad Retirement Fund $170 million in the first year and approximately $90 million yearly on a level basis thereafter. The chairman of the Subcommittee Railroad Retirement of the Committee on Labor and Public Welfare, the Honorable CLAIBORNE PELL, advised me that such additional benefit payments could have put the Railroad Retirement Fund in an unsound actuarial position, and that he strongly supports the conference substitute.

After considerable discussion and consideration, the conferees worked out a substitute for the Senate amendment. This substitute achieves the basic objective sought by the Senator from Vermont. It provides social security benefits for aged retired persons who do not now receive adequate benefits under any Government retirement program.

Under the conference agreement, an estimated 370,000 persons who become 72 before 1968 may qualify for a $35 monthly benefit—plus $17.50 for a spouse 72 or over—if they are not otherwise eligible for social security benefits.

The hardship cases recited by Senator PROUTY during discussion of his amendment are included among the 370,000 aged persons to which the conference substitute applies. These are persons who either do not receive any benefits from another public retirement system, or who receive less than $35 a month, $52.50 a month for married couples.

Individuals age 72 and over who receive less than $35 a month from Federal, State, or local government retirement systems will have their benefits built up to $35 per month under the conference agreement. Similarly, married couples aged 72 and over who receive less than $52.50 per month under Government retirement systems will have their aggregate benefit built up to $52.50.

Persons who receive old-age assistance under any Federal-State aid program will not be eligible for the $35 payment under the conference substitute while they are receiving the assistance. However, they may receive the $35 benefit in the event cash assistance should be terminated. Veterans and widows receiving compensation payments from the Veterans' Administration for service-connected disability or death will be eligible for the monthly $35 or $52.50 benefit without regard to these VA payments. Similarly, receipt of workmen's compensation will not reduce an eligible individual's benefits.

The conference substitute merges the provisions of this amendment with the existing provisions of the Social Security Act. Thus, individuals who become 72 before 1968 may qualify for the $35 monthly benefit without covered work contributions, persons who reach 72 in 1968 must have three quarters of covered work. Persons who reach 72 in 1969 will need six quarters of covered work, and those reaching 72 in 1970 will need nine quarters of coverage, and thereafter three additional quarters a year until the permanent maximum level is reached.

Those eligible this year may apply for benefits beginning in July, and the first benefit payments will be made sometime in November 1966. The initial benefit payments will come from accrued reserve funds in the old-age and survivors insurance trust fund. In fiscal year 1968, the actual payments will be totaled, and an appropriation equal to the total payments plus interest will be requested in the next budget to enable the general fund to reimburse the trust fund for these expenditures. The first year cost—for three quarters of fiscal year 1967—is estimated at $95 million. Under the procedure for reimbursement, the first payments from the general fund will be made to the trust fund in fiscal year 1969. The estimated cost in the second year is $115 million, which will be incurred by the trust fund in fiscal year 1968. This cost will be reimbursed to the trust fund from the budget for fiscal year 1970. Thereafter the cost will decline by about $10 million per year.

CONCLUSION

Mr. President, as conferees on the part of the Senate, I and the other Senate conferees fulfilled our obligation to the best of our abilities. We represented the Senate on these amendments without regard to what our personal position had been with respect to them during the Senate consideration. This is the practice that I intend to follow at all times.

As I indicated earlier in my statement, 10 substantive amendments were made by the Senate, and the conferees succeeded in maintaining the Senate position on all but three of these amendments. One of the three on which we did not insist was my own amendment, the amendment which would have made it unnecessary for taxpayers to pay amounts of less than $5 where withholding or declaration payments accounted for most of their tax liability. The second amendment on which we failed to obtain House conferee approval was an amendment offered by another Senate conferee, the senior Senator from Delaware [Mr. WILLIAMS]. Technically, this was a Finance Committee amendment but was one offered by the senior Senator from Delaware in the committee consideration, agreed to by the committee, adopted by the Senate, and taken to conference. I am referring to the amendment he offered to require reporting by the Department of Agriculture to farmers with respect to payments made to them which they must take into account for tax purposes.

Apart from these two amendments—my own amendment and the amendment of my fellow conferee—we brought back to the Senate all but one of the amendments placed on this bill by this body. It was impossible to bring back both the amendment retaining the local telephone tax at 3 percent and the Prouty social security amendment. The House conferees were completely unwilling to lose the more than $1 billion which these two amendments would have entailed in the form as passed by the Senate. We did, however, bring back the heart of the Prouty amendment, because we are providing minimal social security coverage to all persons over age 72 who do not already receive this minimal amount in the form of some other governmental pension—be it a military, Federal civil service, or State or local government pension. Even persons receiving old-age assistance can obtain such a pension in lieu of their public assistance payment if the pension is larger.

I believe that we have brought back the maximum amount possible as a result of our conference with the House. We have done this at the same time that we have managed to provide the additional revenue necessary for the Government in the period immediately ahead.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HOLLAND. Since we do not have a printed conference report, will the Senator from Louisiana state for the RECORD, if he has not already stated it, the difference between the original request of the administration and the amount agreed to in the report, apart from the social security amendment, which I think I understand?

Mr. LONG of Louisiana. In terms of the administrative budget, the amount resulting from the conference action is almost the same as the recommendation of the President.

Mr. HOLLAND. As I understood from the press yesterday, when a short statement appeared on the news ticker, the President's request originally involved slightly more than $6 billion a year, both in increased taxes and advance payments, while as reported by the conference committee the amount was reduced to about $5.9 billion.

Mr. LONG of Louisiana. It is $5,930 million. The President's recommendation was, roughly, $6 billion, and the amount provided in the conference report is about $5,930 million. So the difference is about $70 million.

Mr. HOLLAND. I thank the Senator.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HARTKE. In view of the fact that the conference committee decided to continue the selective sacrifice method of taxation on telephone service and automobiles, rather than to approach the question as a comprehensive tax policy,

I wonder if the Senator from Louisiana, both in his capacity as chairman of the Committee on Finance and as assistant majority leader, has any special information he can give the Senate as to future tax laws, especially in view of the fact that the Secretary of the Treasury yesterday, in a statement to the Economic Club of Detroit, indicated a possibility that new taxes would be necessary.

Mr. LONG of Louisiana. I know of no plan presented to the Committee on Finance for any increase in taxes. I am not saying that among Senators or among Members of the House someone might not have a plan for tax adjustment, one way or another; but I do not know of any plan before the Finance Committee for any general increase in taxes.

So far as the conference was concerned, as the Senator from Indiana well knows, the Senate had adopted an amendment that provided for the repeal of the floor stock tax on automobiles, and we succeeded in persuading the House to accept that amendment. As a result we made at least that much headway in the direction in which the Senator from Indiana would like to see us move.

Mr. HARTKE. Yes; but does the Senator from Louisiana, in his capacity as a member of the leadership of this body, have any information from the Treasury as to any plan they are pursuing with respect to future taxation: whether any plan will be submitted to Congress, and whether the Committee on Finance will have an opportunity to discuss this matter on a later date? Is a study in depth to be made at the recommendation of the Treasury or the recommendation of the committee?

Mr. LONG of Louisiana. I can only say that the Treasury has presented no plans either to the committee or to me to increase any tax. I am sure that the Treasury is constantly studying the situation and, if it determines that it is necessary to raise taxes it will recommend this to us.

However, I think it is safe to say that as of this time no recommendation is before us for a tax increase beyond what is provided in this bill.

Mr. HARTKE. Does the Senator from Louisiana have any information to indicate any change in the estimate of the cost of the war in Vietnam or any change in aspects in this regard which would indicate that we could expect or anticipate in the reasonably near future a change in the present overall budget toward an increase in general taxation?

I am not speaking about the correction of inequities and fairness in administration, which I am sure the Senator from Louisiana would always welcome, as would the Senator from Indiana. However, with regard to the cost of the war in Vietnam, do we have any more definitive figure? Has the Secretary of Defense submitted any further information which would define the matter more specifically? Has the Director of the Budget given any indication that he has a better estimate as to what we may expect within the net 4 or 5 months, an estimate which would be more in line with anticipations and more reasonable?

It will be recalled that when we adjourned last fall, we found, within a period of less than 6 months, that the excise taxes which we hailed with a great deal of enthusiasm as a means of lessening the burden on the poor and the low-income groups had to be reinstituted because the war had to be borne and paid for by the poor.

We made a mistake. Although the Senator from Minnesota and I were discussing a few moments ago that the Senate acted with great dispatch, I wonder if the Senate acted with the same amount of intelligence.

Mr. LONG of Louisiana. The Senator is certainly privileged to have his opinion on these matters. I too would like to make improvements in the tax system and I should like to see the taxes of many people reduced if we could afford to do so. However, we need this money to carry out the commitments that have been made and to carry out the military requirements of our country. So far as I know, we have taken care of these in this measure.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. WILLIAMS of Delaware. The Senator from Indiana is correct. The administration, to my knowledge, has not suggested any increase in taxes as far as our committee is concerned. However, I think it should be pointed out that the administration is well aware of the fact that the pending bill is only a stopgap measure and would provide approximately $6.5 billion in one-shot revenue. This money will not be from additional taxes, but merely from an acceleration of the rate of payments. The money would be used to reduce the projected deficit for next year. The country will be operating next year, not on a deficit of $1.8 billion as claimed, but on a deficit of approximately $10 billion. The only tangible evidence I see that the administration is trying to solve this problem is its effort to get further authority to sell the assets of this country and use the proceeds to pay for the current operating expenses of the Government today. It is a shortsighted policy. It is a policy which will come back and haunt the administration later. The administration is deliberately laying the groundwork for a boom-and-bust period.

Mr. LONG of Louisiana. Mr. President, this bill would provide the funds with which to see us through our plans for next year. If we need more revenue later, something can be done then.

Mr. WILLIAMS of Delaware. The Senator is correct. This bill will see the administration through the 1966 election, and after that, watch out.

Mr. LONG of Louisiana. If we need more revenue thereafter, we will take all of these matters into account.

I think that this measure would see us through our deficit that would otherwise exist in fiscal 1967, and keep it within reasonable bounds. It seems to me that, without this measure, the deficit would be very high.

Mr. HARTKE. Mr. President, I am in favor of holding down the deficit. Is it true that this measure would raise approximately $1.2 billion in additional, new revenue?

Mr. LONG of Louisiana. The bill would raise this much from new excise tax revenue in the fiscal year 1967.

Mr. HARTKE. That is the only new revenue that would be raised by this measure.

Mr. LONG of Louisiana. The measure would bring in several billions of dollars more, however, from adjustments in collection procedures, including an additional $3.2 billion by speeding up the collection of corporate income taxes.

Mr. HARTKE. Those taxes would be collected anyway. It is not a matter of new taxation. It is merely a matter of collection.

Mr. LONG of Louisiana. It is a one-time gain.

Mr. HARTKE. The Senator is correct.

Mr. LONG of Louisiana. The Senator is informed and knows what a one-time gain is. We collect it one extra time and never have to pay it back. That makes the deficit that much less for that year.

We anticipate that we shall continue to have a growing economy, as we presently do. This means we should have approximately $6 billion in additional revenue in the following year. Moreover, many economists think that is a very conservative estimate and that we will have as much as $7 billion or $8 billion in additional revenue in each year with our present growth. If that is the case, and we do not substantially increase our expenditures, we would have a balanced budget in the years ahead without having to levy any additional taxes.

Mr. HARTKE. At this point no one in a responsible position has indicated that we will have a 1-year war. This war effort in all likelihood will continue for a longer period than will the acceleration of taxes.

Mr. LONG of Louisiana. I hope that we shall eventually be able to bring this war to an end and in the near future to get the war sufficiently under control so that it will not cost any more than it presently does.

Mr. HARTKE. As the Senator knows, I do not intend to ask for a rollcall. I compliment the Senator for at least following his own admonition to this body. Following the action of the Senate, and I believe the measure was passed by the Senate on March 1, the measure went to conference on March 10. It is now March 15, and the bill is ready to go to the White House this afternoon. That is a totally elapsed time of from the 1st of March to the 15th of March.

I should like to call to the attention of the Senator the fact that, while the Senator was not in charge of that measure, he indicated that there was some attempt to stall or filibuster the measure.

I hope the Senator will state who the filibusters were. The measure was passed by the Senate on March 1, and no conference was held until March 10. In fact, the conferees were not appointed until March 9. It has taken until today, March 15, for that very important measure—which everyone indicated at that

time was so necessary in order to provide ammunition and help to the boys in Vietnam—to be ready to go to the White House for signature by the President.

Mr. LONG of Louisiana. I was not one of the conferees on that measure. I am not in a position to speak for them. I presume that every conferee does his best as the merciful Lord gives him the talent to see the right and to do it.

In my judgment, while we spent 3 weeks on that measure, it could have been disposed of in 1 week. If we had done so, it would have probably shortened the session by that much.

EFFECT OF VIETNAM ON THE STOCK MARKET

Mr. President, an editorial appearing in the Chicago Tribune for March 8 comments on the relationship between the uncertain tax policy involved in our Vietnam expense and the war in Vietnam.

The editorial quotes from comments in the same paper made by the financial columnist Eliot Janeway, who points out that the tax bill, whose final passage we are voting upon today, by its concentration on a "one-shot" method of tax collection does little to dipsel forthrightly the existing uncertainty about future tax policy.

Mr. President, I ask unanimous consent that this editorial may appear in the CONGRESSIONAL RECORD.

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

[From the Chicago (Ill.) Tribune, Mar. 8, 1966]

THE STOCK MARKET AS SOUNDINGBOARD

Eliot Janeway, writing on our financial page, discusses the financing of the war in Vietnam and its effect on the stock market. He says that we are mobilizing to fight a destructive war, but that the administration is acting as if it could be fought on the cheap.

President Johnson's tax proposals, Mr. Janeway feels, are altogether inadequate if the administration continues to insist on huge expenditures at the same time for domestic "welfare." Once the troops are committed, the backup decision to levy taxes to support the troops becomes a necessary followthrough.

But the administration's fiscal stance clings to the fairly tale that the luxuries of domestic spending, as well as Vietnam, can be paid for with one-shot tax gimmicks improvised to meet the bills that are now piling up. The $1.2 billion to be raised by reinstating auto and telephone excise taxes are, Mr. Janeway says, the equivalent of a tip to the waiter, while the scheme to accelerate collections from individuals and corporations leaves everybody up in the air.

"Fear of shaking up business and consumer confidence," says Mr. Janeway, "is no excuse for the failure to close the 'credibility gap' on the tax front. The deterioration in the stock market leaves no doubt that business likes uncertainty even less than it likes taxes. The combination of a 'quickie' tax plan for a long war, of costs inflating, and of liquidity deflating is giving the stock market and the taxpayers plenty to be uncertain about."

To this we would add that Mr. Johnson is quite aware that national congressional elections lie ahead this fall, and he knows that a sharp rise in taxes at this time would not commend his administration to the voters. The bad news, however, is only deferred if he persists in demanding butter along with guns, without the means to pay the price. The tax boost will come, but meanwhile the stock market shows its trepidation as prices recede ever further from the breakthrough envisioned not so long ago in the magic 1,000 point level of the Dow-Jones index.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. ALLOTT. Mr. President, do I correctly understand the Senator to say that under the conference report there would be actually $1.3 billion in new taxes as a result of this measure?

Mr. LONG of Louisiana. There would be excise tax revenue in the fiscal year 1967 of $1.2 billion.

Mr. ALLOTT. That would involve chiefly the automobile and the telephone tax.

Mr. LONG of Louisiana. The Senator is correct. The speeding up of the corporate payments would be a one-time gain in revenue to the Government. It will also be a one-time additional cost to the corporations paying the taxes. I do not want to mislead anyone concerning that. When we tell somebody that he must pay his taxes 6 months earlier, and he has to continue paying similar taxes 6 months earlier than he otherwise would have had to, a large amount of additional revenue may be collected.

Mr. ALLOTT. A lot of revenue would be collected. This has been repeatedly referred to as a "one-shot deal." What we have actually done is to accelerate the collection of taxes this year at the corporate and individual level. But the amount of payments that are accelerated and paid into the Federal Government, by the same token, would not be paid next year, because it is only a "one-shot deal." The Government would not be collecting any additional revenue from people by this bill, other than on the two items that the Senator has mentioned.

Mr. LONG of Louisiana. It is true that we would only collect any given tax liability once. However, if the Government obtains an additional amount of revenue in just one year but collects no less in subsequent years than it would otherwise do it would still be ahead by that much revenue. That is what has happened as a result of the Revenue Act of 1964, which began this speed up in collections which this bill still further speeds up. The corporations will know that they are out more in taxes over this period.

Mr. ALLOTT. But the Government would not be ahead, because what they collect this year would have been collected next year, when income tax time comes around.

Mr. LONG of Louisiana. But in the following year, the Government will collect just as much money as it would otherwise have done in the absence of these two acts. In other words, when we speed up tax collections in one year, the following year we do not give it back, we simply in that year collect amounts which otherwise would have been collected in later years, and so on. In this manner we eventually gain 1 year's revenue.

Mr. ALLOTT. But we have not raised the rate, and so, even though the people pay it next year at the same rate, all we have done is accelerate the payment of taxes.

Mr. LONG of Louisiana. This bill will cause us to collect $3,200 million more from corporations in the fiscal year 1967 than we would have collected otherwise.

In fiscal 1968, we will still collect a full year's taxes from corporations, even though we may receive considerable additional revenue if the corporations are making more profits.

Mr. ALLOTT. If they do.

Mr. LONG of Louisiana. If they are they will pay more taxes for that reason. We hope they will. But they do not get that $3,200 million back in the following year; they simply pay a full year's taxes in that year.

Mr. ALLOTT. I understand that. I think this is simply government by gimmickry. It is an attempt to bring in more cash so that the deficit does not look so large, and I think it should be made clear that that is what it is. It is nothing else. It does not raise new taxes; it just staves off the day a little bit, until we do it again.

Mr. LONG of Louisiana. May I say to the Senator that what we are doing is putting the corporations more on a more current basis for paying the taxes as they accrue. It is something that should be done in any event. However, it is something we would not want to do on occasions where we did not have full employment, and when people did not have enough money to invest in plant and equipment. On such occasions, we would want them to be investing their money and expanding plant and equipment, providing new employment, and distributing the money in dividends to their stockholders, as a result in such cases we would want people to be able to spend more money and generate more investments and consumer spending.

The same thing is true with regard to the money we pick up by the graduated withholding rates on individuals. On a short-term basis, it makes the Government a substantial amount of money. However, we would not wish to do that if we were at the same time trying to stimulate spending, either consumer spending or spending for capital investments.

Mr. ALLOTT. I do not wish to continue the argument, but it does not make the Government any money; it merely precollects that money, and that is all it does.

Mr. LONG of Louisiana. I would say yes; it "precollects" if the Senator wishes to call it precollecting, although as a practical matter, we are not making anybody pay taxes ahead of the time when the liability accrues, however, by this action of making the tax all payable earlier than would otherwise be the case the taxpayer is not able to keep the money and use it as long as he formerly could. By making him pay it sooner, we gain revenue for the Government.

Mr. PROUTY. Mr. President, before addressing myself to the conference report, I should like to try to dispel some of the confusion and misconceptions which have arisen since the adoption of my social security amendment by the Senate last Tuesday.

A rather critical editorial appeared in the New York Times on March 10, and

I wish to quote excerpts from a letter which I subsequently wrote to the editor of that great paper:

I take great issue with the allegation that my proposal is a perversion of the social security system. Medical care under social security brings those who never contributed a penny toward hospitalization under a program of benefits at age 65. The transitional amendments of 1965 bring under social security those who contributed only a very small percentage toward the benefits they ultimately receive. My proposal is not a perversion but an extension of these existing principles and programs.

Nor does my proposal merit the label "share-the-wealth scheme" you imposed, as under existing social security laws the beneficiaries of my proposal would be subject to the same earned income limitations imposed on present beneficiaries. Of the 1.5 million beneficiaries of my proposal, 1.1 million are already under some form of welfare program.

My proposal attacks poverty in a class of people statistically identified as, man for man, woman for woman, the poorest in the United States.

Their retirement income, if any, is often based on wages and salaries of the 1930's and 1940's. Many retired teachers, for example, receive as little as $25 a month and have never been permitted to contribute to or participate in the social security system.

Your editorial was critical of funding my plan from general revenues. Research discloses that the Social Security Act of 1935 as amended in 1943 provided funding for certain programs out of general revenues of the Treasury. The same principle is used under the Medicare Act to pay for health insurance for those age 65 who have made no contributions to the trust fund.

Again my proposal utilizes an existing principle. Finally, the class of people sought to be protected by my proposal will diminish in number as social security coverage approaches universality. It is designed, therefore, to offer a minimum program of retirement benefits ($44 a month) to those age 70 and above who would not be eligible for social security, who have been denied the opportunity since 1935 to participate in the social security system.

I think it should be pointed out, also, that under existing social security law, an individual may have an unearned income of millions of dollars each year, plus a very lavish private pension, and still draw maximum social security benefits. The people that I am trying to protect are not in that class.

Under existing law, Members of Congress may draw social security payments, if they come under the program, and also draw their congressional pensions. Any Member of Congress who is 65 is entitled to participate in the medicare program, regardless of whether he has ever been under social security or not.

On the basis of his study of the world's great civilizations, the Historian Toynbee concluded that a society's quality and durability could best be judged by the respect and care given its elderly citizens.

By that standard we have not measured up too well. You know it, I know it, and the Senate knew it when it adopted my amendment to provide $44 a month to anyone age 70 or over who never qualified for social security. This amendment, which withstood a challenge of three votes, would have aided 1.5 million older Americans.

Who are these million and a half elderly people? Do they really need the money the Senate voted for them? Here is my answer. One million one hundred thousand of these retired folks must now lean on public assistance in their effort to cling to survival. Looking at the money income received by older persons not covered by social security, we notice a shocking thing. Only about 12 percent of this income comes from retirement benefits of any kind. In fact, less than one-half of 1 percent of the money expended by older folks not protected by social security comes from private pensions. Only one-half of 1 percent of the money spent by nonbeneficiaries comes from contributions by relatives.

Nonbeneficiary couples—by that I mean couples not covered by the Social Security Act—who have reached retirement age, receive more than two-thirds of their income from employment, only 12 percent from retirement benefits for railroad and Government employees, and less than 1 percent from private pensions.

In a word, Mr. President, many of these people are forced to work when they are no longer able to work. They have virtually nothing in the way of pension income, and even retired Federal employees, who are in a better position than many other age 70 or older, have far from an adequate income.

Of the more than 200,000 surviving widows and children of civil service employees, 79 percent receive less than $100 a month. Ninety-three percent receive less than $150 a month. And 99 percent of all surviving widows and children receive less than the so-called poverty level of $3,000 a year.

These are the facts, Mr. President. I ask you: Was the Senate justified in voting a modest pension of $44 to each person and $66 to each couple age 70 or over?

I say that it was not only justified, I blush at the thought that we offered so little to so many who need so much.

To those who stood side by side fighting to provide pensions to one and a half million Americans, I say do not lose heart.

It is true that the number of beneficiaries has been reduced by the conference committee from 1.5 million to 300,000.

It is true that the conference committee reduced the benefit level from $44 to $35.

It is true that the age at which the social security benefit is first available has been raised by the conference committee from 70 to 72.

It is true that the conference language will require all Government pension recipients, Federal, State, or local, to offset against the new benefit any income they may receive from public pensions, while their neighbors with private pensions may receive the full benefit.

And lastly, it is true that the conference committee language would deny social security benefits to those who fail to attain the age of 72 before 1968 unless they have three quarters of coverage for each calendar year elapsing after year 1966 and before the year at which they attain the age of 72.

These people, who worked perhaps as long as 50 years, will be forced to go out and get a job, whether physically able or not, in order to qualify for the meager benefits.

I shall not contend that this requirement is absurd, unreasonable, or downright callous. Let the language speak for itself and deduce from it what we may.

Mr. President, nothing I have said here can take away from the fact that even in its substantially altered form my amendment represents a victory.

It is a victory for the principle that this Nation owes an obligation to the forgotten people age 70 and over who never had a chance to obtain social security coverage during their working years.

It is a victory for the principle that general revenues must be used to increase the incomes of elderly Americans.

It is a victory for the 300,000 older citizens who will receive an increase in income, in many cases as much as $35 a month.

Finally, it is a victory for the brave souls who fought in conference to uphold the action of the Senate and who, despite heavy and severe pressures from the administration to kill my amendment, managed to come out with at least something of substance.

I think the conferees for waging this fight under the most difficult conditions imaginable and for standing by the decision of the Senate. I might well include the conferees in the other body, because they were under great pressure as well.

Some well-heeled editorial writers, who undoubtedly will retire with plush private pensions plus social security, have branded the Prouty amendment a "share the wealth" scheme—and I commented on this earlier. To those comfortably situated writers, I can only say: If to put $1.45 per day in the homes of over a million older Americans who have known little but hardship and fear for at least 70 years of their life is to share the wealth, then I plead guilty. And further than that, I intend to continue to fight to improve the incomes of these people, in Congress and on the public platforms of this country, until that one day when justice has been done and every retired American obtains enough income to purchase the bare necessities of life.

It has been said that a journey of a thousand miles must begin with one step. We have taken that one step and we are going to make the entire journey.

And it will be made with or without the help of the occupant of 1600 Pennsylvania Avenue.

It will be made with or without the help of powerful newspaper publishers.

The journey will be made because the American conscience will no longer tolerate witnessing thousands of elderly folks feebly marching in the ranks of destitution.

Mr. President, I thank the Senate sponsors of my amendment. I thank those who voted for the amendment. I thank those who fought in conference to retain it.

I thank Ernest Giddings, legislative director of the American Association of Retired Persons, for his unflagging and constant interest.

I thank most of all the older Americans who make up the lost battalion in our war on poverty. God bless them for their courage, their patience, their help in past endeavors, and for the aid which I know they will give in the struggle which lies ahead.

We have not seen the last of this issue, Mr. President. I shall seize every opportunity to bring it before the Senate so that all may know where we stand on one of the greatest social problems of our time.

To those who are downhearted or disappointed about the narrow scope of our victory, I would offer these words from the Psalms:

The needly shall not always be forgotten; the expectations of the poor shall not perish forever.

Mr. President, in conclusion, I ask unanimous consent to have printed in the RECORD excerpts from the thousands of letters which I have received since the Senate adopted my amendment. These letters from older people are written from the heart and they are written from heartbreak. They tell a story no Senator could equal. I commend them to your attention and to the attention of the public conscience.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

Thank you so much for your sponsorship of legislation to include certain older people in social security. Many of these people, like my mother, have no way to qualify under the present system, and as she (now 89) will be greatly relieved by even a small monthly assistance. These grants will not continue long but will be of great help in the meantime.

Thanking you again for your human compassion.

My mother will be 85 years old in July. She resides in North Dakota, and was widowed 20 years ago. She owned a farm until early 1950 when she could no longer take care of it even as far as the business end. She thought at the time that the proceeds from it would carry her for the remainder of her life, but with inflation and her expenses for living and maintaining her small home in a small town, her savings has dwindled to nothing. She gets no State aid and the only help she gets is from her children. She raised eight children, and I might add that they all are working and paying into social security, men and women. Her one wish in life was to be able to support herself, and a check, regardless how small, would add dignity to her life and many others who are not now covered.

Here is a bird's eye view of what happened to just one family and such benefits as veterans' benefits, social security benefits, medicare benefits etc.

I have been denied all veterans' service, connected, or nonservice disability; we have been denied dependency allowance on a son killed in action in World War II.

Three of us in this one family have paid into social security and have been denied all benefits, viz—

I paid in for all of 1937 and until August 1, 1938, but somehow my record for 1938 has been lost, so I am denied any social security benefits and that denies me part of hospital or medicare.

My wife and I have what is termed the uniform plan, of the Federal Healths Benefits Act; we have basic family and as under a new law, when medicare goes into force July 1, 1966, it will be illegal to collect duplicating coverages and all that will be left of part 2, or supplementary medical of medicare, after the parts that conflict with basic family of the uniform plan, will not be worth the $6 per month it would cost my wife and I, so while persons who never worked under social security are given both parts of medicare and thousands who paid into social security are denied it and medicare.

So, I am denied all social security, VA benefits, medicare and as I draw my disability pay from the Bureau of Employees Compensation, I am denied all pay raises granted other civil service employees.

On behalf of my 79-year-old mother I wish to thank you for the social security provision you offered, and which we hope will receive final congressional approval.

This is a first for me. I have never written a letter of this type. This measure you have introduced will bring a semblance of independence to thousands of dependent "oldsters" like my mother, and I had to let you know how grateful these wonderful people will be.

My mother is wholly dependent on myself for the necessities of life. I am her only living child and the fact that I have had to support her—along with my two fatherless children—has been a bitter pill for her to swallow. My father died 13 years ago, was self-employed and therefore never participated in the social security fund. All of their savings were used up during his 5-year illness. When he died I naturally assumed the complete responsibility of caring for my mother.

If your measure is approved my mother will hold her head high once again, because she will have a dollar in her pocket that has not come from—as she puts it—"the sweat of my daughter's brow." $35 a month may not seem like much, but to her it is almost like being the recipient of a million dollars.

I am 86 young and receive $58 a month and give $3 back for medicare. I was a small farmer and wasn't in on social security except 1 year in shipyard and what little I had saved up is nearly gone.

My experience as head of the trust department of this bank and previously in the same capacity in a bank in Florida, indicates a drastic need to supplement the income of individuals not presently covered by social security. So many of these individuals, now in advanced years, retired before being covered by social security and many widows, whose husbands died prior to their coverage, are actually living a substandard existence, and even a meager $44 a month will mean a great deal to them. These aged individuals who are now destitute or who invested their life savings in U.S. Treasury bonds or insurance annuities many years ago, have seen inflation gradually reduce their ability to live a decent life in their last years.

God bless and keep you in the best of health.

I am so glad someone remembers the unpaid employees of the city of Chicago. I am a widow of a Chicago policeman who has suffered extreme hardships due to unpaid salary of my husband.

My children were deprived of college education. My oldest son deprived of a high school diploma because his tuition wasn't paid. Due to the death of my girl who was a victim of a doctor's blunder in administering a shot and who was later removed from a lot in the cemetery because we couldn't pay $50 per month on it. I owe $1,500 on my home today. I owe $3,500; I draw $51.52 pension from city of Chicago police division. Our salary at that time was $99.21 every 2 weeks take home pay. I had 7 children.

I am a former railroad man and we men were forced to have the railroad retirement instead of social security.

I had to retire due to illness and have been unable to work for 22 years. I am drawing only $129 per month.

I wish to call your attention to a small group who are in need of some legislation for their benefit. They are the widows of totally and permanently disabled veterans of World War I with service-connected disability. There is no social security and no income other than the $64 per month given to all widows of veterans.

I read of the bill you were trying to get through to help older people not covered by social security and I truly hope you can get it passed. I am a Spanish War widow trying to get along on a pension of $65 a month. I'm 80 years old and not well, so I'm having a pretty hard time. My husband was in bad health for many years before he passed away last July, was never able to work under social security, therefore I don't get anything except the $65 pension, not even any welfare help.

I am a veteran's wife of World War I. I get a widows pension $64 a month from the Government. No other income. I pay $30 rent $5 electric, $8 for gas. Now what I would like to know why us widows can't get no more. The relief was raised. The social security was raised but not us widows. Next question I would like to ask you. I made 4 quarters on social security.

You see my mother will be 77 years of age this March 11, and I was wondering if she came under the law. My father died March of 1936 and left mom a widow, my sister and I were just 11 and 9 at the time. We had to go on relief as mom could not work due to us children being to young and also he hearing was very bad from a child. So she brought us up to be good children and kept a good home for us and made every penny count. When I became 18 I went to work for a short time, and then into the service in March 1943. I was sent overseas and wounded, this only gave mom more to worry about. Then when I got out in 1945 I went to work and have been working ever since. You see I wanted to make it much easier for mom. Then in 1950 I got married. We now have 2 children, and also mom lives with us. I try to give mom some spending money but it is hard today to bring up a family and keep everyone happy.

I have mom registered under medicare with extended coverage. I am hoping your bill that was passed in the Senate will cover her, because our parents are only here on earth a short time, and they went through a lot to help us all trough life and we owe them just a little something extra in life. It was not their fault that they could not completely work under social security. If this is something she comes under this would tend to make her feel a little independent. God bless you and speed you in your work and thanks and thanks again from the bottom of my heart for thinking of those few Americans left that could benefit, if only for a short time, on some type of payment.

I am a widow of 66. I am still under a doctor's care after suffering a coronary heart attack and arthritis.

I pay Crouse-Irving Hospital $10 each month, doctor bills here, board and room, all out of $77.80.

I could not live in my trailer we have been fixing up because I cannot afford to buy oil for furnace, and gas for cook stove, along with my other bills. Now I wonder if I am supposed to go begging to the Welfare Department for some assistance?

My mother, Mrs. Grace E. Donahue, 114 North Fairview, North Prairie, Wis., an 87-year-old widow has never been eligible for social security, because my father was a country storekeeper in North Prairie (not Sun Prairie), a town of 292, in the 1930's and early 1940's. One clerk was employed, and my parents, when social security became a law, not only paid what they were required to but also paid the clerk's share of the social security payment. You see, there was not much profit in an independent (nonchain) general store's business; consequently, my parents could not aflord to pay a large salary—and so to keep the clerk from leaving, paid her total social security. My father died suddenly of a coronary at the age of 68 in 1942, and my mother carried on alone (with the help of the clerk) until it became too much of a burden and strain on her, and she sold the store in 1944.

And so my mother has never been eligible for social security all these years—because she was unfortunate enough not to have come under the social security law when it was passed originally. She does not have a pension or any retirement benefits.

My brother's mother-in-law, is 78 years old. Her husband, a pattern maker in a toolshop. was paralyzed by a stroke in 1929—died in 1939. The children all helped support their mother when they were at home. The 45-year-old home was later remodeled to provide an income—Mrs. K living alone down stairs now—the upstairs rented. Mrs. K cannot obtain social security because her husband was not covered.

These two widows deserve social security if any one does. They struggled to rear their families. Certainly all of the children help as much as possible to see that they are not in want. But is it fair to exclude them from badly needed social security checks?

I am a retired New York City teacher who has been penalized. I retired 6 months before the present law was passed. My health failed, and the health department of the board of education would not permit me to return to become eligible for the benefits.

DEAR SENATOR PROUTY: I want to express my appreciation to you for your amendment to the tax bill which would blanket under social security all persons over 70 not now covered. Even if your amendment should be defeated in committee, you have performed an outstanding public service in bringing to the attention of the Nation the needs of our "forgotten" citizens.

My 76-year-old mother-in-law is a perfect example of this segment of our population. This dear, gentle lady never worked a day in her life and never had to. The vicissitudes of life have left her penniless.

I do not mind supporting her but it is a sore affliction to her morale and to her spirit to be completely dependent on me. Her hopes and prayers are centered around dying quickly and inexpensively. It is cruel that this all-powerful, rich Nation should neglect its elderly. Even in China, the elderly are treated with greater care and respect than we do in the United States.

I only wish that I was a voter in your State and could show my appreciation in a more forthright manner.

I have retired from the New York post office, since May 31, 1958. I havetried many places to get a job but because of my age, all the applications I filled out were never answered, so I never got the chance to work under social security.

Mr. PROUTY. Mr. President, I also ask unanimous consent to have printed in the RECORD various memorandums relative to this subject.

There being no objection, the memorandums were ordered to be printed in the RECORD as follows:

BRIEF SUMMARY OF THE CONFERENCE REPORT ON THE SOCIAL SECURITY AMENDMENTS TO THE ADMINISTRATION TAX BILL

The compromise version pays $35 ($17.50 to a wife) to everyone attaining age 72 or over before 1968 without regard to quarters of coverage. Commencing with 1968 and subsequent years the beneficiary must have three quarters for every year elapsing after 1966 up to the year the beneficiary reaches age 72.

Reductionts from the benefit amount are made in the case of recipients of governmental pensions less than the benefit amount.

In the case of a husband and wife, only one of whom is entitled to benefits under this amendment, the benefit shall be reduced, first, for any public pension received and, second, shall be further reduced by the excess of the periodic governmental pension of the spouse, not entitled to benefits under this amendment, over $17.50. For example, if A is eligible for the new benefit, and B, his wife, is not, and A receives a civil service retirement annuity of $10 a month, and his wife receives a civil service retirement annuity of $25 a month, A's new benefit of $35 is first reduced by his public pension of $10, leaving a new benefit of $25, less the subsequent reduction of the excess over $17.50 received by the wife, namely, $7.50. Hence, the eligible husband's benefit would be $17.50.

If both husband and wife are entitled to the new benefit, the benefit of the wife ($17.50) shall be first reduced by the excess (if any) of the eligible husband's public pension over $35. In the case of the husband, his new benefit shall first be reduced by the amount of his public pension and then further reduced by the excess of his wife's public pension over $17.50.

For example, if the wife receives a public pension over $17.50 and the husband receives one in excess of $35, no new benefit is payable. If the wife receives a public pension in excess of $17.50 per month while the husband receives a public pension less than $35 per month, the wife receives no new benefit, and the husband's new benefit is reduced by the amount of his public pension and the excess of his wife's public pension over $17.50. Conversly, if the wife receives a public pension less than $17.50 per month, but the husband receives one of more than $35 per month, the husband get no new benefit, and the wife's new benefit of $17.50 is reduced by the amount of her public pension and the excess of her husband's public pension over $35.

Persons receiving State public assistance moneys under State plans funded by social security are not eligible for the new benefit. Where the needs of the husband or wife of a public assistance beneficiary are taken into account by the State in determining the benefit payable to the recipient, the husband or wife is not eligible for the new benefit.

The cost of the new benefit program is funded out of general revenues in fiscal 1969, with the OASDI trust fund being reimbursed so as to put it in the same position at the end of fiscal 1969 as it would have been if the new benefits had not been paid. The trust fund is also to be reimbursed out of general revenues for expenses of administration and the interest loss to the fund.

Entitlement to benefits commences the first month after September 1966 that the beneficiary first becomes eligible.

MEMORANDUM ON FEDERAL RETIREMENT ANNUITIES

Of the more than 200,000 surviving widows and children of civil service retirees, 38 percent receive less than $50 a month; 79 percent receive less than $100 a month; 93 percent receive less than $150 a month. Ninety-nine percent of all surviving widows and children receive less than the so-called poverty level of $3,000 per year. Of the 170,000-some widows on the civil service retiremcnt rolls as of June 30, 1965, the average age was 65.8, the average annuity a meager $80 per month.

The situation of surviving widows and children is not necessarily the most desperate. Look at the unfortunate figures relating to employee annuitants: 49,700 receive less than $50 a month; 126,100 receive less than $100; 214,300 receive less than $150 per month; 307,600 receive less than $200. Viewing the so-called poverty level as $250 per month, 377,500 civil service employee annuitants out of a grand total of 508,500 receive less than poverty-scale annities.

Alarmingly enough, nearly 74 percent of all civil service employee annuitants receive less than the magical poverty level.

Mr. COTTON. Mr. President——

The PRESIDING OFFICER (Mr. PELL in the chair). The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, I have listened with keen interest and appreciation to the words of the distinguished Senator from Vermont [Mr. PROUTY]. I commend him highly for the fight he is making for his amendment.

It was my privilege to stand with him in the last session of Congress when we tried to increase the social security of those receiving the minimum. It was my privilege to share with him some of the attacks which were made; that it was an attempt to debase the social security system which was a system of insurance—although almost everyone who faces the facts realizes that it has ceased to be an insurance system and has now become, to a large extent, partly an insurance system and partly a system of benefits extended from the Treasury.

I shared with him the fight for his amendment last week.

I do not share with him—and I say this with all appreciation and without any attempt to differ with him—quite the sense of encouragement which he expresses about the result of the conference committee and the so-called compromise which was brought back.

No words of the psalmist can reconcile me to the fact, which is the pungent, outstanding fact, that this group of aged persons who, through no fault of their own, do not qualify for social security, are going to be compelled to wait 2 long years before they will have an opportunity to enjoy even the limited benefits of this bill as it comes from conference.

Mr. President, a 2-year wait for a person 70 years old who is on relief and who is living in conditions of poverty is an exceedingly serious and cruel punishment to inflict upon that person. And the consolation that they will not wait forever will not be true of those who do not survive those 2 years.

The obvious answer, I suspect, that might be made to this statement is the fact that they are waiting 2 years as their contribution and as their sacrifice to the

expenses of maintaining the war in Vietnam. I fail to see why it should be placed on the shoulders of this particular group of aged Americans.

We all listened to the impassioned words of the President of the United States—those eloquent words—in his state of the Union address. To remind the Senate, I will read what the President said:

> I have not come here tonight to ask for pleasant luxuries and for idle pleasures. I have come here to recommend that you, the Representatives of the richest Nation on earth, you the elected servants of the people who live in abundance, unmatched on this globe, you bring the most urgent decencies of life to all of your fellow Americans.
>
> There are men who cry out that we must sacrifice. Well, let us rather ask them, Who will they sacrifice? Are they going to sacrifice the children who seek the learning, or the sick who need medical care, or the families who dwell in squalor that are now brightened by the hope of home? Will they sacrifice opportunity for the distressed, the beauty of our land, the hope of our poor?

Those were glowing words, and the question propounded to the Congress was a mighty question: Whom shall we sacrifice? And now we have the answer. We will maintain all of the benefits scattered throughout this Nation by the myriad programs of the Great Society. Those will not be sacrificed. We shall have, as the President has declared, both guns and butter, because this great, rich Nation can afford both guns and butter. The only ones we are going to sacrifice is that little group of aged people. They are the ones who are being compelled to wait for 2 years, from the age of 70 until the age of 72. Outside of the men who fight, that little group is the first group I have heard designated by this administration and its spokesmen on the floor of the Senate, and even the joint conference of the two bodies of the Congress of the United States, as being compelled to make the sacrifice and wait so we can fight a war.

I do not consider this compromise a satisfactory compromise. I consider that it is one of the most cruel and heartless resolutions I have witnessed since I have been a Member of the Congress. I do not intend, now or hereafter, to have every tax increase, that is requested crammed down my throat on the ground that it is being raised to finance the war effort in Vietnam, because we have had the word—and we have had the word from the most high—that with this burgeoning economy, with the rich resources of this country, we can maintain these humanitarian programs, many of which are essential, all of which seem desirable, but we can maintain them all, and we are not going to defer the glorious benefits of the Great Society for one moment.

The larger portion of the dollars raised under this tax bill will come straight from the pockets of the people who need them most. Whatever we do to corporations taxwise is simply passed on to the consumer. I have heard Senators wring their hands and cry out day after day after day how friendly and solicitous they are about the consumers. Do not forget that a portion of every single dollar that will be realized by this tax increase will be going, if you please, to maintain all these programs of the Great Society.

In general terms, the total cost of the Great Society programs for the coming year, fiscal year 1967, is estimated to be $22.5 billion.

Over the next 5 years, these new domestic programs of the Great Society, more than 50 new and expanded ways of spending money, if they are carried out and if appropriations are made, will cost the taxpayers $98 billion.

Certainly, no one can be critical of all of these programs. Some of them, like water pollution, air pollution, health research facilties, including heart, stroke, and cancer, and mental health, are highly desirable programs. But the bulk of the Great Society spending represents the fluff and frosting of Government beneficence. This type of program will cost the taxpayers more than $19.5 billion next year, and $83 billion over the next 5 years.

The cost of these new and expanded spending programs of the Great Society will be a real factor in the Federal budgets to come, and they will be a real burden on the taxpayers.

I have not heard anybody speaking for the administration who has questioned that directive—that because of the rich resources of this country and because of the booming business conditions in this country and the full employment, we can continue the program and fight the war. If I can understand plain English, most eloquently phrased, that is precisely what the President told us in his state of the Union message, and that is precisely what he has said on every occasion. If that is so, how can anyone justify picking a group of old people who through no fault of their own do not qualify for social security, and insisting that they wait 2 years and insisting further that not at 70 but at 72 this great Government, this great, rich country, able to do all of these mighty things, will then give them not even $44 a month but $35 a month. I cannot comprehend that kind of action.

I wish to suggest, Mr. President, that there were some things said here last Monday that were very illuminating. I recall that the spokesman for the bill, after the amendment of the distinguished Senator from Vermont has been adopted—I suspect rather unexpectedly—stood on the floor of the Senate and, to my amazement, began to talk about that portion of these people over 70 who did not need $44 a month. They were rich. They had millions in income. They were retired bank presidents and retired business executives. It was ridiculous.

Somebody else—I have forgotten who it was—looked at the Senate and said:

> The idea that Senators would vote themselves $44 a month after they are 70 years old when they do not need it.

That is true. That is the gospel truth and I agree with it. But I was amazed to hear it because when we had the medicare bill before the Senate, the Senator from New Hampshire offered a sensible amendment, and others offered similar amendments. We stood on the floor and called for a needs test, not the kind of needs test that sends social workers out to call on oldsters to determine how much they spend each week for tobacco, but simply one providing that those who reported incomes of over a certain amount should not be eligible and would not receive the special health benefits under medicare because they were well able to pay for it themselves.

Now, friends on the other side held up their hands in holy horror. It was absolutely incomprehensible to them that we should suggest such a needs test. There was something degrading about it. It was an insult to those who were poor. It was something we should pull away from and scorn, and they attacked the Kerr-Mills law, which would have gone a long way to take care of the health problems in this country if the bureaucrats had not stifled it and refused to push it. They attacked that law because it did have an income needs test. Do Senators remember that?

Then, all of a sudden last Monday, out of the clear sky, they jump up and say that we should have a means test for this pittance, this minimum allowance that we had the audacity to request for this group of people who were left out. I agree with that. It is a good place to start. We should have started sooner.

We have no need to pay $44 a month or $35 a month to any Member of the Senate who becomes 70 or 72. We have no need to pay a benefit to a retired bank president or anyone who has ample income.

If they meant what they said I wonder why the conferees did not come back to us with the needs test for the $44 a month and the $66 a month for the aged over 70 who are not eligible for social security.

It would have been a compromise and a perfectly sound and just one, as it would have been sound and just in the case of medicare.

The war-on-poverty program carries a needs test. The benefits of the war on poverty have a needs test, which is roughly $3,000 income with a family of four, with some variations. But whatever it is, it was very carefully and thoughtfully worked out to determine who is poor, who needs help, and who should have help.

What in the name of all that is great and good prevented these distinguished conferees for the Senate and the House of Representatives from proposing a needs test when they were worried about the $1 billion that was going to be wasted. Incidentally, I do not accept that figure. I do not accept that figure for many of those who would receive this had already been on welfare and the Federal Government is paying a lion's share of that welfare.

But they could have taken care of all of it. They could have stopped at a billion dollars or three-quarters of a billion dollars or a half a billion dollars. They could have put this money right where it is needed and needed the most by letting them have it at the age of 70 and not after 72, if they live that long; not after the war is won in Vietnam, not by and by, and then only a part of it, by simply turning out their

own words when they stood in the center aisle of the Senate and held up their arms and said, "Why, you can't do this thoughtless thing. You have to have a needs test. Why, you can't do that."

Why could they not give us a needs test.

I do not want to vote a cent for someone who does not need it and is not on social security. I see no reason why any Member of the Senate when he passes the required age, with his retirement privileges, should draw a dollar from this amendment to the bill. I see no reason why the wealthy people should participate. It is a simple thing to see that they do not. That is one of the glaring inconsistencies.

I have enumerated other inconsistencies. The first one is that in a situation where it has been declared the national policy that we should have both guns and butter—and that we should not hold up for a moment the great programs of the Great Society—that we should insist on holding up this one benefit to this one small group who need it the most, hold it up for 2 years and then only give them part of it. That is the first inconsistency.

The second inconsistency is on all the discussion about this money going to the rich and that there should be some kind of qualifying test. It is a simple enough matter to write into this bill exactly and precisely the same needs test that is in the war-on-poverty program and give it to them now and not ask that one group to wait for 2 years and then get only a portion of it.

So far as I am concerned, I must say that I am not happy about this compromise brought back by the conferees.

I am sure they did their best. I am not criticizing them personally, of course. But to me, it is not much encouragement. To me it is the most grotesque and inconsistent proposition that I have heard for a long time.

I was not enthusiastic about voting for this tax bill; in fact, I had determined to vote against it. We must face the expenses of the war in Vietnam and I have unhesitatingly voted to meet those expenses. I voted for the military authorization bill to meet our requirements in Vietnam and just last week I voted for the supplemental authorization bill providing foreign aid in southeast Asia. I do not intend to withhold what is needed or to have anybody think for a single moment that the Senator from New Hampshire is not ready to help present a united front to the world, and let the world know that we intend to stand firmly behind the President, now that we are at war, and now that the world is looking at us to ascertain whether this Nation is resolute and determined, or is irresolute and faltering.

But, by the same token, I would rather see the increase in taxes that is coming. I doubt whether a single Member of the Senate, either within sound of my voice or in his office or somewhere else, is not perfectly aware that we shall have further increases in taxes; that they are imperative; that they are a must; and that the increases are coming just as fast as night follows day. We should meet this need head on, not piecemeal.

The subterfuge of reinstating some excise taxes—and excise taxes are a fancy name for sales taxes—is the worst form of taxation, the most unfair form of taxation, in the world. They are pickpocket taxes. They reach into the pockets of the poor and extract pennies from their purses when they do not even know or realize that it is being done.

The taxes are leveled, so far as the world is concerned, at the great corporations, but there is not a corporation that will pay a cent of them. They will pass them on, and the taxes will come out of the homes of the people of the land.

But I finally held my nose and voted for this tax bill, even though I wanted to oppose it for that reason and for the reason that it merely defers the evil day when we shall find out how much money will be needed, when we shall determine an overall policy of authorizing the revenue bills to raise the taxes.

I predict that the day will come when either the President and the administration or the Committees on Appropriations of Congress will decide that we must forgo some of the luxuries of our domestic programs until the war in Vietnam is fought and won.

But I voted for the tax bill. I voted for it because I was so deeply concerned in the Prouty amendment. Perhaps the distinguished Senator from Vermont consoles himself with a victory of principle, but that amendment, as I see it, has been emasculated. This tax bill is not merely to raise money for the war. It is designed to raise money for our domestic programs. It does not face head-on the whole tax problem. The Prouty amendment, which was so necessary, has been destroyed.

The Hartke amendment, which would have taken out of the tax bill that part which bears most heavily on those who can afford it least—the local charge for telephone service, which is not a luxury but a necessity—has been thrown out. So far as I am concerned, one feature of the bill has been emasculated; the other has been thrown out.

I shall not go along with either the Senator from Indiana [Mr. HARTKE] or the Senator from Vermont [Mr. PROUTY] when the time comes to vote on agreeing to the conference report. I hope we may have the yeas and nays. I want the opportunity to do what I desired to do in the first place, but did not do because of the amendments that I thought were so important. I want the opportunity to vote "nay," and I do not want anyone to try to tell me that when I vote "nay" I am taking the guns out of the hands or the food out of the mouths of the boys in Vietnam, because that is pure hogwash.

The bill provides $6 billion; spread it where they will. It will go into the Treasury; and whatever portion is intended for the war will be allocated for that purpose. More taxes will be coming later. I hope they will be fairer taxes.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. COTTON. I am glad to yield.

Mr. PROUTY. I wish to commend the distinguished Senator from New Hampshire for making an outstanding statement on the floor of the Senate this afternoon. I hope that Senators who were not present will have the opportunity to read it carefully. I hope the press of the country will report it adequately, because it is a statement with which the American people should become familiar.

The so-called Prouty amendment might well be called the Prouty-Cotton amendment, because the Senator from New Hampshire has been by my side fighting for the elderly people this year and in the past. I appreciate his help and support.

While I, too, am dissatisfied with the compromise developed by the conferees, a set of principles has been adopted—a first step down a long, hard road has been taken. The conferees preserved these principles and took this despite powerful pressure from the White House. I frankly say that the conferees deserve great credit for standing up to the Presidential emissaries and withstanding the phone calls from high places which everyone knows were being made right and left. Betty Beale, reported in her society column that the Secretary of the Treasury and top Presidential aids were late in arriving at the Embassy of Kuwait the night my amendment was adopted because of consternation at the White House. Battle plans were being laid against the amendment the very night it was adopted. The conferees overcame great obstacles.

So I hope the Senator from New Hampshire will change his mind and feel that we are doing something for the elderly people, even though it is not by any means nearly enough.

Mr. COTTON. I thank the distinguished Senator from Vermont for his kind words, which I deeply appreciate. I wish to make it clear that I am not withholding credit from the conferees; I am sure they acted in good faith. I am sure they did the best they could. The conferees stood by their guns—and butter.

I do not know about the telephone calls from the White House; I never received one. But perhaps Senators stood by their guns. Perhaps half a loaf is better than none, even for the group of elderly people who are being left out.

However, I should like to reassure the distinguished Senator from Vermont and tell him something that I think he already knows. Even if we rejected the conference report, we would still have another chance. The Senate could send the report back with a mandate to find a different type of compromise, if we had to have one. But I can reassure the Senator from Vermont that neither his vote nor mine is needed; the majority party has the votes. They will adopt the conference report. All that I ask, all that I hope to get, is an opportunity to make one more speech on the report, and that is to stand up in my place and say "No."

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. WILLIAMS of Delaware. Mr. President, I shall be very brief. There is one further amendment in the bill which is most important.

I wish to comment on this amendment to be sure that all Senators understand exactly what we are doing. I refer to the amendment contained in section 301 of the bill, which amendment would disallow certain deductions for certain indirect contributions to political parties.

Mr. President, I ask unanimous consent that a copy of the amendment as approved by the Committee on Finance, by the Senate, and by the conferees, be printed at this point in the RECORD.

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

SEC. 301. DISALLOWANCE OF DEDUCTION FOR CERTAIN INDIRECT CONTRIBUTIONS TO POLITICAL PARTIES.

(a) DISALLOWANCE.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 276. CERTAIN INDIRECT CONTRIBUTIONS TO POLITICAL PARTIES.

"(a) DISALLOWANCE OF DEDUCTIONS.—No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred for—

"(1) advertising in a convention program of a political party, or in any other publication if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate,

"(2) admission to any dinner or program, if any part of the proceeds of such dinner or program directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate, or

"(3) admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified with a political party or a political candidate.

"(b) DEFINITIONS.—For purposes of this section—

"(1) POLITICAL PARTY.—The term 'political party' means—

"(A) a political party;

"(B) a National, State, or local committee of a political party; or

"(C) a committee, association, or organization, whether incorporated or not, which directly or indirectly accepts contributions (as defined in section 271(b)(2)) or make expenditures (as defined in section 271(b)(3)) for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any Federal, State, or local elective public office, or the election of presidential and vice-presidential electors, whether or not such individual or electors are selected, nominated, or elected.

"(2) PROCEEDS INURING TO OR FOR THE USE OF POLITICAL CANDIDATES.—Proceeds shall be treated as inuring to or for the use of a political candidate only if—

"(A) such proceeds may be used directly or indirectly for the purpose of furthering his candidacy for selection, nomination, or election to any elective public office, and

"(B) such proceeds are not received by such candidate in the ordinary course of a trade or business (other than the trade or business of holding elective public office).

"(c) CROSS REFERENCE.—

"For disallowance of certain entertainment, etc. expenses, see section 274."

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"Sec. 276. Certain indirect contributions to political parties."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1965, but only with respect to amounts paid or incurred after the date of the enactment of this Act.

Mr. WILLIAMS of Delaware. Mr. President, I point out that this amendment would prevent using as a deduction any advertising in any publication of a political party. Likewise, in the event of advertising in any other publications the amendment would prevent the taking of a deduction if any part of the proceeds inured, or would inure if there were a profit, either directly or indirectly to the benefit of a political party or a political candidate.

A question has been raised whether this amendment would cover so-called almanacs which are being printed by some parties in different States. A question is raised whether this amendment would cover advertising when turned over to a so-called nonprofit research organization. A question is raised whether it would be permissible to turn the funds over to the so-called voter education clubs. The answer most emphatically, as agreed on by the conferees and by the Treasury Department, is yes, it would cover all procedures that have been used heretofore as well as procedures which might be dreamed up at a later time.

This amendment covers them all. Under no circumstances is advertising in any type of publication by a political party or by some other organization which plans to turn the proceeds over to a political party or candidate to be allowed as a deduction for tax purposes.

To make sure that we covered all of it we said "or similar organizations." We do not intend that there be any loopholes in this law.

The second part of the amendment provides that in the event of charges for admissions or charges for dinners or for programs—such as the $100 dinners or the $1,000 presidential clubs—no deductions may be taken. In all cases where any part of the proceeds inures, or if any part would inure if there were a profit, either directly or indirectly, to the benefit of a political party or a political candidate they cannot be claimed as deductions for tax purposes.

I repeat that if any part of the proceeds were to go either directly or indirectly to a political party or to a political candidate, or if any part were intended to go to a political party or a political candidate if there were a profit, no deduction either for the advertising or for the cost of the tickets, and so forth, may be made. I think that is clear.

The advertising contained in those programs and the purchase of tickets for a dinner are covered and are not permissible deductions for income tax purposes under any circumstances.

The third part of the amendment provided that no deductions are to be allowed for the cost of tickets to inaugural balls, galas, or other similar events. This part of the bill is likewise quite clear.

Let there be no misunderstanding. I call attention to a new suggestion that I have just received and which is likewise covered. This represents an elaborate plan for a new fund raising. A map of the United States was included with the suggestion.

This new proposal points out how $25 million can be raised by having annual White House balls. They have a breakdown to show how much money should come from each of the 50 States.

It is pointed out that this celebration could be held on the birthday of the President. The promotors pointed out that the Republicans could use this same plan to celebrate the birthday of a former President. They suggest a presidential ball at numerous places in the country. The top officials of the parties and other celebrities could attend these celebrations in the various States and raise as much as $25 million for the committee.

This is an elaborate plan, but let there be no misunderstanding—such a plan is covered by this amendment.

A political party may have a presidential ball; however, under this amendment those who attend that presidential ball will pay for the privilege of attending without the benefit of any tax credit or tax deduction. That point should be made very clear.

By selling advertising in the booklet "Toward an Age of Greatness" the Democratic Party raised approximately $1.5 million last year. There was also a campaign brochure issued at the 1964 convention in Atlantic City with a multimillion-dollar advertising scheme. All of the advertising in such booklets or brochures is covered under this amendment and are not deductible. In fact, in my opinion they are not deductible under existing law either. There is complete agreement on the part of the conferees, the Finance Committee, and the Treasury Department as to the manner in which this amendment should be interpreted. Likewise, this amendment does not propose to legalize those old transactions. They can continue to work out their problems with the Department.

I want to make it clear so that we do not pick up a newspaper tomorrow and find some other imaginary scheme whereby someone proposes to finance campaigns out of the Treasury of the United States as a result of Department rulings.

I agree that we do have a duty to find a method by which we can enlarge the source of smaller contributions and will work toward that objective.

In that connection I introduced a bill for our committee study and have submitted it to the Treasury Department. We should make a step in that direction. In that bill I proposed that the first $25 contribution be afforded some form of tax credit. I suggested 70 percent of the first $25 as a tax credit and that consideration be given to affording a deduction for the next $75.

The reason for suggesting a tax credit for the smaller contributors is that those

who use the standard deduction and do not itemize deductions would get no credit if some such formula were not provided.

When the representatives of the Treasury Department testified before our committee the Secretary of the Treasury said that the President was interested, and he expected to come up with a legislative proposal to encourage small contributions for political parties in a legitimate way.

We should take some action toward this objective, but let us approach the problem with legislation and not through back-door rulings where one taxpayer gets a deduction and another does not.

We must spell out in the law what is permissible. I did not press for action on this proposal at this time because the Secretary asked that we withhold it with the clear understanding on the part of the committee and the Treasury Department that the administration will be coming before Congress in the near future with a proposal which would expand the source of revenue and make some provision to attract smaller contributions.

Whatever the formula may be, however, whether it be something that I suggest or a plan that the Treasury Department suggests, is immaterial. What is important is that we must spell it out in the law. Let us do it through legislation and not on the basis of which party is able to get a favorable Treasury Department ruling that the other party will not find out about until 6 or 8 months later.

I am getting a little impatient at what has happened. This is the second time it has happened where the Democratic Party has dipped into the Federal Treasury to finance an election. I most advisedly say that the third time it happens I will be a little rougher in my comments than I have been thus far.

Mr. President, I ask unanimous consent that an analysis of the bill and its legislative intent, and the interpretation of this amendment as prepared by the staff of the Joint Committee on Taxation be printed at this point in the RECORD.

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

AMENDMENT ON INDIRECT POLITICAL CONTRIBUTIONS

My amendments is designed to clear up the tax treatment of what really are indirect political contributions. It is the committee's view that political contributions either generally should be deductible or not deductible. I see no reason for special treatment just because we call some of them advertising, admissions, or anything else.

Under existing law political contributions generally are not deductible. Nevertheless, it is common knowledge that this rule has, for some time, been circumvented by the simple expedient of framing contributions in the form of purchases of advertising space in various party-sponsored publications. In spite of the obvious transparency of this device, I am informed that it is by no means certain that deductions for such "advertising expenses" will be disallowed. I am not only concerned with the lack of clarity in present law as to the deductibility of these contributions. I am also concerned about the participation of political parties in schemes which by indirection attempt to create tax deductions for payments which, if made directly, would not be allowable.

For these reasons I proposed this amendment to the bill (H.R. 12752) to make it unmistakably clear that political contributions made in the form of advertising, payments for admissions, or payments by other indirect means, are not to be deductible for income tax purposes.

Under this amendment amounts paid for advertising in a political convention program are not to be deductible under any circumstances. In addition, amounts paid for advertising in any other publication are not to be deductible, if any part of the proceeds of the publication inures, directly or indirectly, to a political party or a political candidate. In determining whether proceeds inure to a political party or candidate the use to which they are put by the party or candidate is completely irrelevant. The fact that such proceeds are used by a political party or candidate only for educational and research purposes, or for any other similar purposes, does not make the advertising deductible.

In addition, my amendment specifies that no deduction is to be allowed for the admission charge to any dinner or program, if any part of the proceeds of the dinner or program inures, directly or indirectly, to a political party or a political candidate. A charge for admission for this purpose includes not only amounts paid for the right to attend the event, but also includes any additional amount paid to entitle the person to participate in activities carried on at the event.

My amendment also provides that charges for admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified wih a political party or political candidate are not to be allowed as deductions. This provision applies regardless of the sponsorship of the event or of the disposition of the proceeds. Under this provision, charges for admission to an inaugural ball sponsored by a nonpartisan or bipartisan committee or organization are not deductible. This is true even if the proceeds are used only to defray the expenses of the ball or similar event. The provision applies whether the inaugural celebrated is for a Federal, State, or local official (elected or defeated).

A political party for purposes of my amendment includes (in addition to a political party as commonly understood) a National, State, or local committee of a political party. It also includes any committee, association, or organization, whether incorporated or not, which directly or indirectly accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any elective public office, or the election of presidential or vice-presidential electors. These organizations are treated as political parties whether or not the individual succeeds in being selected, nominated, or elected.

In general, this amendment is patterned after the provision of present law denying deductions for worthless debts owed by a political party. However, it differs slightly to make it clear that (as was intended under the worthless debt provision) it applies to candidates at primary elections.

Mr. WILLIAMS of Delaware. Mr. President, I repeat—this is not the first time that this has happened. I call attention to one prior incident which happened in the 1948 and 1951 period but which was not discovered until 1958. This situation was corrected by legislation in 1958 and is not a part of this pending legislation. I review this merely to emphasize to anyone in the Treasury Department who on some future occasion may try by rulings to do something that Congress never thought the law intended. I want to impress upon them the importance of coming to Congress in order to change the law and not to attempt to do it in conference with the national committee of either political party.

It was called to my attention around 1958 that large political contributions were being made to the Democratic Party and that the contributions were being written off under the guise of bad debts. These contributions to the Democratic Party before the election were called loans. Of course every political party is out of money by election day. The Treasury Department, after the election ruled that the party had no money and therefore the contributions could be written off as bad debts and would not be subject to a gift tax. There was no basis for any such rulings but they were made and kept secret for nearly 8 years.

I shall put these rulings in the RECORD. By the way, one of these rulings was issued less than 48 hours after it was applied for; the application was mailed from North Carolina, and the ruling was approved in Washington in less than 48 hours, which is an all-time speed record for the Treasury Department. Under this ruling of December 30, 1948, Mr. Richard J. Reynolds was permitted to write off as a bad debt a $310,110.45 contribution which he had made to the Democratic committee in New York.

They said, "Since you can't collect it you write it off as a bad debt, and it will not be subject to a gift tax."

Likewise, Mr. David A. Schulte had contributed $50,000 to the Democratic Party and called it a loan, and on May 18, 1949, he also received a ruling that he could consider it as a bad debt, and it was not even subject to a gift tax. Mr. Marshall Field contributed—or should we say loaned—$50,000 to the Democratic Party, and he too was allowed to classify it as a bad debt, and it was not subject to a gift tax.

I review these old rulings to show just how tax laws can be changed without Members of Congress knowing anything about it. Never again do we want to hear of a secret ruling on political contributions.

Next I read a ruling issued to Mr. William Neal Roach, the assistant treasurer of the Democratic National Committee, Ring Building, Washington, D.C., under date of July 26, 1951:

JULY 26, 1951.

Mr. WILLIAM NEALE ROACH,
Assistant Treasurer, Democratic National Committee, Ring Building, Washington, D.C.

DEAR MR. ROACH: Reference is made to your letter of July 12, 1951, transmitting a letter from Mr. Wilson Gilmore, president of the Young Democratic Clubs of America requesting a ruling concerning the deductibility by corporations of contributions to the Young Democratic Clubs of America for their convention.

He has stated that such clubs will hold their national biannual convention at the

Jefferson Hotel in St. Louis, Mo., on October 4–6, 1951. In order to defray the large amount of expenses that will be incurred by the convention program, they are seeking contributions. It is stated that it has been their idea to organize a convention corporation under the benevolent corporation laws of Missouri and to obtain a pro forma decree for this nonprofit corporation. Such corporation would be the recipient of all convention funds and would pay all expenses and attend to all other official business of the convention. After the convention such corporation would be dissolved. A ruling is requested as to (1) whether contributions from corporations would be deductible by them for Federal income tax purposes as business expenses if given to the Young Democratic Clubs of America, and in the alternative; (2) whether such contributions would be deductible if given to the proposed convention corporation.

On the basis of the information submitted it is held that contributions for the purposes of the convention made to either the Young Democratic Clubs of America or in the alternative to the convention corporation when organized by corporations engaged in a trade or business in the city of St. Louis and its environs would constitute allowable deductions as ordinary and necessary business expenses under the provisions of section 23(a) of the Internal Revenue Code in the Federal income returns provided that such donations are made with reasonable expectation of a financial return commensurate with the amount of donations.

Very truly yours,

GEO. J. SCHOENEMAN,
Commissioner.

I am sure all those who contributed had a reasonable expectation of getting value received in return; most of them were defense contractors. Let us face it, this was just a procedure to shake down some contributors and ease their burden by allowing them to claim their contributions as tax deductions.

Proof that those who made these rulings recognized the impropriety of their actions is evidenced by the fact that they went to such great lengths to keep it a secret for 10 years.

Mr. COOPER. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS of Delaware. I will yield in a moment.

Mr. President, I ask unanimous consent that the four rulings to which I have referred be printed at this point in the RECORD.

There being no objection, the rulings were ordered to be printed in the RECORD, as follows:

TREASURY DEPARTMENT,
Washington, D.C., December 30, 1948.

Mr. RICHARD J. REYNOLDS,
Reynolds Building,
Winston-Salem, N.C.
(Attention: Mr. Stratton Coyner.)

DEAR MR. REYNOLDS: Reference is made to a letter written in your behalf by Mr. Stratton Coyner, attorney, dated December 28, 1948, in which it is stated that you have received a final settlement offer from the Democratic State Committee of New York of 10 percent of the aggregate face amount of unpaid demand notes issued by the committee, which you now hold for collection.

A ruling is requested as to whether (1) the acceptance of such offer would, for Federal income tax purposes, constitute a gift, and (2) the loss representing the difference between the aggregate face value of the notes and the amount received in full settlement would be considered as a nonbusiness debt.

The letter states that you now hold the following notes of the Democratic State Committee of New York:

Note dated February 27, 1947, payable on demand, signed by Carl Sherman, treasurer, $75,000.

Note dated February 27, 1947, payable on demand, signed by Carl Sherman, treasurer, $100,000.

Note dated October 14, 1944, payable on demand with interest after demand at rate of 1 percent, signed by Carl Sherman, treasurer, $96,000.

Note of Democratic State Committee of New York dated February 27, 1947, payable on demand to Democratic State Committee of New Jersey, endorsed without recourse by the Democratic State Committee of New Jersey, by (not stated in letter), $39,110.45.

The notes presently held by you are represented to have been issued in consummation of a series of transactions involving advances to the Democratic State Committee of New York. In all transactions it is represented that the advances were in the nature of loans inasmuch as notes were received as evidence of the obligations incurred by the committee. The representations in respect of advances made over a period of years extending back to the year 1940, the notes issued in respect of the obligations and the payments made on such notes are fully disclosed in the letter of your attorney.

It is stated in the letter that you were assured at the time the loans were negotiated that repayment of the loans, fully covered by demand notes, would be made on an annual basis. Subsequent events, however, precluded the committee from discharging, as contemplated, the several notes issued as evidence of its obligation to repay the advances made by you. It is stated further that demands have been made at various times for the payment of the notes which have resulted only in the receipt of renewal notes.

The possibility of instituting legal action against the committee, it is stated, was of no avail inasmuch as reducing the notes to judgment and throwing the committee into bankruptcy would have accomplished nothing toward the payment of the obligations. Furthermore, it is stated that the Democratic State Committee of New York has no assets of any consequence, and no uncollected enforcible pledges. A certified page from the official report of the Democratic State Committee of New York dated November 2, 1948, showing the outstanding loans payable by that committee has been submitted and, supplementary thereto, it is stated that the Democratic State Committee of New York has only a small bank balance of less than $5,000 and office furniture for four offices and a reception room in the Biltmore Hotel in New York City.

It appears that your demands for payment of the notes finally resulted in the submission of an offer on the part of the Democratic State Committee of New York to pay in full setlement, in cash, 10 percent of the aggregate face amount of the outstanding notes. The offer is contained in a letter addressed to you under date of December 23, 1948, and signed by Mr. Carl Sherman, treasurer, Democratic State Committee of New York.

In view of the representations and data submitted it is concluded that (1) the acceptance of the offer of the treasurer, Democratic State Committee of New York, would not, for Federal income tax purposes, constitute a gift, and (2) any loss incurred resulting from such acceptance would be considered as a nonbusiness debt within the meaning of section 23(k)(4) of the Internal Revenue Code.

Very truly yours,

E. I. MCLARNEY,
Deputy Commissioner.

MAY 18, 1949.

Mr. DAVID A. SCHULTE
New York, N.Y.
(Care of Gale, Bernays, Falk & Eisner).

DEAR MR. SCHULTE: Reference is made to a letter written in your behalf by Gale, Bernays, Falk & Eisner dated April 26, 1949, in which it is stated that you have received an offer from the Democratic State Committee of New York, hereinafter referred to as committee, of 10 percent of the face amount of a note of the committee in full settlement thereof. The letter dated April 8, 1949, from Mr. Carl Sherman, treasurer of that committee making such offer was submitted with the letter of April 26, 1949. In the absence of a power of attorney authorizing Gale, Bernays, Falk & Eisner to represent you this letter is being addressed to you.

A ruling is requested as to (1) whether the acceptance of such offer would, for Federal income tax purposes, constitute a gift; and (2) whether the loss incurred by your acceptance of said offer would constitute a nonbusiness bad-debt loss.

It is stated that in 1944 you were asked to lend the committee $50,000; and that you were assured that after the campaign in 1944 the note would be gradually repaid as different finance programs made funds available. The $50,000 was loaned to the committee and you were given a promissory note in that amount. Such note has not been paid, and the committee has informed you that it would be unable to make payment on the note or to its other note-holding creditors, but that it has been promised sufficient money to offer in settlement 10 cents on the dollar to all of its creditors.

The committee has also informed you that its principal creditor, Mr. Richard J. Reynolds, has accepted its offer and received payment, and that Mr. Marshall Field, another noteholder, has also consented to accept the offer.

Based upon the information submitted it is the opinion of this office that acceptance of the offer of the committee will not, for Federal income tax purposes, constitute a gift, and that the loss resulting from such acceptance will be considered as a nonbusiness bad debt within the meaning of section 23(k)(4) of the Internal Revenue Code.

Very truly yours,

E. I. MCLARNEY,
Deputy Commissioner.

MAY 18, 1949.

Mr. MARSHALL FIELD,
New York, N.Y.
(Care of Mr. Howard A. Seitz).

DEAR MR. FIELD: Reference is made to a letter written in your behalf by Mr. Howard Seitz, your attorney, dated April 15, 1949, in which it is stated that you have received an offfer from the Democratic State Committee of New York, hereinafter referred to as committee, of 10 percent of the aggregate face amount of a note of the committee in full settlement thereof.

A ruling is requested as to (1) whether the acceptance of such offer would, for Federal income tax purposes, constitute a gift; and (2) whether the loss thus incurred by your acceptance of the offer of settlement would be considered a nonbusiness bad-debt loss.

It is stated that in 1940 you were asked to lend to the committee the sum of $50,000. The loan was made and you accepted a promissory note. The matter of payment has been discussed with the committee, and the officers of the committee have informed you that they have insufficient funds to make payment. In December, 1948, you were informed by the committee that it would be unable to make payment of the note to you or its other note-holding creditors. You have decided to accept the offer of settlement of 10 cents on the dollar.

You have been informed that Mr. Richard J. Reynolds, the principal creditor of the committee, has already accepted a similar offer of the committee, and that Mr. David A. Schulte, another creditor, has consented to do likewise.

Based upon the information submitted it is the opinion of this office that acceptance of the offer of the committee will not, for Federal income tax purposes, constitute a gift, and that the loss resulting from such acceptance will be considered a nonbusiness bad debt within the meaning of section 23(k)(4) of the Internal Revenue Code.

Very truly yours,

E. I. McLARNEY,
Deputy Commissioner.

APRIL 19, 1950.

Mr. STUYVESANT PEABODY, JR.,
Morris Hotel,
Chicago, Ill.

DEAR MR. PEABODY: Reference is made to your inquiry as chairman of the Chicago Host Committee for National Jefferson Jubilee to be held in Chicago on May 13, 14, and 15, 1950, with respect to whether contributions made to the Committee by corporate and individual taxpayers engaged in business in the city of Chicago would be deductible for Federal income tax purposes.

You state that the Chicago Host Committee is playing host to thousands of guests who will participate in extensive panel discussions pertaining to the issues of the day. It is also intended to pay tribute to Thomas Jefferson through parades and pageants depicting his contributions to the welfare of our country. It is expected that the thousands of guests and visitors spending three days in the city of Chicago will bring new money into the community and will benefit the business of the community.

The contributions from local tradesmen are solely intended to defray the expenses to be incurred in playing host and running the above-mentioned functions. It is understood that the contributions referred to in your letter will not be used to defray the expenses of the political aspects of the event.

On the basis of the information submitted, it is held that contributions made to the Chicago Host Committee for National Jefferson Jubilee by corporate and individual taxpayers engaged in a trade or business in the city of Chicago would constitute allowable deductions as ordinary and necessary business expenses under the provisions of section 23(a) of the Internal Revenue Code, in their Federal income tax returns, provided that such donations are made with a reasonable expectation of a financial return commensurate with the amount of the donations.

Very truly yours

GEO. J. SCHOENEMAN,
Commissioner.

Mr. WILLIAMS of Delaware. There is one other ruling which I shall read. This ruling was dated September 22, 1950, and it was solicited by the Republican Committee of New Jersey. Significantly the Republicans received an adverse ruling. I ask unanimous consent that this ruling also be printed in the RECORD at this point.

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

SEPTEMBER 22, 1950.

Hon. JOHN E. MANNING,
Collector of Internal Revenue,
Post Office and Courthouse,
Newark, N.J.

MY DEAR MR. MANNING: Reference is made to your letter dated September 12, 1950, in which you request advice with respect to a letter from Mr. John J. Dickerson, chairman of the New Jersey Republican State Committee.

In his letter Mr. Dickerson states that the New Jersey Republican State Committee is sponsoring a dinner in Atlantic City on September 30, 1950, and that a question has arisen as to whether or not the purchase of tickets would constitute a deduction for Federal income tax purposes. Mr. Dickerson further states that it is his "understanding of the State law that if the taxpayer can clearly show that the purchase of the ticket was in the ordinary course of business and if his business was benefited thereby, he is entitled to deduct the cost of the ticket as a business expense."

It appears that the view expressed by Mr. Dickerson is based upon his belief that the purchase of the tickets in question may be deducted under section 23(a)(1) of the Internal Revenue Code as an ordinary and necessary business expense. The application of this provision of the law, however, depends upon the existence of facts which have not been given by Mr. Dickerson, such as the purpose in the purchase of such tickets and the use to which the money so expended will be put. It is well established that political contributions are not deductible. See section 29.23(q)–1 of regulations 111; *Textile Mills Securities Corporation* v. *Commissioner* (1941) 314 U.S. 326, C.B. 1941–2, 201; I.T. 3276, C.B. 1939–1 (pt. I), 108. On the other hand, contributions made by local tradesmen to business or civic organizations for the purpose of attracting and playing host to conventions or similar gatherings which will draw sizable numbers of guests and visitors to the community, may be deducted provided that such contributions are made with a reasonable expectation of a financial return commensurate with the amount contributed. See section 29.23(a)–13 of regulations 111, and I.T. 3706, 1945, C.B. 87. Accordingly, if the tickets are purchased to support the political aspects of the occasion in question (as distinguished from the business aspects attendant on obtaining new money and customers from the event, regardless of its nature), a deduction is not allowable.

Since the occasion for which the tickets are to be purchased is apparently a political one, it cannot be assumed that the purchase of such tickets by a business concern will give rise to a deduction.

Mr. Dickerson also asked to be advised whether or not a corporation is permitted to purchase tickets. Since this question concerns matters not necessarily in the jurisdiction of the Bureau and detailed information is not furnished, it does not appear to be appropriate for comment by the Bureau.

Very truly yours,

GEO. J. SCHOENEMAN,
Commissioner.

Mr. WILLIAMS of Delaware. I shall read excerpts from the ruling. This ruling is addressed to the Honorable John E. Manning, Collector of Internal Revenue, Newark, N.J.:

DEAR MR. MANNING: Reference is made to your letter dated September 12, 1950, in which you request advice with respect to a letter from Mr. John J. Dickerson, chairman of the New Jersey Republican State Committee.

In his letter Mr. Dickerson states that the New Jersey Republican State Committee is sponsoring a dinner in Atlantic City on September 30, 1950, and that a question has arisen as to whether or not the purchase of tickets would constitute a deduction for Federal income tax purposes.

Continuing, I read the next to the last paragraph:

Since the occasion for which the tickets are to be purchased is apparently a political one, it cannot be assumed that the purchase of such tickets by a business concern will give rise to a deduction.

This ruling was negative, but notice that the rulings for the Democratic Party were all favorable.

At that time in 1958 I asked the Secretary of the Treasury to have his Department check back through the history of that Department and to furnish copies of all rulings that had been made to either political party, regardless of whether they were affirmative or negative, and they were able to furnish only these six rulings, five of them in the affirmative, all to the Democratic Party, and one negative to the Republicans.

This situation was corrected by legislation in 1958, and we thought then that the Democratic Party had learned that it was not to use Treasury rulings to help finance its political campaigns.

At that time I introduced a bill which spelled out that neither Democrats nor Republicans could classify their contributions as bad debts. That bill was passed by the Congress, and I thought we had closed the loophole; but we underestimated the ingenuity of some warped bureaucrat.

In 1964 we found that someone had come up with the ingenious idea that campaign contributions could purchase what they called advertisements, but what I prefer to call shakedowns, at $15,000 a page, and deduct the cost as a business expense. Their names were printed in the book called "An Age of Greatness" and in the 1964 Democratic Convention programs.

It is lucky they did not go higher than $15,000. If a company has a multi-billion-dollar defense contract, why not $50,000 or $100,000? There is nothing sacred about the amount when a corporation is confronted with a shakedown.

We understand that these so-called advertisers, too, were given to understand that they could write such expenditures off as a business expense for income tax purposes.

Before I leave the subject I regret to say that after the success of these two money-raising schemes had been demonstrated by the Democratic Party some in our own party thought, "Here is a rather neat idea; all that is wrong with it is that we didn't get into it first," and as a result an effort has been made by some Republicans to use this same devious device. I said then and I repeat now, you do not correct an error by copying a wrong that has been done by the other party. The only way to correct a wrong decision is to stop it—spell out in the law that neither party can do it; and that is what we have done in this bill. The Senate Finance Committee, the Treasury Department, and the conferees are unanimous in agreement that this was an ironclad amendment, and it is intended to be interpreted as completely closing this loophole. I do not intend that there be any misunderstanding in the days to come. In 1958 we corrected the bad debt rulings, and today we are correcting another highly irregular procedure of allowing contributions to be called advertisements. As one who introduced both bills in this connection, I close with this advice. If

anyone has any ideas as to how the law should be changed in the future let him spell it out in a legislative program and send it to Congress so that every taxpayer in America, I do not care whether he be Republican, Democrat, or independent, will know exactly what the rules are.

As I say, this is the second time such an incident has happened, and I most respectfully suggest that it would not be wise for it to happen a third time. If a doubt arises as to how the law should be interpreted let the Treasury Department come to Congress or to the Joint Committee on Taxation and obtain a clarification as to the congressional intent. Frankly I do not think this was a misunderstanding in the first place; I consider it a deliberate attempt to finance a political campaign out of the Federal Treasury.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield to the Senator from Colorado.

Mr. DOMINICK. I wonder whether the Senator could answer this kind of inquiry: Would an advertisement in any kind of pamphlet published by an organization such as COPE also be nondeductible under the terms of the amendment, COPE being not directly a political party; but is the amendment designed to cover that kind of organization as well?

Mr. WILLIAMS of Delaware. That question has been raised before, and the answer again is yes, advertisements in any program are not deductible when any part of the proceeds may be used to help any political party or candidate. The amendment spells out very clearly that any organization is covered when any part of the proceeds derived therefrom accrue to the benefit of either political party, or if they are intended to accrue in the event there is a profitable operation. So that the answer is that this amendment covers any and all organizations when any part of the proceeds accrue or are intended to accrue either directly or indirectly to the benefit of a political party or to a political candidate.

Mr. DOMINICK. I thank the Senator very much.

Mr. WILLIAMS of Delaware. I should like to express my appreciation to the Senator for asking me that question. I meant to mention it before because I, too, have received a letter raising the same question. The answer is that it does not make any difference who sponsors the affair. If any part of the proceeds of the advertisements, either directly or indirectly, it is directed to the support of a political party or any candidate they are covered by this amendment and are not deductible.

Mr. COTTON. Mr. President, will the Senator yield to me for the purpose of asking for the yeas and nays on the conference report?

Mr. WILLIAMS of Delaware. I am glad to yield to the Senator from New Hampshire for that purpose.

Mr. COTTON. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. One final point, the question has been asked, would the so-called almanacs, newspapers, and so forth, that are published in various States by political parties be covered, and the answer again is "Yes." Likewise, it covers voter education and research committees and any other label that may later be designated. We have tried to think of all the various ingenious proposals that have been mentioned as well as any new labels that may later be coined. To the best of our ability we have covered them all.

I want to express my appreciation to the Senate, to the members of the Senate Finance Committee, and to the conferees for their cooperation in having this amendment approved.

Mr. CARLSON. Mr. President, I would feel remiss if a yea-and-nay vote was called on this particular conference report without expressing my commendation to the Senator from Vermont for his untiring efforts in behalf of a large number of our citizens—a substantial group who have been ineligible heretofore for coverage under the social security system. This has been a problem with which the Finance Committee has wrestled for many years.

I remember that last year, under the Revenue Act, we covered 370,000 persons. Three hundred and thirty-five thousand were based on a three-quarters coverage. There has been a lot of discussion in the Senate about the Prouty amendment and the fact that we have covered persons who have not paid into the social security fund.

In order to keep the record straight, the 335,000 persons whom we covered last year with three-quarters coverage, paid an average of $1.50 per person.

In this particular bill we cover 370,000 at a cost of $125 million, without any charge to the Federal Treasury.

There are still a few hundred thousand citizens in this Nation who are still ineligible for social security, for the reason that they were not eligible to apply at the time the act was passed. Of the 370,000 covered under the Prouty amendment, 335,000 are covered for the full $35 per month, and 35,000 are for a portion of the $35 per month. Under this proposal, a husband and wife can draw a total of $52.50, $35 for the husband and $17.50 for the wife—or reversed, if that should be the situation in the instances that this would apply.

It is interesting to note that two-thirds of those covered under the Prouty amendment are women. Not only that, 80 percent of them are widows. There has been a lot of talk in the Senate this afternoon, and in previous sessions of the Senate, about these people. I am not happy about the amounts. I wish it were more. But I believe that the Senator from Vermont [Mr. PROUTY] is entitled to a great deal of credit for starting out on a program of this kind. I hope that the Senate in the future will increase the amounts, which I believe to be niggardly amounts, but at least it is a start. There are still several hundred thousand citizens, who should be qualified, and who would have been qualified had they had an opportunity to comply with the law.

Mr. President, again I say that the Senator from Vermont is entitled to great commendation for his efforts.

Mr. DOMINICK. Mr. President, I take the floor partly to make sure that I am completely accurate in my thoughts regarding this bill.

It is my understanding—and I would ask the Senator from Louisiana [Mr. LONG] if he would be kind enough to try to give me the answers, as the Senator in charge of the bill—that the major portion of the revenues which the Government anticipates raising will come from the acceleration of payments in the income tax; is that not correct?

Mr. LONG of Louisiana. Yes; the Senator is correct. Similar steps have been taken in the past under the both Democratic and Republican administrations.

Mr. DOMINICK. Let me say to the Senator in charge of the bill that I appreciate his frank answer.

We used this approach in our State at one point, under a Democratic Governor and we later referred to this approach as "Golden Gimmick No. 1." The Governor followed this golden gimmick with a couple of similar schemes. The net result of these schemes was a subsequent tax increase on individuals and corporations.

Obviously, the problem with this approach is that we get the revenue up to a high level by accelerating as much of the income tax as we can, then in order to keep up that high level of revenue, we have to raise the tax rates. We then come back to a situation which we might as well face now, where it becomes necessary, if we are going to have to do it, to raise taxes.

The other major portion of revenue is going to be raised in this bill by an increase of excise taxes on telephones and automobiles; is that not accurate?

Mr. LONG of Louisiana. From the taxes on telephones and new automobiles.

Mr. DOMINICK. Again, I appreciate the frank answer of the Senator in charge of the bill. I would say that, here again, we are restoring a tax on which we have spent literally months and years trying to eliminate; a tax which was originally imposed as a wartime tax. The Senator from Indiana offered an amendment eliminating the local tax on telephones which carried, but was eliminated from the conference report. It is my understanding that at no time did the administration oppose putting excise taxes on what might well be considered luxuries instead of necessities. I am talking about the tax on cabarets. I am talking about all kinds of luxuries which could be classified as luxuries in time of war. That is what we are in now—a period of war. It seems to me that to put the taxes on some necessity items as opposed to luxury items without taking real cognizance of what is needed in the income tax field, is a shortsighted approach.

I thank the Senator from Louisiana for his answers.

Mr. LONG of Louisiana. Mr. President, we have reduced taxes by over $20 billion in the period 1962 through 1965. Despite this very large reduction, our revenues in the fiscal year are estimated at $98.8 billion, higher than in any prior year. This was in no small part due to the fact that these tax reductions brought better business conditions and more employment, more income and more profits than would have been true in the absence of these bills. These reductions have brought the growth to our economy—which we must in this bill keep under control—which will reoccur in future years. The so-called, "one-shot" revenue gains in this bill, together with the other revenue raised in this bill we hope will be sufficient to tide us over to the time when the continuing growth in our revenues will again be adequate to meet budget requirements.

Let me say that we predicted an increase in revenues as a result of those prior bills, and such revenues did materialize to an even greater extent than predicted. The only part we could not predict was the great increase in expenditures required because of the war in Vietnam. This bill is intended to provide such revenues to the extent needed to meet the added military expenditures in the period immediately ahead. It is hoped—although I cannot know whether they will be enough—that the growth in revenues occurring in the period after this "one shot" gain wears off, will provide the additional funds needed at that time without further tax increases.

Mr. MANSFIELD. Mr. President, because Senator SMATHERS is necessarily absent, he has asked me to make the following statement, which he has prepared, in support of the conference report on the Tax Readjustment Act of 1966.

STATEMENT BY SENATOR SMATHERS READ BY SENATOR MANSFIELD

Mr. SMATHERS. Mr. President, I compliment the distinguished chairman of the Committee on Finance for his able presentation of the conference report on this important tax bill. As one of the conferees on this bill, I can tell the Senate of the difficult position we were in, having to argue for nontax amendments added to the bill by the Senate. There were 36 amendments added to this bill in the Senate. The Senate was forced to recede on only three of them. On another, we effected a compromise.

The amendment we compromised was offered on the floor by the junior Senator from Vermont [Mr. PROUTY]. It would have provided minimum social security benefits for persons who attain age 70 without requiring that they have prior covered employment. Without going into the details of the Prouty amendment, let me state that the House conferees were strongly opposed to this amendment for several reasons. First, they insisted it was not germane. They felt we had no right to amend a tax bill with nontax amendments. Secondly, they felt the amendment went too far in providing benefits for those who did not need them. Thirdly, they insisted it cost too much. Fourthly, they pointed to problems we had not faced when we acted on the Senator's amendment.

Despite this, the distinguished chairman of the committee insisted that he would not take a bill back to the Senate which did not contain benefits for our older citizens. Fortunately, there was some support among the House conferees for amendments of the type approved by the Senate. With this breach in their ranks we were able to work out provisions which go a long way toward filling the need upon which the Prouty amendment was premised.

Under the conference agreement, persons who reach 72 before 1968 are going to be assured a pension under the social security program of $35 a month, even though they have no prior work experience in covered employment. If a married couple is involved, the combined pension under the substitute will be $52.50. To make certain that these benefits go only to those who are in greatest need, the conference substitute provides that the $35 amount or the $52.50 amount will be reduced by amounts these persons may already receive under other Federal, State, or local retirement programs. This is the biggest single difference between the Senate amendment and the conference substitute. Benefits under the Senate amendment would have been in addition to other payments the elderly person might be receiving, while the conference agreement makes the new benefit available only where there is no other governmental pension available, or where the other benefit is quite small.

The principal amendment on which the Senate conferees had to yield was offered in the Senate by the senior Senator from Indiana [Mr. HARTKE]. It would have left the telephone tax at 3 percent on local residential service while permitting a tax of 10 percent on business calls and on long-distance service. The House conferees refused to accept this amendment for two important reasons. First, they would not permit the revenue under their bill to be depleted by the $315 million involved under this amendment. Secondly, they felt a 2-bracket tax system for telephone service raised problems for both the telephone companies and their subscribers, as well as for the tax collector. They insisted such a tax system would be administratively difficult and set bad precedents. Because of their strong position on this amendment and because of our insistence for preserving some social security benefits for our aged citizens, the Senate conferees were compelled to yield on this telephone tax.

I need not go into the other changes made by the conferees—the chairman has ably described them. Let me just add that, on balance, I believe the Senate will agree that the Senate conferees did a remarkable job of retaining important elements of the Senate's most important amendment—social security for our needy elderly citizens.

Like the chairman, I urge the conference report be agreed to.

Mr. COOPER. Mr. President, I support the conference report on H.R. 12752 the proposed Tax Adjustment Act of 1965.

The purpose of this act is to provide revenue of approximately $6 billion which is needed for the war in Vietnam. The provisions to raise these funds should be voted, but in my view, it would have been better if the President had proposed a general tax measure for consideration by the Congress.

I say this, because if the war continues, I believe it will be necessary to provide additional revenues through a broader measure of tax adjustment. Also, I do not think it entirely fair to consider adjustments piecemeal and thus impose the burden on some groups rather than others.

When the bill was before the Senate last week, I voted for the amendment which would have exempted local telephone calls and local residential service from the reimposition and payment of additional excise taxes. It would have reduced these additional revenues, but the telephone is a necessity and not a luxury. The amendment was adopted by the Senate, and I am sorry it has been stricken in conference.

Now I would like to speak of the Prouty amendment to provide monthly benefits to older citizens who are not presently included in the social security system. I have wanted to see a change to provide this coverage, and last year when the Congress enacted new social security benefits in a bill I spoke and voted for, I supported the Prouty amendment in a vote in the Senate because I thought it just and needed. Important also, the amendment offered last year provided funds to pay for the benefits.

Last week, when this tax adjustment bill—a bill to provide revenues to carry on the war in South Vietnam—was before the Senate, I voted against the amendment offered by Senator PROUTY because it did not provide revenues to pay the cost. The cost would have come from taxes being levied especially to support our men who are fighting in Vietnam, and I did not feel it would have been responsible to vote new benefits without a means of payment.

I said at the time in the Senate, that if the House agreed to provide funds to pay for new benefits, so that an amendment to extend social security coverage would not cripple the war effort, I could vote for the Prouty amendment and for its benefits as I have done in past years.

The tax adjustment bill has now been reported back to the Senate after a conference with the House, and the House has agreed to provide a means of paying the cost from social security funds. The cost of extending this needed coverage to our older citizens who are 72 and over will not reduce the revenues to be raised by this bill for the requirements of the war in Vietnam in 1966 and 1967, and payments from the trust fund will be replaced in coming years.

I believe the bill reported from the conference meets the purposes I have discussed, and I will vote for it, and for the amendment which will provide social security benefits to our older citizens who are not presently eligible for benefit payments under the provisions of the Social Security Act.

The chief feature of this amendment to provide coverage for our older citizens in this bill is a monthly payment of $35 to persons who are 72 or older, or who reach the age of 72 before 1968. In the

case of a husband and wife who are qualified, payments will be $35 for the husband and $17.50 for the wife, and they will begin on October 1, 1966. In the case of persons receiving benefits under other social security and retirement programs, the payments will amount to the difference between the new benefits and the amounts already being received.

I shall explain other helpful provisions of the bill to the people of my State of Kentucky, but I note the chief advance is the provision of monthly benefits to many thousands of people who could not qualify for coverage under social security and who deserve the benefits which will be provided by the provisions of this bill. The funds have been provided for these monthly payments in the bill before the Senate today, and I am happy to vote for the tax adjustment bill with the amendment providing monthly benefits for our older citizens.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Tennessee [Mr. BASS], the Senator from Indiana [Mr. BAYH], the Senator from Virginia [Mr. BYRD], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from New York [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Georgia [Mr. RUSSELL], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Mississippi [Mr. EASTLAND], the Senator from North Carolina [Mr. JORDAN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Wyoming [Mr. MCGEE], the Senator from Michigan [Mr. MCNAMARA], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Indiana [Mr. BAYH], the Senator from Maryland [Mr. BREWSTER], the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from North Carolina [Mr. JORDAN], the Senator from New York [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Wyoming [Mr. MCGEE], the Senator from Michigan [Mr. MCNAMARA], the Senator from Florida [Mr. SMATHERS], and the Senator from New Jersey [Mr. WILLIAMS] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL] is absent because of illness.

The Senator from California [Mr. MURPHY] is absent on official business.

The Senator from Pennsylvania [Mr. SCOTT] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

The Senator from Kansas [Mr. PEARSON] is detained on official business.

If present and voting, the senior Senator from California [Mr. KUCHEL], the junior Senator from California [Mr. MURPHY], and the Senator from Pennsylvania [Mr. SCOTT] would each vote "yea."

On this vote, the Senator from Kansas [Mr. PEARSON] is paired with the Senator from South Carolina [Mr. THURMOND]. If present and voting, the Senator from Kansas would vote "nay" and the Senator from South Carolina would vote "yea."

The result was announced—yeas 72, nays 5, as follows:

[No. 57 Leg.]

YEAS—72

Aiken	Hart	Muskie
Allott	Hartke	Nelson
Bartlett	Hill	Neuberger
Bennett	Holland	Pastore
Bible	Hruska	Pell
Boggs	Inouye	Prouty
Burdick	Jackson	Proxmire
Byrd, W. Va.	Javits	Randolph
Cannon	Jordan, Idaho	Ribicoff
Carlson	Kennedy, Mass.	Robertson
Case	Long, La.	Russell, S.C.
Church	Magnuson	Saltonstall
Clark	Mansfield	Simpson
Cooper	McCarthy	Smith
Curtis	McClellan	Sparkman
Dirksen	McGovern	Stennis
Dodd	McIntyre	Symington
Douglas	Metcalf	Talmadge
Ellender	Mondale	Tower
Ervin	Monroney	Tydings
Fannin	Montoya	Williams, Del.
Fong	Morton	Yarborough
Fulbright	Moss	Young, N. Dak.
Harris	Mundt	Young, Ohio

NAYS—5

Cotton	Hickenlooper	Morse
Dominick	Miller	

NOT VOTING—23

Anderson	Hayden	Murphy
Bass	Jordan, N.C.	Pearson
Bayh	Kennedy, N.Y.	Russell, Ga.
Brewster	Kuchel	Scott
Byrd, Va.	Lausche	Smathers
Eastland	Long, Mo.	Thurmond
Gore	McGee	Williams, N.J.
Gruening	McNamara	

So the conference report was agreed to.

Mr. LONG of Louisiana. Mr. President, I move that the vote by which the conference report was agreed to be reconsidered.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the successful adoption of the conference report on the Tax Readjustment Act marks another fine achievement for the junior Senator from Louisiana [Mr. LONG]. Its clearance today for the President's signature has been achieved in large measure by his effective leadership and his profound understanding of the Nation's financial structure.

As much as anyone, he is devoted to achieving effective and constructive tax measures, and we are indebted to him for his unfailing and undaunted efforts in doing so.

Additionally, the senior Senator from Delaware [Mr. WILLIAMS] is to be highly commended for his significant role in achieving success at last week's conference. He is always a tireless worker on behalf of fiscal matters, and we are grateful for his splendid assistance and unsurpassed cooperation.

To all members of the Committee on Finance, the Senate and the Nation as a whole, owe a debt of gratitude for expediting action on this vital legislation.

Public Law 89-368
89th Congress, H. R. 12752
March 15, 1966

An Act

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tax Adjustment Act of 1966.

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Adjustment Act of 1966".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

68A Stat. 3.
26 USC 1 et seq.

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SEC. 102. ESTIMATED TAX IN CASE OF INDIVIDUALS.

(a) INCLUSION OF SELF-EMPLOYMENT TAX IN ESTIMATED TAX.—Section 6015(c) (relating to definition of estimated tax in the case of an individual) is amended to read as follows: 26 USC 6015.

"(c) ESTIMATED TAX.—For purposes of this title, in the case of an individual, the term 'estimated tax' means—

"(1) the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, plus 26 USC 1-1388.

"(2) the amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus 26 USC 1401-1403.

"(3) the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1." 26 USC 31-48.

(b) ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX.—

(1) Section 6654(a) (relating to addition to the tax for underpayment of estimated tax by an individual) is amended by inserting after "chapter 1" the following: "and the tax under chapter 2". 26 USC 6654.

(2) Section 6654(d) is amended to read as follows:

"(d) EXCEPTION.—Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all pay-

80 STAT. 63

ments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

"(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

"(2) An amount equal to 70 percent (66⅔ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402(a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

68A stat. 750; 76 Stat. 575. 26 USC 6073.

26 USC 1402.

"(A) The taxable income shall be placed on an annualized basis by—

"(i) multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

"(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

"(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment).

"(B) The term 'adjusted self-employment income' means—

"(i) the net earnings from self-employment (as defined in section 1402(a)) for the months in the taxable year ending before the month in which the installment is required to be paid, but not more than

"(ii) the excess of $6,600 over the amount determined by placing the wages (within the meaning of section 1402(b)) for the months in the taxable year ending before the month in which the installment is required to be paid on an annualized basis in a manner consistent with clauses (i) and (ii) of subparagraph (A).

"(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income and the actual self-employment income for the months in the taxable year ending before the month in which the installment is required to be paid as if such months constituted the taxable year.

"(4) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year."

26 USC 151.

(3) Section 6654(f) (relating to definition of tax for purposes of subsections (b) and (d) of section 6654) is amended to read as follows: 68A Stat. 823. 26 USC 6654. Ante, p. 62.

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term 'tax' means—

"(1) the tax imposed by this chapter 1, plus 26 USC 1-1388.

"(2) the tax imposed by chapter 2, minus 26 USC 1401-1403.

"(3) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)." 26 USC 31-48.

(4) Section 6211(b)(1) (relating to definition of a deficiency) is amended by striking out "chapter 1" and inserting in lieu thereof "subtitle A". 26 USC 6211.

(5) Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph: 26 USC 7701.

"(34) ESTIMATED INCOME TAX.—The term 'estimated income tax' means—

"(A) in the case of an individual, the estimated tax as defined in section 6015(c), or Ante, p. 62.

"(B) in the case of a corporation, the estimated tax as defined in section 6016(b)." 26 USC 6016.

(6) Section 1403(b) (cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to declarations of estimated tax on self-employment income, see section 6015."

(c) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Section 1402(e)(3) (relating to effective date of waiver certificates) is amended by adding at the end thereof the following new subparagraph: 74 Stat. 926. 26 USC 1402.

"(E) For purposes of sections 6015 and 6654, a waiver certificate described in paragraph (1) shall be treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1966.

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SEC. 302. BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS.

42 USC 401-427. (a) MONTHLY BENEFITS.—Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS

"Eligibility

"Sec. 228. (a) Every individual who—

"(1) has attained the age of 72,

"(2) (A) attained such age before 1968, or (B) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,

"(3) is a resident of the United States (as defined in subsection (e)), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 210(i)) continuously during the 5 years immediately preceding the month in which he files application under this section, and

74 Stat. 937.
42 USC 410.

"(4) has filed application for benefits under this section,

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

"Benefit Amount

"(b)(1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be $35.

"(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be $35 and the amount of the wife's benefit for such month shall be $17.50.

"Reduction for Governmental Pension System Benefits

"(c)(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he is eligible for such month.

"(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) $17.50.

"(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—

"(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) $35, and

"(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) $17.50.

"(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

"(A) such individual shall be deemed to have filed application for such benefits,

"(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

"(C) to the extent that entitlement depends on such individual or his spouse having retired, such individual and his spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

"(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Secretary shall allocate the amount of such benefit to the appropriate calendar months.

"(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than $1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for the month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

"(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

"(8) Under regulations prescribed by the Secretary, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than $5 may be accumulated until they equal or exceed $5.

"Suspension for Months in Which Cash Payments Are Made Under Public Assistance

"(d) The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

"(1) such individual receives aid or assistance in the form of money payments in such month under a State plan approved under title I, IV, X, XIV, or XVI, or

42 USC 301, 601, 1201, 1351, 1381.

"(2) such individual's husband or wife receives such aid or assistance in such month, and under the State plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance,

unless the State agency administering or supervising the administration of such plan notifies the Secretary, at such time and in such manner as may be prescribed in accordance with regulations of the Secretary, that such payments to such individual (or such individual's husband or wife) under such plan are being terminated with the payment or payments made in such month.

"Suspension Where Individual Is Residing Outside the United States

"(e) The benefit to which any individual is entitled under this section for any month shall not be paid if, during such month, such individual is not a resident of the United States. For purposes of this subsection, the term 'United States' means the 50 States and the District of Columbia.

"Treatment as Monthly Insurance Benefits

42 USC 402, 1395s.

"(f) For purposes of subsections (t) and (u) of section 202, and of section 1840, a monthly benefit under this section shall be treated as a monthly insurance benefit payable under section 202.

"Annual Reimbursement of Federal Old-Age and Survivors Insurance Trust Fund

"(g) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the

Secretary of Health, Education, and Welfare deems necessary on account of—

"(1) payments made under this section during the second preceding fiscal year and all fiscal years prior thereto to individuals who, as of the beginning of the calendar year in which falls the month for which payment was made, had less than 3 quarters of coverage,

"(2) the additional administrative expenses resulting from the payments described in paragraph (1), and

"(3) any loss in interest to such Trust Fund resulting from such payments and expenses,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if such payments had not been made.

"Definitions

"(h) For purposes of this section—

"(1) The term 'quarter of coverage' includes a quarter of coverage as defined in section 5(1) of the Railroad Retirement Act of 1937.

"(2) The term 'governmental pension system' means the insurance system established by this title or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (A) pensions, (B) retirement or retired pay, or (C) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death). 60 Stat. 733. 45 USC 228e.

"(3) The term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

"(4) The determination of whether an individual is a husband or wife for any month shall be made under subsection (h) of section 216 without regard to subsections (b) and (f) of section 216." 71 Stat. 519. 42 USC 416.

(b) CERTAIN APPLICATIONS UNDER 1965 AMENDMENTS.—For purposes of paragraph (4) of section 228(a) of the Social Security Act (added by subsection (a) of this section), an application filed under section 103 of the Social Security Amendments of 1965 before July 1966 shall be regarded as an application under such section 228 and shall, for purposes of such paragraph and of the last sentence of such section 228(a), be deemed to have been filed in July 1966, unless the person by whom or on whose behalf such application was filed notifies the Secretary that he does not want such application so regarded. Ante, p. 68. 79 Stat. 333. 42 USC 426 note.

* * * * *

Approved March 15, 1966, 8:15 p.m.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1285 (Comm. on Ways & Means) and No. 1323 (Comm. of Conference).

SENATE REPORT No. 1010 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 112 (1966):

Feb. 23: Considered and passed House.

Mar. 4, 7, 8: Considered in Senate.

Mar. 9: Considered and passed Senate, amended.

Mar. 15: House and Senate agreed to conference report.

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 38 March 16, 1966

SOCIAL SECURITY LEGISLATION

To Administrative, Supervisory,
and Technical Employees

As you know, on March 8 the Senate added an amendment to H. R. 12752, "The Tax Adjustment Act of 1966," to provide for the payment of social security cash benefits for all persons age 70 or over. The House-approved version of H. R. 12752 contained no provision for the payment of social security benefits. After settlement of the differences in the two versions of the bill by the Conference Committee, the agreed-upon compromise was approved by both Houses and signed into law by President Johnson on March 15. The bill became P. L. 89-368.

Under the new law, monthly payments of $35 will be made to certain people who are not insured under the regular provisions or the transitional provisions enacted last year and who reach age 72 before 1972 (1970 for women). A woman otherwise eligible who is married to a man who qualifies will get a benefit of $17.50. People who are now age 72 and over, or who will attain age 72 before 1968, can qualify for the payments under the new provision without any social security coverage; beginning in 1968, people age 72 or over can qualify if they have at least 3 quarters of coverage for each year elapsing after 1966 and up to the year in which they attain age 72. The following table shows the quarters-of-coverage requirements under the provision:

Year in Which Person Attains Age 72	Required Quarters: Men — Regular or Transitional Provisions	Men — New Provision	Women — Regular or Transitional Provisions	Women — New Provision
1966 or earlier	3-8	None	3-5	None
1967	9	None	6	None
1968	10	3	7	3
1969	11	6	8	6
1970	12	9	9	*
1971	13	12	10	
1972	14	*	11	

*The new provision becomes ineffective since it would require as many quarters of coverage as the regular insured status provisions.

The payments to the uninsured under the new provision are more limited in several respects than benefits payable under the regular or transitional insured status provisions: They will have no retroactivity; the payment to a person receiving a pension, retirement benefit or

annuity under any governmental system, other than workmen's or veteran's compensation, will be reduced by the amount of that benefit; and payments will be suspended for any month for which the beneficiary (or his spouse, if the public assistance payment take the spouse's needs into account) receives payments under a Federally aided public assistance program. Also, payments can be made only to people residing in one of the 50 States or the District of Columbia; they will not be made to residents of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

The payments under the new provision are effective for the month of October 1966.

The cost of making the payments to people who have less than 3 quarters of coverage will be met from the general funds of the Treasury; the cost of paying people who have 3 or more quarters of coverage will be met from the Federal Old-Age and Survivors Insurance Trust Fund. It is estimated that 370,000 people will get payments under the new provision, and that it will result in additional payments of about $95 million in the fiscal year ending June 30, 1967. The amount paid out will, of course, decline over the years as the size of the group grows smaller.

Applications filed to establish eligibility for hospital insurance will be valid for the new monthly cash payment.

P. L. 89-368 also contains a provision which requires nonfarm self-employed people to make estimated payments of their social security tax contributions on a quarterly basis effective for taxable years beginning after December 31, 1966. Under the law as in effect now, a nonfarm self-employed person is required to estimate and make quarterly installment payments only on his income tax and only if the estimated tax is at least $40. Under the change, the nonfarm self-employed person would have to make quarterly installment payments if the amount of his combined estimated income tax and social security tax is at least $40. It is estimated that the provision would increase revenue collections in fiscal year 1967 by $200 million.

Additional information on the new provisions is being prepared and will be sent to you shortly.

In signing the bill the President called attention to the need to provide for higher social security benefits and stated that he had asked Secretary Gardner to "complete a study of ways and means of making social security more adequate while keeping the program financially sound." The President said that he wanted the proposals ready to present to the Congress in 1967.

I have today announced the organization of a coordinated effort within the Social Security Administration for the purpose of full-scale and intensive planning, part of which is already underway, to carry out the President's directive.

Robert M. Ball
Commissioner

89TH CONGRESS } SENATE { REPORT
2d Session } { No. 1091

TAX TREATMENT OF EXPROPRIATION LOSS RECOVERIES AND EXTENSION OF TIME FOR FILING MEDICARE SUPPLEMENTARY INSURANCE APPLICATIONS

APRIL 1, 1966.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 6319]

The Committee on Finance, to which was referred the bill (H.R 6319) to amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. COMMITTEE AMENDMENT—EXTENSION OF INITIAL ENROLLMENT PERIOD UNDER MEDICARE

Your committee has added an amendment which amends the Social Security Act, title XVIII, so as to extend through May 31, 1966, the initial enrollment period for coverage under the program of supplementary medical insurance benefits for the aged. The program concerned is the part B segment of medicare.

II. SUMMARY

Your committee has adopted the House-passed provisions of H.R. 6319, relating to the treatment of recoveries of foreign expropriation losses. It has, however, added an amendment which amends the Social Security Act, title XVIII, so as to extend through May 31, 1966, the initial enrollment period for coverage under the program of of supplementary medical insurance benefits for the aged. This bill, in the case of recoveries of foreign expropriation losses, provides a new set of rules generally limiting the tax on the recovery to the benefit previously received in deducting the loss (but applying

current tax rates), taking into account factors such as whether the loss offset income taxed at ordinary income tax rates or capital gains, tax rates, and the effect, if any, of the loss on foreign tax credits, etc. In hardship situations the bill also makes provision for payment of the tax on recoveries in 10 equal annual installments bearing interest at 4 percent. A special rule in the case of life insurance companies provides that a recovery, for purposes of this foreign expropriation loss provision, is to include the release of a life insurance reserve (or other item referred to in sec. 810(c)) resulting from the release of liabilities. These provisions apply to recoveries on or after January 1 1965.

The bill also makes provision for taxing recoveries with respect to foreign expropriation losses where a benefit from a tax deduction was received by one corporation holding securities in another whose property was expropriated. In such a case the restoration in value of the securities is treated as a recovery and taxed to the corporation receiving the benefit from the loss deduction. This provision applies to taxable years beginning after December 31, 1965.

The Treasury Department has indicated that it has no objection to the House-passed provisions and the Department of Health, Education, and Welfare supports the social security amendment added by your committee.

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V. TWO-MONTH EXTENSION OF INITIAL ENROLLMENT PERIOD FOR SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED

The committee amendment extends through May 31, 1966, the initial enrollment period for coverage under the program of supplementary medical insurance benefits for the aged provided under part B of title XVIII. Under existing law the initial enrollment period terminated on March 31, 1966.

Coverage under the basic hospital insurance portion of medicare—part A—is automatic and does not require that any premium payments be made by the eligible individual. In contrast to this, part B requires that the older person complete an application for supplementary medical insurance coverage which will cost him $3 monthly.

The medicare program is complex. Intelligent decision on election of part B coverage requires that older people possess full information not only on part B but also on the interrelationship between that plan and any private health insurance policies they might have. Many private health insurance companies—including Blue Cross and Blue Shield plans—have only recently begun to announce the extent to which they will modify their policies so as to supplement or complement medicare benefits. For many of our older citizens these announcements have come too late to permit sufficient time for thoughtful decision as to whether they should enroll in part B. Undoubtedly, many of those who have not enrolled due to insufficient and late information would elect participation during the extended enrollment period provided by this amendment.

Many older people are employed and are provided health insurance through their place of employment. The advent of medicare has required modification of many of these health insurance contracts—modification which, in instances, may still not have been made. Uncertainty here, too, has led to delay in the enrollment in part B of otherwise eligible people.

Under present law, coverage under part B becomes effective as of July 1, 1966. The extension of time for enrollment in part B will not interfere with that timetable.

The committee is concerned that every eligible older person be given adequate opportunity to participate in the part B segment of medicare. Based upon the reasons outlined above, as well as other valid considerations, it was agreed that the initial enrollment period for part B should be extended through May 31, 1966.

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SOCIAL SECURITY ACT

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TITLE XVIII—HEALTH INSURANCE FOR THE AGED

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PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED

* * * * * * *

Enrollment Periods

SEC. 1837. (a) An individual may enroll in the insurance program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this section.

(b)(1) No individual may enroll for the first time under this part more than 3 years after the close of the first enrollment period during which he could have enrolled under this part.

(2) An individual whose enrollment under this part has terminated may not enroll for the second time under this part unless he does so in a general enrollment period (as provided in subsection (e)) which begins within 3 years after the effective date of such termination. No individual may enroll under this part more than twice.

(c) In the case of individuals who first satisfy paragraphs (1) and (2) of section 1836 before [January] *March* 1, 1966, the initial general enrollment period shall begin on the first day of the second month which begins after the date of enactment of this title and shall end on [March] *May* 31, 1966. For purposes of this subsection and subsection (d), an individual who satisfies paragraph (2) of section 1836 solely by reason of subparagraph (B) thereof shall be treated as satisfying such paragraph (2) on the first day on which he is (or on filing application would be) entitled to hospital insurance benefits under part A.

(d) In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 on or after [January] *March* 1, 1966, his initial enrollment period shall begin on the first day of the third month before the month in which he first satisfies such paragraphs and shall end seven months later.

(e) There shall be a general enrollment period, after the period described in subsection (c), during the period beginning on October 1 and ending on December 31 of each odd-numbered year beginning with 1967.

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SOCIAL SECURITY AMENDMENTS OF 1965

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SEC. 102. * * *

(b) If—

(1) an individual was eligible to enroll under section 1837(c) of the Social Security Act before [April] *June* 1, 1966, but failed to enroll before such date, and

(2) it is shown to the satisfaction of the Secretary of Health, Education, and Welfare that there was good cause for such failure to enroll before [April] *June* 1, 1966,

such individual may enroll pursuant to this subsection at any time before October 1, 1966. The determination of what constitutes good cause for purposes of the preceding sentence shall be made in accordance with regulations of the Secretary. In the case of any individual who enrolls pursuant to this subsection, the coverage period (within the meaning of section 1838 of the Social Security Act) shall begin on the first day of the 6th month after the month in which he so enrolls.

89TH CONGRESS
2D SESSION

H. R. 6319

[Report No. 1091]

IN THE SENATE OF THE UNITED STATES

OCTOBER 22, 1965
Read twice and referred to the Committee on Finance

APRIL 1, 1966
Reported by Mr. LONG of Louisiana, with amendments

APRIL 1, 1966
Amended and passed; title amended

[Insert the part printed in italic]

AN ACT

To amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

* * * * *

SEC. 3. TWO-MONTH EXTENSION OF INITIAL ENROLLMENT PERIOD FOR SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED.

(a) The first sentence of section 1837(c) of the Social Security Act is amended (1) by striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966", and (2) by striking out "March 31, 1966" and inserting in lieu thereof "May 31, 1966".

(b) Section 1837(d) of the Social Security Act is amended by striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966".

(c) Section 102(b) of the Social Security Amendments

of 1965 is amended by striking out "April 1, 1966" each time it appears and inserting in lieu thereof "June 1, 1966".

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries, and to amend title XVIII of the Social Security Act to extend the initial enrollment period for supplementary medical insurance benefits."

Passed the House of Representatives October 21, 1965.

Attest: RALPH R. ROBERTS,

Clerk.

89TH CONGRESS
2D SESSION

H. R. 6319

[Report No. 1091]

AN ACT

To amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries.

OCTOBER 22, 1965
Read twice and referred to the Committee on Finance

APRIL 1, 1966
Reported with amendments

APRIL 1, 1966
Amended and passed; title amended

AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of H.R. 6319.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 6319) to amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries.

The PRESIDING OFFICER. Is there objection to temporarily laying aside the pending business and proceeding to the consideration of the bill just stated by title?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment, on page 17, after line 10, to insert a new section, as follows:

SEC. 3. Two-month extension of initial enrollment period for supplementary medical insurance benefits for the aged.

(a) The first sentence of section 1837(c) of the Social Security Act is amended (1) by striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966", and (2) by striking out "March 31, 1966" and inserting in lieu thereof "May 31, 1966".

(b) Section 1837(d) of the Social Security Act is amended by striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966".

(c) Section 102(b) of the Social Security Amendments of 1965 is amended by striking out "April 1, 1966" each time it appears and inserting in lieu thereof "June 1, 1966".

Mr. LONG of Louisiana. Mr. President, this bill passed the House of Representatives by unanimous vote, and it was reported unanimously by the Committee on Finance.

It provides a revised set of rules for the income tax treatment of any recovery by a corporation of losses which arose from expropriation or confiscation of its properties by a foreign government. Present law provides that the amount recovered must be included in income subject to regular rates of tax if the original deduction resulted in some saving in income tax. Present law takes no account of the fact that the prior deduction may have offset income which was not subject to full tax. For example, the deduction may have offset income which would have been taxed as a capital gain or as income eligible for Western Hemisphere Trade Corporation treatment.

This bill provides that the corporation may elect to have recoveries of foreign expropriation losses treated under the new rules. These new rules provide that upon the recovery of a loss previously deducted, the amount of tax to be paid on account of the recovery is to be measured by the amount of tax saved by deducting the loss taken in the earlier year. This rule takes into account the fact that the earlier deduction of the loss may have reduced foreign tax credits or investment credits which would otherwise have been allowable in a larger amount. Similarly, the new rules take into account the fact that the loss in the prior year may have resulted in a tax benefit only at capital gains rates. In computing tax benefit received on deducting the loss, the rates in the year of the recovery will be used rather than the rates in the year of the loss.

The bill also provides that where the bulk of a recovery of an expropriation loss is in property rather than in money, the taxpayer can have an extended period of time up to 10 years to pay the tax imposed on the recovery, but the delayed payments will bear interest at the rate of 4 percent. Should the taxpayer sell the property received back, the payment of the tax is accelerated.

The bill also provides, even though a corporation does not elect the new rules on recoveries of expropriation losses, that the restoration in value of a stock or security held by a corporation is to be treated as a recovery. As a result this value is to be included in gross income if a deduction was previously taken because the stock became worthless on account of expropriation or seizure by a foreign government of the assets of the company which issued the stock or security. This provision is comparable to a provision in present law which deals only with restorations in value of property subject to the rules governing World War II losses.

This bill is virtually identical to a bill passed by the Senate in 1964. It is acceptable to the administration.

EXTENSION OF MEDICARE ENROLLMENT

We amended this bill in committee to provide a 60-day extension of the initial enrollment period during which people can apply for voluntary medical insurance under social security.

Many Senators have sponsored bills along the lines of the committee amendment. Senators SMATHERS, DOUGLAS, RIBICOFF, BENNETT, CURTIS, MORTON, and DIRKSEN of the Finance Committee are among those Members who have introduced bills on this topic.

Subsequent to the committee adoption of this amendment on Wednesday, a request was received from the President urging this precise action. Obviously, the committee had its crystal ball in good shape in guessing that this would be the position of the President.

I think all of us recognize it is desirable to extend the deadline for enrollment so that every eligible person may be given an adequate opportunity to join the voluntary portion of the medicare program.

Many private health insurance companies—including Blue Cross and Blue Shield—have only recently announced changes in their policies for older people. Many employers are just now modifying their health insurance coverage of older workers who are also eligible for medicare. A substantial number of older people have not enrolled in part B because they have not had adequate time to study the effects of these changes in private health insurance coverage. They have not had sufficient time to compare benefits—to see how a private policy meshes or conflicts with medicare benefits.

The committee amendment will give these people ample time to study the advantages of participation in part B of medicare. More time will also be available to inform and clarify questions for those who are uncertain about aspects of the program.

The extension of time provided by the committee amendment will not change or interfere with the July 1 starting date for payment of benefits under part B. After May 31, the last day of the initial enrollment period under the amendment, Social Security would still have a full month left before benefits were payable in which to set up their records.

I am pleased to say that 86 percent of the aged people over 65 have already signed up for the voluntary portion of the medicare program. We believe that the final figure may go as high as 90 percent or more by giving those who have not thus far taken advantage of the opportunity, additional time to make application for the voluntary portion of medicare.

There was an amendment intended to be proposed by the two Senators from Ohio in an effort to resolve a problem which exists between the welfare agency of that State and the Federal Government.

I ask the Senators from Ohio [Mr. LAUSCHE and Mr. YOUNG], that their amendment not be offered on this bill because there is some urgency in enacting this immediately; they should give us a chance to look at their amendment in committee. I wish to assure them that the committee will look at that amendment as soon as possible so that we can understand their problem and determine the views of the Department of Health, Education, and Welfare so that we can give proper consideration to the problem that needs to be corrected in the State of Ohio.

I wish to assure the two Senators from Ohio that the committee will undertake to give careful and sympathetic consideration to the problem when we have had the opportunity to give it the careful attention it deserves.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. LONG of Missouri. I yield to the Senator from Illinois.

Mr. DIRKSEN. We were confronted with varying estimates as to the number of people who remained unregistered under part B of the medicare program. The estimates varied from a million to 5 million people. We thought that perhaps there should be sufficient time to make sure all of them were registered.

I believe Congressman BYRNES, the minority member of the Ways and Means Committee in the House of Representatives, and ranking minority member of the committee, suggested at the time that the medicare matter was under consideration that perhaps September 1 rather than March 31 should be the deadline date. In the amendment that I suggested, and which was cosponsored by a good many Senators, we did accept the September 1 deadline.

However, I believe it was the opinion of the committee that 2 months was ample; that perhaps there would be maximum registration in 2 months.

Mr. LONG of Louisiana. The Senator from Illinois has been very helpful in this matter. I thank him for his suggestion.

Mr. SMATHERS. Mr. President, I wholeheartedly endorse the remarks just made by the distinguished chairman of the Finance Committee. It has been obvious to many of us that extension of the initial enrollment period for part B of medicare was desirable and equitable. As early as last February I introduced a bill, cosponsored by Senator WILLIAMS of New Jersey, to extend the initial enrollment period. The committee amendment accomplishes my goal; that is, to see to it that every older Floridian—every older American—has ample time and adequate opportunity to participate in this worthwhile program.

Mr. LONG of Louisiana. I thank the distinguished Senator from Florida for his support. I know that he has been very helpful in informing the committee of the need for this legislation.

Mr. KENNEDY of New York. Mr. President, I am glad to support the committee amendment to H.R. 6319. On Tuesday of this week I introduced legislation—S. 3159—to extend the enrollment date until the end of this year. My own judgment was and still is that the 2-month extension which is before us now may not be adequate to reach the 1.5 million senior citizens who have not been heard from at all in connection with part B, and the 1 million who have turned down its coverage, many of them basing their decisions on misunderstanding of the program.

I thought it would be wise to let those who need more convincing see the program in operation after July 1 and let them decide then. But the 2-month extension is a good beginning. If it proves inadequate, we have shown that we can act expeditiously to extend the deadline. My bill and those of other Senators could be passed as well 2 months from now as now. If we need to take such action then, I know we will do so.

Mr. LONG of Louisiana. Mr. President, I appreciate the support of the distinguished Senator from New York.

Mr. COOPER. Mr. President, I want to speak briefly on the proposal before the Senate today—to extend for 2 months, through May 31, 1966, the sign-up period for the supplementary medical insurance program voted by the Congress last year.

The Social Security Administration has estimated that some 19 million people 65 years of age or over are eligible for coverage beginning on July 1 of this year. While some have declined to enroll in the period which ended last night, the President yesterday estimated that 17 million people had already asked for the coverage offered under the law.

I believe it is very likely that the persons—1 million or more—who have not yet responded, or who might not have been reached by the announcements, are very likely individuals who most need the opportunity to have adequate medical insurance coverage under this health care program. I know that social security offices around the country have been working long and hard hours to enroll eligible persons, but it is very possible that an extension of the enrollment period will enable the great majority of the other eligible persons to qualify for this important program from the beginning of its services this summer.

In my own State of Kentucky, there are thousands upon thousands of people

who are eligible for this program, and I would hope that all who want to participate would have the chance to do so from the first date of availability of services. For this reason, and as it has been said that an extension of the deadline would present no administrative problems, I hope the Senate will act immediately to extend for 2 months the deadline for enrollment in the supplementary medical insurance program under social security.

As one who worked and spoke and voted for the new law to provide assurance of health and hospital care under social security, I urge immediate action on extending this enrollment deadline to May 31, 1966.

Mr. LONG of Louisiana. Mr. President, the distinguished Senator from Kentucky has eloquently expressed the need for the committee amendment. I appreciate his support.

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

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 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 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 provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries, and to amend title XVIII of the Social Security Act to extend the initial enrollment period for supplementary medical insurance benefits."

MESSAGE FROM THE SENATE

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6319. An act to amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries;

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1419

TITLE XVIII OF SOCIAL SECURITY ACT AND SOCIAL SECURITY AMENDMENTS OF 1965

APRIL 5, 1966.—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. 14224]

The Committee on Ways and Means, to whom was referred the bill (H.R. 14224) to amend part B of title XVIII of the Social Security Act so as to extend through May 31, 1966, the initial period for enrolling under the program of supplementary medical insurance benefits for the aged, 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, after line 6, insert the following:

SEC. 4. In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act in March 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act in May 1966, his coverage period shall, notwithstanding section 1838(a)(2)(D) of such Act, begin on July 1, 1966.

SEC. 5. (a) Subsection (b) of section 1843 of the Social Security Act is amended by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out all that follows and inserting in lieu thereof (after and below paragraph (2)) the following new sentence:

"Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937."

(b) Section 1843 of such Act is amended by adding at the end thereof the following new subsection:

"(g) (1) The Secretary shall, at the request of a State made before January 1, 1968, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the second sentence of subsection (b) shall not apply with respect to such agreement.

"(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) by the second sentence of such subsection—

"(A) subsections (c) and (d)(2) shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a)),

"(B) subsection (d)(3)(B) shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

"(C) notwithstanding subsection (e), in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month)."

(c) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

"(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1843 is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1843(d)."

GENERAL STATEMENT

The vast majority of people eligible to enroll in the supplementary medical insurance program had enrolled by the original March 31, 1966, deadline. Undoubtedly, however, there are some who now would like to enroll although they did not do so earlier, perhaps because of delay in getting information about how their current health insurance plan will be coordinated with medicare or perhaps because of language or other communication difficulty. These people might be able to enroll under the provision in present law (sec. 102(b) of the Social Security Amendments of 1965) which permits enrollment after March 31 and before October 1 if there was good cause for the failure to enroll before that date, but the late enrollees would not have protection until 6 months after their enrollment. Since the period for disseminating information has been relatively short considering the complicated nature of the new program, it has been impossible to assure that every eligible person fully understands his rights and the benefits available under the supplementary medical insurance pro-

gram. It does not seem necessary to delay what may be sorely needed protection for 6 months for these late enrollees.

The number of persons involved is not large enough to present significant administrative problems to the Social Security Administration. The space of 1 month between the deadline of May 31 provided in H.R. 14224 and July 1, when benefit protection is first available, leaves time for administrative preparations, and it avoids substantially enrollment in anticipation of immediate health costs. Accordingly, the actuarial status of the program would not be adversely affected.

Some of those who failed to enroll are public assistance recipients. There are provisions of present law under which a State may buy into the supplementary medical insurance program for recipients who are not on the social security or railroad retirement benefit rolls. A number of States have taken advantage of this provision, and others propose to do so. However, the fact that they may not buy in for social security and railroad retirement beneficiaries (as a result of sec. 1843(b) of the Social Security Act) has resulted in the failure of some of these beneficiaries who are on assistance to be enrolled. Your committee's amendment would permit the States to buy in for such beneficiaries. This change would not adversely affect the actuarial status of the program.

The letter from President Johnson to the Speaker of the House of Representatives and the President of the Senate states the major reasons for the provisions of H.R. 14224 to extend the March 31 deadline in present law:

DEAR MR. PRESIDENT: (DEAR MR. SPEAKER:) I would like to commend, for your early consideration, an amendment to the Social Security Act which would extend from March 31 to May 31 the deadline for enrollment in the medical insurance portion of the social security health insurance program for the aged.

As you know, the Social Security Administration has conducted an energetic campaign to inform all citizens who are already 65 that they must enroll by March 31 to be eligible for medical insurance coverage, which becomes effective July 1.

The results of this effort have been remarkable. More than 86 percent of the 19.1 million older people have already signed up; an additional 5 percent have responded by declining to enroll.

Despite this enormous response, there will be some older citizens who will want to enroll after March 31—because they did not act quickly enough, or because somehow they were not reached with news of this opportunity.

The present law permits enrollment after March 31—if there is good cause for the failure to enroll before the deadline. But under this provision, late enrollees cannot have protection for 6 months after enrollment.

I believe it would be unfortunate to delay protection to these late enrollees—some of whom are those with the greatest need for medical insurance.

Under my proposal, therefore, those enrolling in April and May would be eligible for protection on July 1, when the program goes into effect.

Enrollment of the remaining eligible citizens between March 31 and June 1 would present no administrative problems; there would still be 1 month between the deadline and the first payment of benefits.

I have asked the Secretary of Health, Education, and Welfare to transmit to you the appropriate draft language for the amendment. I hope you will give it prompt and sympathetic consideration.

Sincerely,

LYNDON B. JOHNSON.

EXPLANATION OF PROVISIONS

Under present law, persons who attained age 65 before January 1, 1966, must apply for the supplementary medical insurance portion of the program of health insurance for the aged by March 31, 1966 (sec. 1837(c) of the Social Security Act), if they are to be eligible for protection on July 1, 1966, when the program goes into effect. The bill would extend the special deadline on applications for these people to May 31, 1966.

The initial enrollment period for those attaining age 65 in January and February 1966 would end on April 31 and May 31, respectively, under the regular rules governing enrollment periods (sec. 1837(d) of the Social Security Act). The bill amends sections 1837(c) and 1837(d) so that the special deadline (sec. 1837(c)) rather than the regular deadline (sec. 1837(d)) will apply to those attaining age 65 in January and February 1966.

Thus, the May 31 deadline would apply to everyone reaching age 65 in February 1966 or earlier. Persons attaining age 65 before April 1966 and applying before the new deadline would have protection beginning July 1, 1966. Your committee's amendment provides that the coverage of persons attaining age 65 in March 1966 who enroll in May 1966 would begin July 1, 1966, rather than August 1, 1966, as in present law and in the bill as introduced.

Under present law, a person whose initial enrollment period ended on March 31, 1966, but who, for good cause, failed to enroll in the supplementary medical insurance plan by that deadline, may enroll at any time before October 1, 1966; however, his protection will not begin until 6 months after he so enrolls. The bill would make this "good cause" provision (sec. 102(b) of the Social Security Amendments of 1965) applicable to all of those whose initial enrollment period ended on the new special deadline established by the bill—i.e., May 31, 1966—but would retain the October 1, 1966, deadline and the 6-month waiting period before coverage is effective.

Your committee's amendment also provides that a State which enters into an agreement under section 1843, under which public assistance recipients aged 65 and over may be enrolled in supplementary medical insurance, may, at its option, include, simultaneously or subsequently, at enrollees persons who are on the social security or railroad retirement benefit rolls. Present law provides that such persons may enroll only as individuals and may pay premiums only by deductions from their benefits. The date of the enrollment of these persons under the new provision would be determined by the date of the modification of the agreement under which the enrollment occurred. In the event the individual ceased to be a public assistance recipient, he would have the right to terminate his enrollment during the 3-month period after he left the public assistance rolls.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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 reported, 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):

SECTIONS 1837, 1840, AND 1843 OF THE SOCIAL SECURITY ACT

ENROLLMENT PERIODS

SEC. 1837. (a) An individual may enroll in the insurance program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this section.

(b) (1) No individual may enroll for the first time under this part more than 3 years after the close of the first enrollment period during which he could have enrolled under this part.

(2) An individual whose enrollment under this part has terminated may not enroll for the second time under this part unless he does so in a general enrollment period (as provided in subsection (e)) which begins within 3 years after the effective date of such termination. No individual may enroll under this part more than twice.

(c) In the case of individuals who first satisfy paragraphs (1) and (2) of section 1836 before [January 1, 1966] *March 1, 1966* the initial general enrollment period shall begin on the first day of the second month which begins after the date of enactment of this title and shall end on [March 31, 1966] *May 31, 1966*. For purposes of this subsection and subsection (d), an individual who satisfies paragraph (2) of section 1836 solely by reason of subparagraph (B) thereof shall be treated as satisfying such paragraph (2) on the first day on which he is (or on filing application would be) entitled to hospital insurance benefits under part A.

(d) In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 on or after [January 1, 1966] *March 1, 1966*, his initial enrollment period shall begin on the first day of the third month before the month in which he first satisfies such paragraphs and shall end seven months later.

(e) There shall be a general enrollment period, after the period described in subsection (c), during the period beginning on October 1 and ending on December 31 of each odd-numbered year beginning with 1967.

* * * * * * *

PAYMENT OF PREMIUMS

SEC. 1840. (a)(1) In the case of an individual who is entitled to monthly benefits under section 202, his monthly premiums under this part shall (except as provided in subsection (d)) be collected by deducting the amount thereof from the amount of such monthly benefits. Such deduction shall be made in such manner and at such times as the Secretary shall by regulation prescribe.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates from benefits under section 202 which are payable from such Trust Fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(b)(1) In the case of an individual who is entitled to receive for a month an annuity or pension under the Railroad Retirement Act of 1937, his monthly premiums under this part shall (except as provided in subsection (d)) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as the Secretary shall be regulations prescribe. Such regulations shall be prescribed only after consultation with the Railroad Retirement Board.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(c) In the case of an individual who is entitled both to monthly benefits under section 202 and to an annuity or pension under the Railroad Retirement Act of 1937 at the time he enrolls under this part, subsection (a) shall apply so long as he continues to be entitled both to such benefits and such annuity or pension. In the case of an individual who becomes entitled both to such benefits and such an annuity or pension after he enrolls under this part, subsection (a) shall apply if the first month for which he was entitled to such benefits was the same as or earlier than the first month for which he was entitled to such annuity or pension, and otherwise subsection (b) shall apply.

(d) If an individual to whom subsection (a) or (b) applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

(e)(1) In the case of an individual receiving an annuity under the Civil Service Retirement Act, or other Act administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) applies, his monthly premiums under this part (and the monthly premiums of the spouse of such individual under this part if neither subsection (a) nor subsection (b) applies to such spouse and if such individual agrees) shall, upon notice from the Secretary of Health, Education, and Welfare to the Civil Service Commission, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Civil Service Commission may determine. The Civil Service Commission shall furnish

such information as the Secretary of Health, Education, and Welfare may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies.

(2) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other Act administered by the Civil Service Commission, to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(f) In the case of an individual who participates in the insurance program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (d) applies, the premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulations prescribe.

(g) Amounts paid to the Secretary under subsection (d) or (f) shall be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund.

(h) In the case of an individual who participates in the insurance program established by this part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1843 is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1843(d).

* * * * * * *

STATE AGREEMENTS FOR COVERAGE OF ELIGIBLE INDIVIDUALS WHO ARE RECEIVING MONEY PAYMENTS UNDER PUBLIC ASSISTANCE PROGRAMS

SEC. 1843. (a) The Secretary shall, at the request of a State made before January 1, 1968, enter into an agreement with such State pursuant to which all eligible individuals in either of the coverage groups described in subsection (b) (as specified in the agreement) will be enrolled under the program established by this part.

(b) An agreement entered into with any State pursuant to subsection (a) may be applicable to either of the following coverage groups:

(1) individuals receiving money payments under the plan of such State approved under title I or title XVI; or

(2) individuals receiving money payments under all of the plans of such State approved under titles I, IV, X, XIV, and XVI[;].

[except that there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II

or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937.] *Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937.*

(c) For purposes of this section, an individual shall be treated as an eligible individual only if he is an eligible individual (within the meaning of section 1836) on the date an agreement covering him is entered into under subsection (a) or he becomes an eligible individual (within the meaning of such section) at any time after such date and before January 1, 1968; and he shall be treated as receiving money payments described in subsection (b) if he receives such payments for the month in which the agreement is entered into or any month thereafter before January 1968.

(d) In the case of any individual enrolled pursuant to this section—

(1) the monthly premium to be paid by the State shall be determined under section 1839 (without any increase under subsection (c) thereof);

(2) his coverage period shall begin on whichever of the following is the latest:

(A) July 1, 1966;

(B) the first day of the third month following the month in which the State agreement is entered into;

(C) the first day of the first month in which he is both an eligible individual and a member of a coverage group specified in the agreement under this section; or

(D) such date (not later than January 1, 1968) as may be specified in the agreement; and

(3) his coverage period attributable to the agreement with the State under this section shall end on the last day of whichever of the following first occurs:

(A) the month in which he is determined by the State agency to have become ineligible for money payments of a kind specified in the agreement, or

(B) the month preceding the first month for which he becomes entitled to monthly benefits under title II or to an annuity or pension under the Railroad Retirement Act of 1937.

(e) Any individual whose coverage period attributable to the State agreement is terminated pursuant to subsection (d)(3) shall be deemed for purposes of this part (including the continuation of his coverage period under this part) to have enrolled under section 1837 in the initial general enrollment period provided by section 1837(c).

(f) With respect to eligible individuals receiving money payments under the plan of a State approved under title I, IV, X, XIV, or XVI, if the agreement entered into under this section so provides, the term 'carrier' as defined in section 1842(f) also includes the State agency, specified in such agreement, which administers or supervises the administration of the plan of such State approved under title I, XVI, or XIX. The agreement shall also contain such provisions as will facilitate the financial transactions of the State and the carrier with respect to deductions, coinsurance, and otherwise, and as will lead to economy and efficiency of operation, with respect to individuals

receiving money payments under plans of the State approved under titles I, IV, X, XIV, and XVI.

(g)(1) The Secretary shall, at the request of a State made before January 1, 1968, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the second sentence of subsection (b) shall not apply with respect to such agreement.

(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) by the second sentence of such subsection—

(A) subsections (c) and (d)(2) shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a)),

(B) subsection (d)(3)(B) shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

(C) notwithstanding subsection (e), in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month).

SECTION 102(b) OF THE SOCIAL SECURITY AMENDMENTS OF 1965

(b) If—

(1) an individual was eligible to enroll under section 1837(c) of the Social Security Act before [April 1, 1966] *June 1, 1966*, but failed to enroll before such date, and

(2) it is shown to the satisfaction of the Secretary of Health, Education, and Welfare that there was good cause for such failure to enroll before [April 1, 1966] *June 1, 1966*

such individual may enroll pursuant to this subsection at any time before October 1, 1966. The determination of what constitutes good cause for purposes of the preceding sentence shall be made in accordance with regulations of the Secretary. In the case of any individual who enrolls pursuant to this subsection, the coverage period (within the meaning of section 1838 of the Social Security Act) shall begin on the first day of the 6th month after the month in which he so enrolls.

○

Union Calendar No. 624

89TH CONGRESS
2D SESSION

H. R. 14224

[Report No. 1419]

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 1966

Mr. MILLS introduced the following bill; which was referred to the Committee on Ways and Means

APRIL 5, 1966

Reported with an amendment, 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 amend part B of title XVIII of the Social Security Act so as to extend through May 31, 1966, the initial period for enrolling under the program of supplementary medical insurance benefits for the aged.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 1837 (c) of the Social Security Act is amended by (1) striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966"; and (2) striking out "March 31, 1966" and inserting in lieu thereof "May 31, 1966".

SEC. 2. Section 1837 (d) of such Act is amended by

striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966".

SEC. 3. Section 102 (b) of the Social Security Amendments of 1965 is amended by striking out "April 1, 1966" each time it appears therein, and inserting in lieu thereof "June 1, 1966".

SEC. 4. In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act in March 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act in May 1966, his coverage period shall, notwithstanding section 1838(a)(2)(D) of such Act, begin on July 1, 1966.

SEC. 5. (a) Subsection (b) of section 1843 of the Social Security Act is amended by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out all that follows and inserting in lieu thereof (after and below paragraph (2)) the following new sentence:

"Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937."

(b) Section 1843 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary shall, at the request of a State made before January 1, 1968, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the second sentence of subsection (b) shall not apply with respect to such agreement.

"(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) by the second sentence of such subsection—

"(A) subsections (c) and (d)(2) shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a)),

"(B) subsection (d)(3)(B) shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

"(C) notwithstanding subsection (e), in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the

termination of his coverage period under this part shall take effect as of the close of such third month)."

(c) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

"*(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1843 is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1843(d).*"

Union Calendar No. 624

89TH CONGRESS
2D SESSION

H. R. 14224

[Report No. 1419]

A BILL

To amend part B of title XVIII of the Social Security Act so as to extend through May 31, 1966, the initial period for enrolling under the program of supplementary medical insurance benefits for the aged.

By Mr. MILLS

MARCH 31, 1966

Referred to the Committee on Ways and Means

APRIL 5, 1966

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

SOCIAL SECURITY ACT AMENDMENTS

(Mr. MILLS asked and was given permission to address the House for 1 minute.)

Mr. MILLS. Mr. Speaker, tomorrow, during the course of the House session, it will be my purpose to seek recognition to call up by unanimous consent H.R. 14224, a bill to amend part B of title 18 of the Social Security Act so as to extend through May 31, 1966, the initial period for enrolling under the program of supplementary medical insurance for the aged.

The Committee on Ways and Means in executive session reported the bill this morning unanimously, after having adopted an amendment making two changes in the text of the bill.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I will be glad to yield to the gentleman.

Mr. BYRNES of Wisconsin. Mr. Speaker, I wonder if the language of the amendment making the changes could be put in the RECORD for this evening so that the membership will have notice of the language involved in the amendment, or really of the bill reported by the committee today?

Mr. MILLS. I would think it will be better to include the bill and the amendment approved by the committee. If there is no objection, Mr. Speaker, I do ask unanimous consent to so include the bill and the amendment at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

H.R. 14224

A bill to amend part B of title XVIII of the Social Security Act so as to extend through May 31, 1966, the initial period for enrolling under the program of supplementary medical insurance benefits for the aged

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 1837(c) of the Social Security Act is amended by (1) striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966"; and (2) striking out "March 31, 1966" and inserting in lieu thereof "May 31, 1966".

SEC. 2. Section 1837(d) of such Act is amended by striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966".

SEC. 3. Section 102(b) of the Social Security Amendments of 1965 is amended by striking out "April 1, 1966" each time it appears therein, and inserting in lieu thereof "June 1, 1966".

SEC. 4. In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act in March 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act in May 1966, his coverage period shall, notwithstanding section 1838(a)(2)(D) of such Act, begin on July 1, 1966.

SEC. 5. (a) Subsection (b) of section 1843 of the Social Security Act is amended by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out all that follows and inserting in lieu thereof (after and below paragraph (2)) the following new sentence:

"Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937."

(b) Section 1843 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary shall, at the request of a State made before January 1, 1968, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the second sentence of subsection (b) shall not apply with respect to such agreement.

"(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) by the second sentence of such subsection—

"(A) subsections (c) and (d)(2) shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a)),

"(B) subsection (d)(3)(B) shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

"(C) notwithstanding subsection (e), in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month)."

(c) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

"(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1843 is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his ocverage period which is determined under section 1843(d)."

SOCIAL SECURITY ACT AMENDMENTS OF 1966

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 14224) to amend part B of title XVIII of the Social Security Act so as to extend through May 31, 1966, the initial period for enrolling under the program of supplementary medical insurance benefits for the aged, which was unanimously reported 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 Arkansas?

There was no objection.

Mr. RYAN. Mr. Speaker, reserving the right to object, and I certainly shall not object, I should simply like to observe that the distinguished chairman of the Committee on Ways and Means should be commended for bringing this bill to the floor today to provide for this extension of the enrollment period for supplementary medical insurance benefits through May 31. However, I hope that in the near future the Social Security Amendments of 1965 can be amended so that there will be no deadline and all citizens 65 years of age and over will

be eligible for the supplemental program without the interposition of any kind of deadline or other restriction limiting the opportunity for enrollment. The basic purpose of medicare was to cover elderly people over 65 years of age. Those most in need are also most likely for various reasons to be unaware of the legalities which set up enrollment periods and other limitations. Let us make it possible for them to have medical attention whenever it is needed.

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

Mr. ROGERS of Colorado. Mr. Speaker, reserving the right to object, there has been a great deal of inquiry about the ability of those who have attained age 65 to prove their age.

Is there any method whereby, if this extension is granted we can prevail on the Social Security Administration to relieve the stiff requirements of either having a birth certificate, where none are available, and not be compelled to spend extra money searching census records in order to confirm what is their actual age?

Mr. MILLS. Mr. Speaker, if the gentleman will yield, there is no change made in this bill in this respect. The basic law does require that an individual prove his age to the satisfaction of the Social Security Administration. We have discussed that at different times within the Committee on Ways and Means, and I might say that I have been unable to make suggestions and recommendations to them myself for changes in their procedures on this particular matter, which serve as a better general rule.

I find, in individual cases, that I quarrel with them about the degree of proof that is needed, but we have not legislated in this respect in this bill.

Mr. BYRNES of Wisconsin. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BYRNES of Wisconsin. Mr. Speaker, I make this parliamentary inquiry only that the Members might understand what the opportunities might be for discussion. I make the parliamentary inquiry to the effect that if the request of the gentleman from Arkansas is agreed to that the bill can be considered under unanimous-consent request—do I state it correctly that there will be the opportunity for striking out the last word and having an opportunity to speak?

The SPEAKER. The bill is to be considered in the House as in the Committee of the Whole, and motions to strike out the last word will be in order.

Mr. BYRNES of Wisconsin. Will the gentleman make the request that the bill be considered in the House as in the Committee of the Whole?

The SPEAKER. The Chair will state that the unanimous-consent request will automatically carry that privilege.

Mr. BYRNES of Wisconsin. I thank the Speaker.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 14224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 1837(c) of the Social Security Act is amended by (1) striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966"; and (2) striking out "March 31, 1966" and inserting in lieu thereof "May 31, 1966".

SEC. 2. Section 1837(d) of such Act is amended by striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966".

SEC. 3. Section 102(b) of the Social Security Amendments of 1965 is amended by striking out "April 1, 1966" each time it appears therein, and inserting in lieu thereof "June 1, 1966".

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Page 2, after line 6, insert the following:

"SEC. 4. In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act in March 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act in May 1966, his coverage period shall, notwithstanding section 1838(a)(2)(D) of such Act, begin on July 1, 1966.

"SEC. 5. (a) Subsection (b) of section 1843 of the Social Security Act is amended by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out all that follows and inserting in lieu thereof (after and below paragraph (2)) the following new sentence:

" 'Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937.'

"(b) Section 1843 of such Act is amended by adding at the end thereof the following new subsection:

" '(g)(1) The Secretary shall, at the request of a State made before January 1, 1968, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the second sentence of subsection (b) shall not apply with respect to such agreement.

" '(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) by the second sentence of such subsection—

" '(A) subsections (c) and (d)(2) shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a)),

" '(B) subsection (d)(3)(B) shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

" '(C) notwithstanding subsection (e), in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month).'

"(c) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

" '(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1843 is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1843(d).' "

Mr. MILLS (during reading of amendment). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment, and that it be printed in the RECORD at this point.

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

There was no objection.

Mr. MILLS. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I believe I can explain the dual purpose of this bill that has been reported unanimously by the Committee on Ways and Means, in just a very brief period of time.

Mr. Speaker, as Members of the House will recall, under the medical care provisions of the Social Security Amendments of 1965 we established an enrollment deadline for plan B, the voluntary supplementary medical plan, of March 31, 1966, for persons who attained age 65 before January 1, 1966.

Mr. Speaker, the Social Security Administration has, in my opinion, done a remarkably fine job of enrolling elderly citizens in the program, since we are advised that as of the closing date, which is March 31, approximately 16.8 million individuals, or 88 percent of the total age 65 and over, had been enrolled.

However, Mr. Speaker, it was clear that there would still be some who, for one reason or another, had not enrolled in the program by the deadline of March 31 just passed. In the light of this, we were asked to extend from March 31 to May 31 the closing date for present enrollment.

Mr. Speaker, the bill would extend the deadline, as requested, to May 31, 1966, in order to give this group of elderly individuals a further opportunity to enroll and be eligible for benefits beginning July 1, 1966.

Mr. Speaker, the initial enrollment period for those who attain age 65 in January and February 1966, would end on April 31, and May 31, respectively, under the regular rules governing enrollment periods. The bill amends sections 1837(c) and 1837(d) of the Social Security Act so that the special deadline—section 1837(c)—rather than the regular deadline—section 1837(d)—will apply to those attaining age 65 in January and February 1966.

Thus, Mr. Speaker, the May 31 deadline will apply to everyone reaching 65 in February of 1966 or earlier. Persons attaining age 65 before April 1966, and applying before the new deadline, would have protection beginning July 1, 1966. The amendment to the bill provides that the coverage of persons attaining age 65 in March 1966, who enroll in May 1966, would begin on July 1, 1966, rather than August 1, 1966, as is present law, and in the bill as initially introduced.

Under present law, a person whose initial enrollment period ended on March 31, 1966, but who, for good cause, failed to enroll in the supplementary medical insurance plan by that deadline, may enroll at any time before October 1, 1966;

however his protection will not begin until 6 months after he so enrolls.

The bill would also make the good cause provision of the Social Security Amendments of 1965 applicable to all of those whose initial enrollment period ended on the new special deadline established by the bill; namely, May 31, 1966—but would retain the October 1, 1966, deadline and the 6-month waiting period before coverage is effective.

Mr. Speaker, the second purpose of the bill is to provide that a State which enters into an agreement under section 1843, under which public assistance recipients aged 65 and over may be enrolled in supplementary medical insurance, may, at its option, include, simultaneously or subsequently, as enrollees persons who are on the social security or railroad retirement benefit rolls, and are also receiving under the public assistance program of the State.

The present law provides that such persons may enroll only as individuals and may pay premiums only by deduction from their benefits.

The date of the enrollment of these persons under the new provision would be determined by the date of the modification of the agreement between the State and the department under which the enrollment occurred.

In the event the individual ceased to be a public assistance recipient still receiving social security or railroad retirement benefits, he would have the right to terminate his enrollment during the 3-month period after he left the public assistance rolls.

Mr. Speaker, as to the first part of the bill the committee thought that we should adjust the situation so as to eliminate a very apparent inequity in the bill as initially introduced and also contained in the amendment adopted by the Senate recently to the House-passed bill.

The other part of the bill is also meritorious. Some of those who failed to enroll are public assistance recipients. There are provisions of present law under which a State may buy into the supplementary medical insurance program for recipients who are not on the social security or railroad retirement benefit rolls. A number of States have taken advantage of this provision, and others propose to do so. However, the fact that they may not buy in for social security and railroad retirement beneficiaries—as a result of section 1843(b) of the Social Security Act—has resulted in the failure of some of these beneficiaries who are on assistance to be enrolled. Your committee's amendment would permit the States to buy in for such beneficiaries. This change would not adversely affect the actuarial status of the program.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. BYRNES of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from Arkansas may proceed for 5 additional minutes.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. MILLS. Mr. Speaker, I will not take up any more time. I urge approval by the House of the committee amendments and also of the bill, as amended.

I yield to the gentleman from Wisconsin.

Mr. BYRNES of Wisconsin. A question was raised about the opportunity people have on reaching 65 years of age to sign up for this voluntary program. That question was raised earlier and I think it might be well for the Members to be advised of the opportunities that exist today under present law for people who become 65 years of age to enroll in the program. There is no magic date of May 31 or March 31 as far as those people are concerned. I think the gentleman might explain that.

Mr. MILLS. The gentleman from Wisconsin raises a good point.

If I may explain, I am sure the Members will recall as I was endeavoring to state, that initially in the bill we passed, we were providing for a date of March 31 as a final date for the enrollment of those who became 65 years of age before January 1, 1966. This deadline did not apply to individuals becoming 65 years of age after the beginning of 1966; each individual in this group would have his own initial enrollment period of 7 months, beginning 3 months before the month in which he reaches 65 and ending 3 months later. Under the committee's bill, individuals becoming 65 years of age in January and February of this year are grouped with those becoming 65 years of age before this year, leaving all those who become 65 years of age in or after March of this year with the same 7-month enrollment period they have under existing law. The practical result of the committee's bill is to provide that any individual who both becomes 65 years of age and enrolls in the program before May 31 will have coverage beginning July 1. Every individual becoming 65 years of age in the future would continue to have the 7-month initial enrollment period which he has under existing law.

I appreciate the suggestion of my friend from Wisconsin that we explain that point.

Mr. BYRNES of Wisconsin. Mr. Speaker, I move to strike out the last word.

The SPEAKER. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. BYRNES of Wisconsin. Mr. Speaker, first, I wish to say that the legislation before us has my full support and the full support of all minority members on the Ways and Means Committee. As the chairman pointed out, it was voted out of the committee by a unanimous vote.

I think that the bill before us is a considerable improvement over the amendment that was passed by the Senate dealing generally with this subject. In the first place, it does remove an anomaly that would have existed so far as some people who are presently 65 years of age is concerned in their treatment and in their ability to sign up.

Also it removes a very distinct problem that has been facing some of the States in conjunction with the coverage of their public assistance people under the insurance coverage of part B of the program. We have a particular problem right here in the District of Columbia. There were some news stories on it recently. The action taken by the committee will go a long way toward correcting that problem.

Most important, however, the bill extends the period for enrollment in the voluntary medical insurance program which expired on March 31.

I should point out that I think there will be other problems that will develop as a result possibly of oversight or of experience in the operation of this program. We will have to meet those problems. Other problems have come to our attention already. But the feeling is that this bill takes care of the most urgent problem, and that attention to the other problems can be postponed to be considered at a propitious time; without delaying these particular amendments.

There is one thing I would like to say about the voluntary plan in so-called part B. I want to commend the Social Security Administration for the efforts made to enroll all those who are eligible by March 31. The extension of the enrollment period should not be taken as any reflection on the effort which has been made to inform our elderly citizens of this program and to enroll them so that they would have its advantages.

There are approximately 19 million persons over age 65, who are eligible for enrollment in the voluntary medical insurance program. More than 86 percent of them had enrolled by March 31, when the enrollment period expired. This is particularly gratifying to me, because I was always convinced that a voluntary program would meet the need of our elderly people both with respect to hospitalization and with respect to medical services. The enrollment to-date amply substantiates my belief.

I think the fact that more than 86 percent have signed up is an indication of two things: First, the Social Security Administration has done a commendable job in getting the message to our elderly people; secondly, this tremendous response removes any doubts as to whether a voluntary program would be acceptable to the American people. The response in this instance shows that we do not always have to act with compulsion, that we can accomplish the same result on a voluntary basis.

So I think two things have resulted from the action in the last few months with regard to the signing-up of these people under the voluntary plan: First, it shows the message can be gotten to the people and information can be gotten to them; secondly it also demonstrates that when they have the facts, they will balance them against their own needs and respond accordingly.

This bill, of course, acknowledges the fact that there are some people who have not necessarily been reached. There are some people who may have been reached but have not had the time that is required for them to analyze whether this program fits their needs and whether it is something that they want to participate in. So I think the extension at this time is very desirable.

But the fundamental point I think has been proven here that we can have a voluntary approach to some of these problems rather than a compulsory approach.

Mr. CURTIS. Mr. Speaker, I move to strike the last word.

The SPEAKER. The gentleman from Missouri is recognized for 5 minutes.

Mr. CURTIS. Mr. Speaker, I mainly want to discuss the procedure here and say that I am quite pleased that we are handling this bill in this fashion, although the procedure itself is a little unusual. If handled in the other way, the House would have been confronted with a nongermane amendment to a bill that the House sent over where this action was taken. The House would have been confronted with the situation of trying to consider this new subject matter without the Ways and Means Committee having an opportunity of going into it fully.

I am most pleased that the chairman of the Ways and Means Committee the gentleman from Arkansas [Mr. MILLS], has had our committee consider this matter. We had testimony. There is a written report accompanying the bill that any Member can obtain. The House is proceeding under an open rule—I have always thought that we could do so in these matters—to consider this affirmatively, based upon proper committee study and full debate on the floor of the House.

The bill itself, as it has been described, is of course not of lasting consequence, in the sense that it is meeting a temporary situation. It is something that needs immediate action. It demonstrates again that the Congress, when it has to move fast on matters because of a real reason to do so, can do so in the context of adequate study and adequate debate.

Finally, I would like to make one observation in regard to the substantive point that the gentleman from New York was making, as to why this is not just opened up so that anybody 65 or over can sign up at any time. That is in line, too, with an editorial I read in the Washington Post, which said the same thing. I would suggest that the gentleman from New York discuss the matter with the actuarial authorities in the Social Security Administration. This applies also to the editors of the Washington Post.

There is a problem of actuarial soundness of the system. If there is not a requirement that people make an election to come in under this program, of course, there would be no reason to pay money every month for the coverage which one receives. One would simply wait until there was an illness and then seek to be covered.

The point of the discipline here is to have people who want the coverage pay their monthly premium along with every one else, and not permit them to wait until they become ill and know that they have the benefits of the program. Such a procedure would make it so costly that the program could not possibly operate.

Anyone can examine the provisions of exercising an option to be covered and find the program is quite liberal. A person reaching 65 years of age has, in effect, 7 months in which to make up his mind as to whether to come in, the month he becomes 65 and 3 months before or 3 month after this month. Even if he declines at that time, there will be, under the permanent law, an opportunity in 2 years for an opening up, under which people who have missed the chance before may then choose to be covered.

But the reason it is not automatically opened up is so that everyone will bear his fair share of the premium cost and not just wait for an illness to occur. To do otherwise would make benefits under the program exceed the premium revenues.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from Arkansas.

Mr. MILLS. Mr. Speaker, the gentleman from Missouri is well-advised to make this statement as to the enrollment provisions, because of the confusion that may exist. The gentleman would agree with me, would he not, that the provisions of the present law permit anyone, when he becomes 65 years of age at any time in the future—3 months before the month he becomes 65, or 3 months after—to enroll for the plan B program.

Mr. CURTIS. That is correct.

Mr. MILLS. He does not have to wait at all?

Mr. CURTIS. That is right. It gives him 7 months, actually. The reason for the temporary extension provided in the bill before us is that it is a new program, and it does take time to get word around. I hope the Congress will follow these recommendations. This is an excellent bill.

Mr. BROYHILL of Virginia. Mr. Speaker, I move to strike the requisite number of words.

(Mr. BROYHILL of Virginia asked and was given permission to revise and extend his remarks.)

Mr. BROYHILL of Virginia. Mr. Speaker, while we are considering a measure to extend the time during which our citizens 65 and over can elect to avail themselves of the benefits provided by the supplementary medical insurance plan, it seems particularly appropriate to again emphasize that Federal employees are unfairly deprives of the benefits enjoyed by other citizens under present medical care legislation.

The situation is complex but I want to briefly outline it because I know the Congress will want to correct this unwarranted discrimination against Federal employees. The act discriminates against Federal employees in several ways:

First. The law generally provides that all citizens who are 65 or over before 1968 are automatically covered for the basic medicare plan covering hospital and related expenses, even though they have never earned any quarters of social security coverage. Federal employees were excluded from this "transitional insured coverage" unless they retired before February 15, 1965, without coverage under the Federal Employees Health Benefits Act of 1959.

Second. Federal employees are eligible to participate in the voluntary supplemental plan, covering doctors' services and certain incidental medical expenses, for a premium of $3 per month matched by a $3 governmental contribution from general revenues. However, since the basic supplemental plan does not cover hospitalization and related expenses, the employee will find it necessary to retain his coverage under the Federal Employees Health Benefit Act. Since the policies issued pursuant to the Federal Employees Health Benefit Act also encompass the type of benefits paid by the voluntary supplemental plan, and generally preclude payment of duplicate benefits, the voluntary supplemental plan will provide far fewer benefits to Federal employees than to the population in general, and Federal employees may well conclude that it is impractical for them to participate.

Third. Approximately 50 percent of the Federal employees now retiring have acquired, through defending our country in the armed services or by working in other covered employment before or after becoming a Federal employee, the requisite quarters of social security coverage to entitle them to medicare benefits on the basis of their own earnings record. Federal employees in this category can elect to participate in the voluntary supplemental which, when added to the basic medicare plan, will provide coverage approaching in scope the high option plans issued pursuant to the Federal Employees Health Benefit Act. Federal employees making such an election may well drop their coverage under the Federal Employees Health Benefit Act, and the Federal Government will be relieved of its obligation as an employer to provide hospital benefits to its retired employee. When private industry is relieved by governmental programs from providing benefits that employees have earned through their long years of service, the general practice is for the companies concerned to increase benefits in other areas. This only recognizes the equities involved, and the adjustments that the employer, in good conscience, must make to changed circumstances.

Mr. Speaker, these three inequities exist because the Federal Government's role as an employer has been confused with its role as custodian of a governmental program of social insurance. As an employer, the Federal Government contributes to a health insurance plan on behalf of its employees. By exercising its constitutionally delegated power to impose taxes to provide for the general welfare, the Federal Government has also undertaken to provide health benefits to its citizens.

Federal employees, like the employees of private industry, are both employees and citizens. The benefits the Government provides to its citizens should not be reduced, in the case of a Federal employee, by the amount he has earned as an employee.

Despite diligent efforts on my part throughout the last year to secure legislation that would at least partially remove this discrimination against the Federal employees, the situation still ex-

ists. I have introduced a bill (H.R. 7267) that would take a step in the right direction by providing that the $3 per month that the Federal Government will pay for individuals participating in the voluntary supplemental plan, be paid toward the premiums charged Federal employees for coverage under plans issued pursuant to the Federal Employees Health Benefit Act.

Since most Federal employees will be required to retain their coverage under the Federal Employees Health Benefit Act, the Federal Government should pay the $3 a month on their behalf not toward the voluntary supplemental plan which will merely provide duplicate coverage to the employee, but toward his plan under the Federal Employees Health Benefit Act. If this needed reform is not enacted, Federal employees will be paying taxes to support this program but will be deprived of its benefits.

Mr. Speaker, the President signed the medicare provision into law last July 30, nearly 9 months ago. One year has elapsed since I introduced my bill to provide more equitable treatment for Federal employees. Despite the gross inequity involved, the administration has not even provided the Ways and Means Committee with a report on my proposal to take this first step in removing the discrimination against the Federal employees.

The administration was responsible for these discriminatory provisions being included in the program. Although Congress is inundated with legislative recommendations, removal of discrimination against Federal employees is apparently last on the administration's list of legislative priorities. If only a portion of the time consumed in unfairly misapplying the wage-price guidelines to Federal employees had been used to report on my bill, we would have taken an important step in achieving fairness last year. While the Congress is considering extending a program providing benefits to all our citizens, I again call upon the administration and the Congress to remove the stigma of second-class citizenship that unfairly deprive our Federal employees of the benefits of this program.

Mr. HALL. Mr. Speaker, I move to strike out the requisite number of words.

Mr. Speaker, I shall not take the 5 minutes allotted me. I rise only to state that I am in support today of this bill before the House, H.R. 14224. I approve of the manner in which it has been brought before the House, and especially appreciate the additional matters that have been administratively taken care of in this bill.

Mr. Speaker, I rise primarily in order to answer the question of the gentleman from Colorado [Mr. ROGERS] in connection with the question of a declaration of time of birth. This happened during the discussion and under a reservation, as to the manner in which this bill was brought to the floor of the House today. Late in October, after we adjourned sine die the 1st session of the 89th Congress, it immediately became apparent that the Commissioner of Social Security was in fact requiring birth certificates which cost the social security registrants approximately $4. This was not only contrary to our legislative intent when we passed Public Law 89-97, but a great delay inured to the beneficiaries as a result of this. There was a delay in their being able to complete their assignment. At that time we wrote to Commissioner Ball of the Social Security Administration. The day our constructive message was received this was at first denied, but within 4 hours on the same afternoon there was a press conference held in which it was admitted by the Commissioner in person.

Mr. Speaker, I think this is a valuable point of information. Otherwise I would not take the time of the House to state this.

Mr. CURTIS. Mr. Speaker, will the gentleman yield?

Mr. HALL. I will be glad to yield to the gentleman.

Mr. CURTIS. Mr. Speaker, I want to emphasize this is a point that affects people in the constituencies of every one of us. I think it should be listened to.

Mr. HALL. I thank the gentleman, my colleague from Missouri. After the original notification and the denial, which is a matter of record, within 4 hours the Commissioner held a press conference and said: First, they would no longer require from the Bureau of the Census the actual birth certificate; second, they would in addition accept corroborative evidence such as family record information and such as local "vamped in" and presumptive certificates of birth in the various States that had been issued on proper proof satisfactory to our various States; third, they would go ahead and sign these people up and assume the obligation themselves in the Social Security Administration of ultimate proof; and fourth, they would do this at the expense of the Social Security Administration with the funds provided by Congress and not at the expense of the individual registrant.

Now, Mr. Speaker, I would be less than frank if I did not say that since this time there have been some additional complaints at the various offices signing up the social security registrants under any part of Public Law 89-97, but generally it has improved and I have been assured by Commissioner Ball of the Social Security Administration in repeated communications that this, in fact, is the policy and it has been disseminated to all of the social security district offices. I think we can now advise our people on this basis. I am happy to make this legislative record. Therefore, Mr. Speaker, I repeat I am in favor of this bill pending before us today.

Mr. Speaker, I yield back the balance of my time.

Mr. WIDNALL. Mr. Speaker, on February 10 of this year, I introduced the first House bill to extend the March 31, 1966, deadline for enrollment in the supplementary medical insurance program under the medicare law. Since that time, more than two dozen Members of both the House and Senate indicated a similar interest in the extension by introducing legislation. The bill we are acting upon today is a logical conclusion to this past congressional effort to meet an obvious need. I want to extend my personal compliments to the gentleman from Arkansas [Mr. MILLS] and his colleagues on the House Ways and Means Committee for proving once again that Congress has the will and the ability to respond quickly where such action is necessary.

The extension of the enrollment date to May 31 should provide adequate time for the nearly 1 million eligibles, who have declined to join, to review the program once again, and time for the nearly 2 million eligibles who have not been contacted to receive the necessary information upon which to make an informed judgment. I would certainly hope that as many as possible would take advantage of this opportunity to gain supplementary medical insurance coverage at such little individual cost. The number still undecided or lacking in information, however, should not obscure the fact that over 16 million have applied for coverage. Since the supplementary medical insurance program is basically a minority proposal, this acceptance of the program indicates once again that the minority can and often does contribute to constructive legislation.

Mr. DONOHUE. Mr. Speaker, as one who introduced a basically similar bill, H.R. 14043, I most earnestly hope that this House will unanimously agree to act, and will favorably act, on this measure before us, H.R. 14224, to amend part B of title 18 of the Social Security Act so as to extend through May 31, 1966, the initial period for enrolling under the program of supplementary medical insurance for the aged and to make other and related changes in existing regulations.

Mr. Speaker, for varied and substantial reasons it is now quite obvious, as I indicated, last week, such development would occur, some several millions of our older citizens have not yet enrolled under the new supplementary medical insurance plan, through no fault of their own.

Mr. Speaker, this measure before us is designed to make absolutely certain that every one of our older citizens is given a fair chance to make a calm and considered decision to become eligible under this obviously advantageous, voluntary medical insurance program and to do so without any penalty of suspended insurance protection, which they could ill afford and which violates our normal concepts of objective justice, more particularly as it concerns our older citizens.

The distinguished committee chairman has already and thoroughly explained the meaning of the provisions of this bill and I shall not subject you to unnecessary repetition.

Mr. Speaker, this is a just and humane legislative proposal on behalf of our senior citizens who have certainly contributed immeasurably to the growth and progress of this Nation and I urge my colleagues here to approve it unanimously, without further delay.

Mr. FINO. I rise in support of H.R. 14224. It is a very simple and very basic response to a very simple and basic need.

It has become obvious in the last few weeks that many of our senior citizens were not going to be able to get in under the wire as regards the medicare program.

I am proud of the medicare program. I am proud of having voted for it. I want to see it do as much good as it can—I want to see it reach as many eligible persons as it can. For that reason, I am completely in favor of the extension of the medicare filing deadline, and I urge support of H.R. 14224.

Mr. GRIFFIN. Mr. Speaker, I support H.R. 14224, the bill to extend through May 31, 1966, the initial period for enrolling under the program of supplementary medical insurance for the aged.

Many private health insurance companies have recently announced changes in their policies for older people. Many employers are modifying their health insurance coverage of older workers who are eligible for medicare. For these reasons a number of older people have not enrolled in the voluntary medical insurance program because they have not had adequate time to study the effects of these changes in private health insurance coverage.

In my own State of Michigan, there are thousands of people who are eligible for this program, and I would hope that all who want to participate would have the chance to do so from the first date of availability of service. For this reason, I hope the House will immediately act to extend the enrollment period for 2 months.

Mr. CULVER. Mr. Speaker, I am pleased to join my colleagues in the House today in supporting the extension of the initial enrollment period for supplementary medical insurance benefits for the aged.

We have experienced an increasing awareness throughout the Nation of the problems faced by Americans as they approach or pass retirement age. And with this awareness has come a heightened sense of responsibility—a growing desire to help this group to which we are so deeply indebted for our present social and economic well-being.

Unquestionably, the most significant step in this area was the enactment of far-reaching amendments to the Social Security Act during the last session of Congress, including the comprehensive program of health and hospitalization insurance known as medicare.

Earlier this year, I held a series of senior citizens conferences in each of the 11 counties of the Second District of Iowa, which nearly 1,000 people attended. In the course of these meetings, it became apparent that an alarming amount of confusion and misinformation regarding the medicare program still existed—confusion as to eligibility, coverage, benefits, registration, and its effect on other insurance policies now held, or other forms of public assistance now being received.

This situation was particularly disturbing to me because in Iowa a larger percentage of our population—12.4 percent—is over the age of 65 than in any other State, and this includes 52,000 residents of the Second District alone.

The energetic efforts of the Social Security Administration, other Government offices, private insurance companies, and interested parties to inform eligible citizens of enrollment procedures have been most remarkable. The response to this campaign has been enormous.

However, there are still some older citizens who have not yet signed up, because they did not act quickly enough or because they were not reached with the news of this opportunity in sufficient time to meet the original March 31 deadline. It would be unfortunate if these people were unnecessarily denied benefits in the early stages of the program.

I am confident that our action today to extend the enrollment period through May 31 will permit the largest number of our older citizens to benefit from the program to the greatest possible degree, and will result in the fullest implementation of the law which we passed last year.

GENERAL LEAVE TO EXTEND

Mr. MILLS. Mr. Speaker, I ask unanimous consent that I be permitted to revise and extend my remarks, and to include extraneous matter on the bill H.R. 14224, and that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of H.R. 14224.

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

There was no objection.

The SPEAKER. The question is on the committee amendment.

The committee 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.

Mr. MILLS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 387, nays 0, not voting 45, as follows:

[Roll No. 58]

YEAS—387

Abbitt	Bell	Carter
Adams	Bennett	Casey
Addabbo	Berry	Cederberg
Albert	Betts	Chamberlain
Anderson, Ill.	Bingham	Clancy
Anderson, Tenn.	Boggs	Clark
Andrews, George W.	Boland	Clausen, Don H.
Andrews, Glenn	Bolton	Clawson, Del
Andrews, N. Dak.	Bow	Cleveland
Annunzio	Brademas	Clevenger
Arends	Bray	Cohelan
Ashbrook	Brooks	Collier
Ashley	Broomfield	Conable
Ashmore	Brown, Calif.	Conte
Aspinall	Brown, Ohio	Conyers
Ayres	Broyhill, N.C.	Cooley
Bandstra	Broyhill, Va.	Corbett
Baring	Buchanan	Corman
Barrett	Burke	Craley
Bates	Burton, Calif.	Cramer
Battin	Burton, Utah	Culver
Beckworth	Byrne, Pa.	Cunningham
Belcher	Byrnes, Wis.	Curtin
	Cahill	Curtis
	Callan	Daddario
	Callaway	Dague
	Carey	

Daniels	Joelson	Race
Davis, Ga.	Johnson, Calif.	Randall
Davis, Wis.	Johnson, Pa.	Redlin
Dawson	Jonas	Rees
de la Garza	Jones, Ala.	Reid, Ill.
Delaney	Jones, Mo.	Reid, N.Y.
Dent	Jones, N.C.	Reifel
Denton	Karsten	Resnick
Derwinski	Karth	Reuss
Devine	Kastenmeier	Rhodes, Ariz.
Dickinson	Kee	Rhodes, Pa.
Diggs	Keith	Rivers, S.C.
Dingell	Kelly	Rivers, Alaska
Dole	King, Calif.	Roberts
Donohue	King, N.Y.	Robison
Dorn	King, Utah	Rodino
Dow	Kirwan	Rogers, Colo.
Downing	Kluczynski	Rogers, Fla.
Dulski	Kornegay	Rogers, Tex.
Duncan, Oreg.	Krebs	Ronan
Duncan, Tenn.	Kunkel	Roncalio
Dwyer	Kupferman	Rooney, Pa.
Edmondson	Laird	Rosenthal
Edwards, Ala.	Landrum	Rostenkowski
Edwards, Calif.	Langen	Roush
Edwards, La.	Latta	Roybal
Ellsworth	Leggett	Rumsfeld
Erlenborn	Lennon	Ryan
Evans, Colo.	Lipscomb	Satterfield
Everett	Long, La.	St Germain
Evins, Tenn.	Long, Md.	St. Onge
Fallon	Love	Saylor
Farnsley	McCarthy	Scheuer
Farnum	McClory	Schisler
Fascell	McCulloch	Schmidhauser
Feighan	McDade	Schneebeli
Findley	McDowell	Schweiker
Fisher	McEwen	Secrest
Flood	McFall	Selden
Flynt	McGrath	Senner
Fogarty	McMillan	Shipley
Foley	McVicker	Shriver
Ford, Gerald R.	MacGregor	Sickles
Ford, William D.	Machen	Sikes
Fountain	Mackay	Sisk
Frelinghuysen	Mackie	Skubitz
Friedel	Madden	Slack
Fulton, Pa.	Mahon	Smith, Calif.
Gallagher	Mailliard	Smith, Iowa
Garmatz	Marsh	Smith, N.Y.
Gathings	Martin, Ala.	Smith, Va.
Gettys	Martin, Mass.	Springer
Giaimo	Martin, Nebr.	Stafford
Gibbons	Mathias	Staggers
Gilbert	Matsunaga	Stalbaum
Gilligan	May	Stanton
Gonzalez	Meeds	Steed
Goodell	Michel	Stephens
Grabowski	Mills	Stratton
Gray	Minish	Stubblefield
Green, Oreg.	Mink	Sullivan
Green, Pa.	Minshall	Talcott
Greigg	Mize	Taylor
Grider	Moeller	Teague, Calif.
Griffiths	Monagan	Thomas
Gross	Moore	Thompson, N.J.
Grover	Moorhead	Thompson, Tex.
Gubser	Morgan	Thomson, Wis.
Gurney	Morris	Todd
Hagen, Calif.	Morrison	Trimble
Haley	Morse	Tuck
Hall	Morton	Tupper
Halleck	Mosher	Tuten
Halpern	Moss	Udall
Hamilton	Multer	Ullman
Hanley	Murphy, Ill.	Utt
Hanna	Murphy, N.Y.	Van Deerlin
Hansen, Idaho	Natcher	Vanik
Hansen, Iowa	Nedzi	Vigorito
Hansen, Wash.	Nelsen	Vivian
Harsha	O'Brien	Waggonner
Harvey, Ind.	O'Hara, Ill.	Walker, Miss.
Harvey, Mich.	O'Hara, Mich.	Walker, N. Mex.
Hathaway	O'Konski	Watkins
Hawkins	Olsen, Mont.	Watson
Hays	Olson, Minn.	Watts
Hébert	O'Neal, Ga.	Weltner
Hechler	O'Neill, Mass.	Whalley
Helstoski	Ottinger	White, Idaho
Henderson	Passman	White, Tex.
Hicks	Patten	Whitener
Holifield	Pelly	Widnall
Holland	Pepper	Wilson, Bob
Horton	Perkins	Wilson, Charles H.
Hosmer	Philbin	Wolff
Howard	Pickle	Wright
Hull	Pike	Wyatt
Hungate	Pirnie	Wydler
Huot	Poage	Yates
Hutchinson	Poff	Young
Ichord	Pool	Younger
Irwin	Price	Zablocki
Jarman	Pucinski	
Jennings	Quie	
	Quillen	

NAYS—0

NOT VOTING—45

Abernethy	Fraser	Patman
Adair	Fulton, Tenn.	Powell
Blatnik	Fuqua	Purcell
Bolling	Griffin	Reinecke
Brock	Hagan, Ga.	Rooney, N.Y.
Burleson	Hardy	Roudebush
Cabell	Herlong	Scott
Cameron	Jacobs	Sweeney
Celler	Johnson, Okla.	Teague, Tex.
Chelf	Keogh	Tenzer
Colmer	Macdonald	Toll
Dowdy	Matthews	Tunney
Dyal	Miller	Whitten
Farbstein	Murray	Williams
Fino	Nix	Willis

So the bill was passed.

The Clerk announced the following pairs:

Mr. Keogh with Mr. Griffin.
Mr. Rooney of New York with Mr. Reinecke.
Mr. Tenzer with Mr. Fino.
Mr. Toll with Mr. Adair.
Mr. Farbstein with Mr. Roudebush.
Mr. Burleson with Mr. Brock.
Mr. Jacobs with Mr. Blatnik.
Mr. Miller with Mr. Teague of Texas.
Mr. Hardy with Mr. Celler.
Mr. Matthews with Mr. Dyal.
Mr. Cabell with Mr. Colmer.
Mr. Abernethy with Mr. Ashley.
Mr. Nix with Mr. Sweeney.
Mr. Macdonald with Mr. Scott.
Mr. Johnson of Oklahoma with Mr. Chelf.
Mr. Cameron with Mr. Dowdy.
Mr. Fuqua with Mr. Philbin.
Mr. Fraser with Mr. Powell.
Mr. Patman with Mr. Whitten.
Mr. Willis with Mr. Williams.
Mr. Hagan of Georgia with Mr. Purcell.
Mr. Herlong with Mr. Murray.

The result of the vote was announced as above recorded.

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6319) to amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries, with Senate amendments thereto, and consider the Senate amendments.

The Clerk read the title of the bill.

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

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, and I shall not do so, I take this time merely to offer the chairman an opportunity to explain these Senate amendments.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Arkansas.

Mr. MILLS. Mr. Speaker, if there is no objection to the request I propose, I would move to substitute for the Senate amendments dealing with the subject of extending the time for the enrollment of people under the plan B of the social security medical care program the language of the bill which has just passed the House. The Senate amendment deals in part with what was in the House passed bill.

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

Mr. FULTON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Pennsylvania.

Mr. FULTON of Pennsylvania. My question is on legislative intent. Where there are people who are responsible for the care of older people, in the position of children or guardians or a relative or have the interest of that person at heart or whether it is a nonprofit organization such as a church or a church society, is it possible for that organization or that person to pay for the $3 a month premium and sign up for the older person, when, for example, an older person is not able to handle these things, or simply will not sign any paper whatever, and the family, for example, does not want to have the aged declared mentally incompetent.

Can we have a legislative intent?

Mr. MILLS. Mr. Speaker, will the gentleman from Wisconsin yield to me at this point?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Arkansas.

Mr. MILLS. The gentleman from Pennsylvania raises a point that is not, first of all, let me say, involved in this particular subject matter pending before the House. It is, however, dealt with in the basic legislation to which these amendments apply. In the case of the individual who is having his affairs looked after by a guardian or conservator, or for that reason in either case of that sort it is possible for that individual or that person to enroll the elderly one to whom the gentleman from Pennsylvania refers.

Mr. FULTON of Pennsylvania. Suppose there is no legal guardian appointed? Then the question comes up, can someone who has legal responsibility take care of the person.

Mr. MILLS. Mr. Speaker, if the gentleman from Wisconsin will yield further, there is actually no basis involved against a person enrolling the elderly citizen, even in the case where there is no legal guardianship or legal responsibility upon the latter person.

Mr. FULTON of Pennsylvania. Then if the person, for example, is confused or simply will not sign any paper, can someone in this position who has the legal responsibility for them, or a friend or a ladies aid society, pay a premium and enroll the person, unless there is a specific objection filed by the person to be benefited?

Mr. MILLS. Mr. Speaker, if the gentleman from Wisconsin will yield further——

Mr. BYRNES of Wisconsin. I yield further to the gentleman from Arkansas.

Mr. MILLS. You want to remember this: That this is a case of a voluntary election. It is not a voluntary election by someone for someone else. It has to be an election—a voluntary election—by an elderly person who is otherwise eligible to enrolls. That person is required to file for this. Unless the person is mentally incapacitated, or for some other reason incapacitated, then he has to file for this. Of course, if the person is mentally incapacitated, or for some other reason is incapacitated and could not file, normally there is a legal guardian for this person looking after the person's other affairs, and such individual could file for that person.

Even if there is no legal guardian, so long as the person is incompetent to handle his own affairs, another person may enroll for him.

Where there is a question or doubt about whether a person is competent to act on his own behalf or whether he can handle his own affairs without assistance, I understand that the policy followed by the Social Security Administration is to resolve the issue on the side of allowing another person to enroll on his behalf.

Thus there is no need to have a legal guardian appointed in order to get such person enrolled. Nor is there any need to have a legal adjudication of incompetency. The Social Security Administration will look at the facts, including medical reports, and if the facts indicate that a person is not actually able to make the decision for himself, he can be enrolled by some other interested person.

If a person is physically competent and if the person is mentally able to do so, that person has to make the determination, and someone else cannot do it for them.

Mr. BYRNES of Wisconsin. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER. The Clerk will report the Senate amendments.

The Clerk read as follows:

Page 17, after line 10, insert:

"SEC. 3. TWO-MONTH EXTENSION OF INITIAL ENROLLMENT PERIOD FOR SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED

"(a) The first sentence of section 1837(c) of the Social Security Act is amended (1) by striking out 'January 1, 1966' and inserting in lieu thereof 'March 1, 1966', and (2) by striking out 'March 31, 1966' and inserting in lieu thereof 'May 31, 1966'.

"(b) Section 1837(d) of the Social Security Act is amended by striking out 'January 1, 1966' and inserting in lieu thereof 'March 1, 1966'.

"(c) Section 102(b) of the Social Security Amendments of 1965 is amended by striking out 'April 1, 1966' each time it appears and inserting in lieu thereof 'June 1, 1966'."

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arisng from expropriation, intervention, or confiscation of properties by governments of foreign countries, and to amend title XVIII of the Social Security Act to extend the initial enrollment period for supplementary medical insurance benefits."

Mr. MILLS (during reading of Senate amendments). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments.

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

There was no objection.

Mr. MILLS. Mr. Speaker, I offer as a substitute for the Senate amendments the following amendment, which I send to the Clerk's desk, which is the identical text of the bill, H.R. 14224, that has just passed the House.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. MILLS moves to concur in the Senate amendment with an amendment as follows: In lieu of the matter inserted by the Senate amendment to the text of the bill, insert the following:

"SEC. 3. TWO-MONTH EXTENSION OF INITIAL ENROLLMENT PERIOD FOR SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED

"(a) The first sentence of section 1837(c) of the Social Security Act is amended (1) by striking out 'January 1, 1966' and inserting in lieu thereof 'March 1, 1966', and (2) by striking out 'March 31, 1966' and inserting in lieu thereof 'May 31, 1966'.

"(b) Section 1837(d) of the Social Security Act is amended by striking out 'January 1, 1966' and inserting in lieu thereof 'March 1, 1966'.

"(c) Section 102(b) of the Social Security Amendments of 1965 is amended by striking out 'April 1, 1966' each time it appears and inserting in lieu thereof 'June 1, 1966'.

"(d) In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act in March 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act in May 1966, his coverage period shall, notwithstanding section 1838(a)(2)(D) of such Act, begin on July 1, 1966.

"SEC. 4. COVERAGE, UNDER STATE AGREEMENTS, OF PUBLIC ASSISTANCE RECIPIENTS ENTITLED TO SOCIAL SECURITY OR RAILROAD RETIREMENT BENEFITS.

"(a) Subsection (b) of section 1843 of the Social Security Act is amended by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out all that follows and inserting in lieu thereof (after and below paragraph (2)) the following new sentence:

"'Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937.'

"(b) Section 1843 of such Act is amended by adding at the end thereof the following new subsection:

"'(g) (1) The Secretary shall, at the request of a State made before January 1, 1968, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the second sentence of subsection (b) shall not apply with respect to such agreement.

"'(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) by the second sentence of such subsection—

"'(A) subsections (c) and (d)(2) shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a)),

"'(B) subsection (d)(3)(B) shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

"'(C) notwithstanding subsection (e), in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month).'

"(c) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

"'(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1843 is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1843(d).'"

Mr. MILLS. Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment that I just sent to the desk, and that it be printed in the RECORD at this point.

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

There was no objection.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

Mr. MILLS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MILLS moves to concur in the Senate amendment to the title of the bill.

The motion was agreed to.

A motion to reconsider was laid on the table.

On motion of Mr. MILLS, and by unanimous consent, the proceedings by which the bill H.R. 14224 was passed were vacated and the bill was laid on the table.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the bill (H.R. 6319) to amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by government of foreign countries, with an amendment, in which it requested the concurrence of the Senate.

AMENDMENT OF INTERNAL REVENUE CODE OF 1954

Mr. SMATHERS. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 6319.

The PRESIDING OFFICER (Mr. MURPHY in the chair) laid before the Senate the amendment of the House to the amendment of the Senate to the bill (H.R. 6319) to amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries, which was read, as follows:

In lieu of the matter inserted by the Senate amendment to the text of the bill, insert the following:

"SEC. 3. TWO-MONTH EXTENSION OF INITIAL ENROLLMENT PERIOD FOR SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED

"(a) The first sentence of section 1837(c) of the Social Security Act is amended (1) by striking out 'January 1, 1966' and inserting in lieu thereof 'March 1, 1966', and (2) by striking out 'March 31, 1966' and inserting in lieu thereof 'May 31, 1966'.

"(b) Section 1837(d) of the Social Security Act is amended by striking out 'January 1, 1966' and inserting in lieu thereof 'March 1, 1966'.

"(c) Section 102(b) of the Social Security Amendments of 1965 is amended by striking out 'April 1, 1966' each time it appears and inserting in lieu thereof 'June 1, 1966'.

"(d) In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act in March 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act in May 1966, his coverage period shall, notwithstanding section 1838(a)(2)(D) of such Act, begin on July 1, 1966.

"SEC. 4. COVERAGE, UNDER STATE AGREEMENTS, OF PUBLIC ASSISTANCE RECIPIENTS ENTITLED TO SOCIAL SECURITY OR RAILROAD RETIREMENT BENEFITS.

"(a) Subsection (b) of section 1843 of the Social Security Act is amended by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out all that follows and inserting in lieu thereof (after and below paragraph (2)) the following new sentence:

"'Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirment Act of 1937.'

"(b) Section 1843 of such Act is amended by adding at the end thereof the following new subsection:

"'(g) (1) The Secretary shall, at the request of a State made before January 1, 1968, enter into a modification of an agreement entered into which such State pursuant to subsection (a) under which the second sentence of subsection (b) shall not apply with respect to such agreement.

"'(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) by the second sentence of such subsection—

"'(A) subsections (c) and (d)(2) shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a)),

"'(B) subsection (d)(3)(B) shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

"'(C) notwithstanding subsection (e), in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month).'

"(c) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

"'(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1843 is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1843(d).'"

That the House agree to the amendment of the Senate to the title of aforesaid bill.

Mr. SMATHERS. Mr. President, both the House and the Senate have agreed to the principal features of the bill. They relate to the tax treatment of expropriation loss recoveries. The chairman of the Committee on Finance, the gentleman from Louisiana [Mr. LONG], explained these provisions in considerable detail when the bill was before the Senate on April 1. There is no reason to repeat the explanation of the tax features at this time.

In addition, no change has been made in the basic part of the bill as it passed the Senate at that time or in the bill as it passed the House.

An amendment added to the bill by the Senate extends the period for enrolling under part B of medicare for 2 months—from March 31 until May 31.

The House has agreed to the Senate amendment with technical modifications designed to facilitate medical insurance coverage of elderly persons who are receiving both social security benefits and public assistance. We have examined the House amendment and believe it is in keeping with the Senate provision. The Department of Health, Education, and Welfare has indicated that it, too, approves the House amendment.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter from the Acting Secretary of Health, Education, and Welfare.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
April 6, 1966.

Hon. RUSSELL LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on the amendments to the Social Security Act reported out by the House Committee on Ways and Means, which are to be considered as amendments to H.R. 6319. The Department supports the amendments recommended by the House committee.

We trust that the Senate will be able to act on this legislation as promptly as possible. We strongly urge the adoption of this legislation as amended.

Sincerely,

WILBUR J. COHEN,
Acting Secretary.

Mr. SMATHERS. Mr. President, I move that the Senate concur in the amendment of the House and that the bill as agreed to be immediately sent to the White House, so that elderly persons who were unable to file for medical coverage by the March 31 deadline will have a further opportunity to file.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the distinguished Senator from Kansas, a member of the Committee on Finance.

Mr. CARLSON. Mr. President, as the distinguished Senator from Florida has just mentioned, the 60-day extension was recommended by the Committee on Finance. The House accepted that amendment, as I understand, but with an amendment that should a State desire to make contributions to take care of persons who are on social security, or who are receiving public assistance and are not able financially to pay for it, the State, of its own volition, may make those payments.

Mr. SMATHERS. The understanding of the Senator from Kansas is correct.

Mr. CARLSON. Personally, I think that is a good amendment. I heartily approve it. I hope it will be unanimously approved by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida that the Senate concur in the amendment of the House to the amendment of the Senate.

The motion was agreed to.

Public Law 89-384
89th Congress, H. R. 6319
April 8, 1966

An Act

To amend the Internal Revenue Code of 1954 to provide for treatment of the recovery of losses arising from expropriation, intervention, or confiscation of properties by governments of foreign countries, and to amend title XVIII of the Social Security Act to extend the initial enrollment period for supplementary medical insurance benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Foreign expropriations. Medical insurance benefits; enrollment period. 78 Stat. 105.

SECTION 1. RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.

(a) Subchapter Q of chapter 1 of the Internal Revenue Code of 1954 (relating to readjustment of tax between years) is amended by adding at the end thereof the following new part:

"PART VII—RECOVERIES OF FOREIGN EXPROPRIATION LOSSES

"Sec. 1351. Treatment of recoveries of foreign expropriation losses.

"SEC. 1351. TREATMENT OF RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.

"(a) ELECTION.—

"(1) IN GENERAL.—This section shall apply only to a recovery, by a domestic corporation subject to the tax imposed by section 11 or 802, of a foreign expropriation loss sustained by such corporation and only if such corporation was subject to the tax imposed by section 11 or 802, as the case may be, for the year of the loss and elects to have the provisions of this section apply with respect to such loss. 78 Stat. 25; 73 Stat. 115.

"(2) TIME, MANNER, AND SCOPE.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary or his delegate may prescribe by regulations. An election made with respect to any foreign expropriation loss shall apply to all recoveries in respect of such loss.

"(b) DEFINITION OF FOREIGN EXPROPRIATION LOSS.—For purposes of this section, the term 'foreign expropriation loss' means any loss sustained by reason of the expropriation, intervention, seizure, or similar taking of property by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing. For purposes of the preceding sentence, a debt which becomes worthless shall, to the extent of any deduction allowed under section 166(a), be treated as a loss. 68A Stat. 50.

"(c) AMOUNT OF RECOVERY.—

"(1) GENERAL RULE.—The amount of any recovery of a foreign expropriation loss is the amount of money and the fair market value of other property received in respect of such loss, determined as of the date of receipt. 80 STAT. 99. 80 STAT. 100.

"(2) SPECIAL RULE FOR LIFE INSURANCE COMPANIES.—The amount of any recovery of a foreign expropriation loss includes, in the case of a life insurance company, the amount of decrease of any item taken into account under section 810(c), to the extent such decrease is attributable to the release, by reason of such loss, of its liabilities with respect to such item. 73 Stat. 125.

"(d) ADJUSTMENT FOR PRIOR TAX BENEFITS.—

"(1) IN GENERAL.—That part of the amount of a recovery of a foreign expropriation loss to which this section applies which, when added to the aggregate of the amounts of previous recoveries with respect to such loss, does not exceed the allowable deductions in prior taxable years on account of such loss shall be excluded

from gross income for the taxable year of the recovery for purposes of computing the tax under this subtitle; but there shall be added to, and assessed and collected as a part of, the tax under this subtitle for such taxable year an amount equal to the total increase in the tax under this subtitle for all taxable years which would result by decreasing, in an amount equal to such part of the recovery so excluded, the deductions allowable in the prior taxable years on account of such loss. For purposes of this paragraph, if the loss to which the recovery relates was taken into account as a loss from the sale or exchange of a capital asset, the amount of the loss shall be treated as an allowable deduction even though there were no gains against which to allow such loss.

"(2) COMPUTATION.—The increase in the tax for each taxable year referred to in paragraph (1) shall be computed in accordance with regulations prescribed by the Secretary or his delegate. Such regulations shall give effect to previous recoveries of any kind (including recoveries described in section 111, relating to recovery of bad debts, etc.) with respect to any prior taxable year, but shall otherwise treat the tax previously determined for any taxable year in accordance with the principles set forth in section 1314(a) (relating to correction of errors). Subject to the provisions of paragraph (3), all credits allowable against the tax for any taxable year, and all carryovers and carrybacks affected by so decreasing the allowable deductions, shall be taken into account in computing the increase in the tax.

68A Stat. 33.

"(3) FOREIGN TAXES.—For purposes of this subsection—

"(A) any choice made under subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year may be changed,

"(B) subject to the provisions of section 904(b), an election to have the limitation provided by section 904(a)(2) apply may be made, and

74 Stat. 1010.

"(C) notwithstanding section 904(b)(1), an election previously made to have the limitation provided by section 904(a)(2) apply may be revoked with respect to any taxable year and succeeding taxable years.

"(4) SUBSTITUTION OF CURRENT NORMAL TAX AND SURTAX RATES.—For purposes of this subsection, the normal tax rate provided by section 11(b) and the surtax rate provided by section 11(c) which are in effect for the taxable year of the recovery shall be treated as having been in effect for all prior taxable years.

78 Stat. 25.

"(e) GAIN ON RECOVERY.—That part of the amount of a recovery of a foreign expropriation loss to which this section applies which is not excluded from gross income under subsection (d)(1) shall be considered for the taxable year of the recovery as gain on the involuntary conversion of property as a result of its destruction or seizure and shall be recognized or not recognized as provided in section 1033.

80 STAT. 100.
80 STAT. 101.

"(f) BASIS OF RECOVERED PROPERTY.—The basis of property (other than money) received as a recovery of a foreign expropriation loss to which this section applies shall be an amount equal to its fair market value on the date of receipt, reduced by such part of the gain under subsection (e) which is not recognized as provided in section 1033.

"(g) RESTORATION OF VALUE OF INVESTMENTS.—For purposes of this section, if the value of any interest in, or with respect to, property (including any interest represented by a security, as defined in section 165(g)(2))—

"(1) which became worthless by reason of the expropriation, intervention, seizure, or similar taking of such property by the

government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing, and

"(2) which was taken into account as a loss from the sale or exchange of a capital asset or with respect to which a deduction for a loss was allowed under section 165 or a deduction for a bad debt was allowed under section 166,

68A Stat. 49.

is restored in whole or in part by reason of any recovery of money or other property in respect of the property which became worthless, the value so restored shall be treated as property received as a recovery in respect of such loss or such bad debt.

"(h) SPECIAL RULE FOR EVIDENCES OF INDEBTEDNESS.—Bonds or other evidences of indebtedness received as a recovery of a foreign expropriation loss to which this section applies shall not be considered to have any original issue discount within the meaning of section 1232(a)(2).

"(i) ADJUSTMENTS FOR SUCCEEDING YEARS.—For purposes of this subtitle, proper adjustment shall be made, under regulations prescribed by the Secretary or his delegate, in—

"(1) the credit under section 33 (relating to foreign tax credit),

"(2) the credit under section 38 (relating to investment credit),

76 Stat. 962.

"(3) the net operating loss deduction under section 172, or the operations loss deduction under section 812,

"(4) the capital loss carryover under section 1212(a), and

78 Stat. 860.

"(5) such other items as may be specified by such regulations,

for the taxable year of a recovery of a foreign expropriation loss to which this section applies, and for succeeding taxable years, to take into account items changed in making the computations under subsection (d) for taxable years prior to the taxable year of such recovery."

(b)(1) Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 80. RESTORATION OF VALUE OF CERTAIN SECURITIES.

"(a) GENERAL RULE.—In the case of a domestic corporation subject to the tax imposed by section 11 or 802, if the value of any security (as defined in section 165(g)(2))—

78 Stat. 25; 73 Stat. 115.

"(1) which became worthless by reason of the expropriation, intervention, seizure, or similar taking by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing of property to which such security was related, and

"(2) which was taken into account as a loss from the sale or exchange of a capital asset or with respect to which a deduction for a loss was allowed under section 165,

is restored in whole or in part during any taxable year by reason of any recovery of money or other property in respect of the property to which such security was related, the value so restored (to the extent that, when added to the value so restored during prior taxable years, it does not exceed the amount of the loss described in paragraph (2)) shall, except as provided in subsection (b), be included in gross income for the taxable year in which such restoration occurs.

80 STAT. 101. 80 STAT. 102.

"(b) REDUCTION FOR FAILURE TO RECEIVE TAX BENEFIT.—The amount otherwise includible in gross income under subsection (a) in respect of any security shall be reduced by an amount equal to the amount (if any) of the loss described in subsection (a)(2) which did not result in a reduction of the taxpayer's tax under this subtitle for any taxable year, determined under regulations prescribed by the Secretary or his delegate.

"(c) CHARACTER OF INCOME.—For purposes of this subtitle—

"(1) Except as provided in paragraph (2), the amount included in gross income under this section shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

68A Stat. 325.

"(2) If the loss described in subsection (a)(2) was taken into account as a loss from the sale or exchange of a capital asset, the amount included in gross income under this section shall be treated as long-term capital gain.

"(d) TREATMENT UNDER FOREIGN EXPROPRIATION LOSS RECOVERY PROVISION.—This section shall not apply to any recovery of a foreign expropriation loss to which section 1351 applies."

Ante, p. 99.

(2) The table of sections for such part II is amended by adding at the end thereof the following:

"Sec. 80. Restoration of value of certain securities."

(3) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1965, but only with respect to losses described in section 80(a)(2) of the Internal Revenue Code of 1954 (as added by paragraph (1) of this subsection) which were sustained after December 31, 1958.

76 Stat. 963; 78 Stat. 32.

(c)(1) Section 46(a)(3) of the Internal Revenue Code of 1954 (relating to liability for tax for purposes of the investment credit) is amended by inserting after "personal holding company tax)" the following: ", and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses),".

(2) Section 901(a) of such Code (relating to foreign tax credit) is amended by inserting after "section 1333 (relating to war loss recoveries)" in the last sentence thereof "or under section 1351 (relating to recoveries of foreign expropriation losses)".

(d) Subchapter B of chapter 62 of the Internal Revenue Code of 1954 (relating to time and place for paying tax) is amended by adding at the end thereof the following new section:

"SEC. 6167. EXTENSION OF TIME FOR PAYMENT OF TAX ATTRIBUTABLE TO RECOVERY OF FOREIGN EXPROPRIATION LOSSES.

"(a) EXTENSION ALLOWED BY ELECTION.—If—

"(1) a corporation has a recovery of a foreign expropriation loss to which section 1351 applies, and

"(2) the portion of the recovery received in money is less than 25 percent of the amount of such recovery (as defined in section 1351(c)) and is not greater than the tax attributable to such recovery,

the tax attributable to such recovery shall, at the election of the taxpayer, be payable in 10 equal installments on the 15th day of the third month of each of the taxable years following the taxable year of the recovery. Such election shall be made at such time and in such manner as the Secretary or his delegate may prescribe by regulations. If an election is made under this subsection, the provisions of this subtitle shall apply as though the Secretary or his delegate were extending the time for payment of such tax.

80 STAT. 102.
80 STAT. 103.

"(b) EXTENSION PERMITTED BY SECRETARY.—If a corporation has a recovery of a foreign expropriation loss to which section 1351 applies and if an election is not made under subsection (a), the Secretary or his delegate may, upon finding that the payment of the tax attributable to such recovery at the time otherwise provided in this subtitle would result in undue hardship, extend the time for payment of such

tax for a reasonable period or periods not in excess of 9 years from the date on which such tax is otherwise payable.

"(c) ACCELERATION OF PAYMENTS.—If—

"(1) an election is made under subsection (a),

"(2) during any taxable year before the tax attributable to such recovery is paid in full—

"(A) any property (other than money) received on such recovery is sold or exchanged, or

"(B) any property (other than money) received on any sale or exchange described in subparagraph (A) is sold or exchanged, and

"(3) the amount of money received on such sale or exchange (reduced by the amount of the tax imposed under chapter 1 with respect to such sale or exchange), when added to the amount of money—

"(A) received on such recovery, and

"(B) received on previous sales or exchanges described in subparagraphs (A) and (B) of paragraph (2) (as so reduced),

exceeds the amount of money which may be received under subsection (a)(2),

an amount of the tax attributable to such recovery equal to such excess shall be payable on the 15th day of the third month of the taxable year following the taxable year in which such sale or exchange occurs. The amount of such tax so paid shall be treated, for purposes of this section, as a payment of the first unpaid installment or installments (or portion thereof) which become payable under subsection (a) following such taxable year.

"(d) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under subsection (a), and a deficiency attributable to the recovery of a foreign expropriation loss has been assessed, the deficiency shall be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary or his delegate. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

"(e) TIME FOR PAYMENT OF INTEREST.—If the time for payment for any amount of tax has been extended under this section, interest payable under section 6601 on any unpaid portion of such amount shall be paid annually at the same time as, and as part of, each installment payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of the deficiency, shall be paid upon notice and demand from the Secretary or his delegate. In applying section 6601(j) (relating to the application of the 4-percent rate of interest in the case of recoveries of foreign expropriation losses to which this section applies) in the case of a deficiency, the entire amount which is prorated to installments under this section shall be treated as an amount of tax the payment of which is extended under this section. 80 STAT. 103. 80 STAT. 104. Infra.

"(f) TAX ATTRIBUTABLE TO RECOVERY OF FOREIGN EXPROPRIATION LOSS.—For purposes of this section, the tax attributable to a recovery of a foreign expropriation loss is the sum of—

Ante, p. 99.

"(1) the additional tax imposed by section 1351(d)(1) on such recovery, and

"(2) the amount by which the tax imposed under subtitle A is increased by reason of the gain on such recovery which under section 1351(e) is considered as gain on the involuntary conversion of property.

"(g) FAILURE TO PAY INSTALLMENT.—If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary or his delegate.

"(h) CROSS-REFERENCES.—

"(1) Interest.—For provisions requiring the payment of interest at the rate of 4 percent per annum for the period of an extension, see section 6601(j).

"(2) Security.—For authority of the Secretary or his delegate to require security in the case of an extension under this section, see section 6165.

"(3) Period of limitation.—For extension of the period of limitation in the case of an extension under this section, see section 6503(f)."

70 Stat. 1075.

(e) Section 6503 of the Internal Revenue Code of 1954 (relating to suspension of running of period of limitation) is amended by redesignating subsection (f) as (g), and by inserting after subsection (e) the following new subsection:

Supra.

"(f) EXTENSIONS OF TIME FOR PAYMENT OF TAX ATTRIBUTABLE TO RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.—The running of the period of limitations for collection of the tax attributable to a recovery of a foreign expropriation loss (within the meaning of section 6167(f)) shall be suspended for the period of any extension of time for payment under subsection (a) or (b) of section 6167."

(f) Section 6601 of the Internal Revenue Code of 1954 (relating to interest on underpayments) is amended by redesignating subsection (j) as (k), and by inserting after subsection (i) the following new subsection:

"(j) EXTENSIONS OF TIME FOR PAYMENT OF TAX ATTRIBUTABLE TO RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.—If the time for payment of an amount of the tax attributable to a recovery of a foreign expropriation loss (within the meaning of section 6167(f)) is extended as provided in subsection (a) or (b) of section 6167, interest shall be paid at the rate of 4 percent, in lieu of 6 percent as provided in subsection (a)."

(g)(1) The table of parts for subchapter Q of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"Part VII. Recoveries of foreign expropriation losses."

(2) The table of sections for subchapter B of chapter 62 of such Code is amended by adding at the end thereof the following:

80 STAT. 104.

"Sec. 6167. Extension of time for payment of tax attributable to recovery of foreign expropriation losses."

80 STAT. 105.

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 (except subsection (b)) shall apply with respect to amounts received after December 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of the Internal Revenue Code of 1954 added by section 1(a)) sustained after December 31, 1958.

SEC. 3. TWO-MONTH EXTENSION OF INITIAL ENROLLMENT PERIOD FOR SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED.

(a) The first sentence of section 1837(c) of the Social Security Act is amended (1) by striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966", and (2) by striking out "March 31, 1966" and inserting in lieu thereof "May 31, 1966". 79 Stat. 304. 42 USC 1395p.

(b) Section 1837(d) of the Social Security Act is amended by striking out "January 1, 1966" and inserting in lieu thereof "March 1, 1966".

(c) Section 102(b) of the Social Security Amendments of 1965 is amended by striking out "April 1, 1966" each time it appears and inserting in lieu thereof "June 1, 1966". 79 Stat. 332. 42 USC 1395p. note.

(d) In the case of an individual who first satisfies paragraphs (1) and (2) of section 1836 of the Social Security Act in March 1966, and who enrolls pursuant to subsection (d) of section 1837 of such Act in May 1966, his coverage period shall, notwithstanding section 1838(a)(2)(D) of such Act, begin on July 1, 1966.

SEC. 4. COVERAGE, UNDER STATE AGREEMENTS, OF PUBLIC ASSISTANCE RECIPIENTS ENTITLED TO SOCIAL SECURITY OR RAILROAD RETIREMENT BENEFITS.

(a) Subsection (b) of section 1843 of the Social Security Act is amended by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out all that follows and inserting in lieu thereof (after and below paragraph (2)) the following new sentence: 42 USC 1395v.

"Except as provided in subsection (g), there shall be excluded from any coverage group any individual who is entitled to monthly insurance benefits under title II or who is entitled to receive an annuity or pension under the Railroad Retirement Act of 1937." 50 Stat. 307, 79 Stat. 335.

(b) Section 1843 of such Act is amended by adding at the end thereof the following new subsection: 45 USC 228a et seq.

"(g)(1) The Secretary shall, at the request of a State made before January 1, 1968, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the second sentence of subsection (b) shall not apply with respect to such agreement.

"(2) In the case of any individual who would (but for this subsection) be excluded from the applicable coverage group described in subsection (b) by the second sentence of such subsection—

"(A) subsections (c) and (d)(2) shall be applied as if such subsections referred to the modification under this subsection (in lieu of the agreement under subsection (a)),

"(B) subsection (d)(3)(B) shall not apply so long as there is in effect a modification entered into by the State under this subsection, and

"(C) notwithstanding subsection (e), in the case of any termination described in such subsection, such individual may terminate his enrollment under this part by the filing of a notice, before the close of the third month which begins after the date of such termination, that he no longer wishes to participate in the insurance program established by this part (and in such a case, the termination of his coverage period under this part shall take effect as of the close of such third month)." 80 STAT. 105. 80 STAT. 106.

79 Stat. 306.
42 USC 1395s.

(c) Section 1840 of such Act is amended by adding at the end thereof the following new subsection:

"(i) In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1843 is applicable, subsections (a), (b), (c), (d), and (e) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1843(d)."

Approved April 8, 1966, 12:15 p.m.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1125 (Comm. on Ways & Means) and No. 1419 accompanying H.R. 14224 (Comm. on Ways & Means).
SENATE REPORT No. 1091 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 111 (1965): Oct. 21, considered and passed House.
Vol. 112 (1966): Apr. 1, considered and passed Senate, amended.
Apr. 6, House concurred in Senate amendment with an amendment; Senate concurred in House amendment.

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 40 April 1, 1966

EXTENSION OF DEADLINE FOR ENROLLMENT IN SUPPLEMENTARY MEDICAL INSURANCE

To All Employees

As you know, the President asked Congress yesterday to give "prompt and sympathetic consideration" to extending to May 31, 1966, the deadline for enrollment in the supplementary medical insurance plan. I am sending you herewith a copy of the text of the letter from the President to the Vice President, as President of the Senate, and to the Speaker of the House. Representative Mills, the Chairman of the House Committee on Ways and Means, has already introduced the Administration's bill. And the Senate Committee on Finance has added an amendment extending the deadline to H. R. 6319, a tax bill unrelated to social security. H. R. 6319, including this amendment, was passed by the Senate today. Final congressional action can be expected soon.

Briefly, the Administration bill and the amendment to H. R. 6319 would allow all eligible persons who attain age 65 before March 1, 1966, to enroll as late as May 31, 1966, with benefits payable as of July 1, 1966. A person who attained age 65 before March 1 but who can show good cause for failing to enroll by the May 31 deadline could enroll at any time before October 1, 1966, although his protection would not begin until 6 months after he enrolled.

As of Tuesday, March 29, the date of our most recent full count, about 16-1/2 million people 65 and over--86 percent of all the aged--had enrolled for medical insurance. Five percent--about one million people--have declined the coverage. The tremendous response reflects

the magnificent job that has been done in informing people about the new insurance program and helping them to enroll--a job that could not have been accomplished without the fine cooperation of the press, radio, and television media, organized labor, employers, insurance companies, Blue Cross and Blue Shield organizations, the senior citizens groups and countless other government and private organizations.

The facts that we have already enrolled so large a percentage of the Nation's elderly, and that we will be ready on July 1 to perform the next of our required tasks, are testimony not only to the dedication to service which is a social security tradition, but to the value of our effective planning, which is now bearing fruit. No other Federal agency has ever been asked to carry out such a complex program, touching so many people, and to undertake so tremendous a task in so short a time. Since last July we have taken close to 7 million claims and answered over 32 million inquiries. I continue to be impressed over and over by the loyalty and cooperation shown in every part of our organization.

My heartfelt thanks to all of you for a job well done.

Robert M. Ball
Commissioner

Enclosure

FOR IMMEDIATE RELEASE MARCH 31, 1966

Office of the White House Press Secretary

THE WHITE HOUSE

TEXT OF LETTER TO THE
PRESIDENT OF THE SENATE
AND THE SPEAKER OF THE
HOUSE OF REPRESENTATIVES

Dear Mr. President: (Dear Mr. Speaker:)

I would like to commend, for your early consideration, an amendment to the Social Security Act which would extend from March 31 to May 31 the deadline for enrollment in the medical insurance portion of the Social Security health insurance program for the aged.

As you know, the Social Security Administration has conducted an energetic campaign to inform all citizens who are already 65 that they must enroll by March 31 to be eligible for medical insurance coverage, which becomes effective July 1.

The results of this effort have been remarkable. More than 86% of the 19.1 million older people have already signed up; an additional 5% have responded by declining to enroll.

Despite this enormous response, there will be some older citizens who will want to enroll after March 31 -- because they did not act quickly enough, or because somehow they were not reached with news of this opportunity.

The present law permits enrollment after March 31 -- if there is good cause for the failure to enroll before the deadline. But under this provision, late enrollees cannot have protection for six months after enrollment.

I believe it would be unfortunate to delay protection to these late enrollees -- some of whom are those with the greatest need for medical insurance.

Under my proposal, therefore, those enrolling in April and May would be eligible for protection on July 1 when the program goes into effect.

Enrollment of the remaining eligible citizens between March 31 and June 1 would present no administrative problems; there would still be one month between the deadline and the first payment of benefits.

(over)

I have asked the Secretary of Health, Education and Welfare to transmit to you the appropriate draft language for the amendment. I hope you will give it prompt and sympathetic consideration.

Sincerely,

/s/ Lyndon B. Johnson

Honorable Hubert H. Humphrey
President
United States Senate
Washington, D.C.

Honorable John W. McCormack
Speaker of the House of Representatives
Washington, D.C.

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 41 April 6, 1966

EXTENSION OF DEADLINE FOR ENROLLMENT IN SUPPLEMENTARY MEDICAL INSURANCE

To Administrative, Supervisory,
and Technical Employees

The amendment to H. R. 6319 (described in Commissioner's Bulletin No. 40) extending the deadline for enrollment in the medical insurance plan was passed today by both the House and the Senate. The President is expected to sign the measure before the end of the week.

The amendment as enacted differs from the amendment originally added by the Senate in two respects:

1. To avoid an apparent anomaly, a minor change was made in the provisions extending the deadline. Under the original Senate amendment added to H. R. 6319, persons attaining age 65 before March or in April through July 1966 and enrolling in May would have coverage effective July 1, while the coverage of persons attaining 65 in March and enrolling in May would not have been effective until August 1. Under the amendment as enacted, people attaining age 65 in March and enrolling in May will also have coverage effective July 1.

2. Provisions were added permitting States, at their option, to include recipients who are entitled to social security or railroad retirement benefits in their agreements covering public assistance recipients under supplementary medical insurance. Under the provisions of present law a State may buy into the supplementary medical insurance plan for public assistance recipients who are not social security or railroad retirement beneficiaries but not for those who are beneficiaries. Social security beneficiaries, whether or not they are also public assistance recipients, may enroll only as individuals and may pay premiums only by deductions from their benefits. Under the amendment a State which enters into an agreement (under section 1843) enrolling its public assistance recipients aged 65 and over in

supplementary medical insurance may include as enrollees, either at the time of its original agreement or later, recipients who are entitled to social security or railroad retirement benefits. In the event a social security beneficiary ceases to be a public assistance recipient, he will have the right to terminate his enrollment during the 3-month period after the month he leaves the public assistance rolls.

Additional information on the new provisions is being prepared and will be sent to you shortly.

Robert M. Ball
Commissioner

Calendar No. 798

89TH CONGRESS, 1st Session | SENATE | REPORT No. 813

CLARIFYING AND PROTECTING THE RIGHT OF THE PUBLIC TO INFORMATION, AND FOR OTHER PURPOSES

OCTOBER 4 (legislative day, OCTOBER 1), 1965.—Ordered to be printed

Mr. LONG of Missouri, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1160]

The Committee on the Judiciary, to which was referred the bill (S. 1160) to clarify and protect the right of the public to information, and for other purposes, having considered the same, reports favorably thereon, with amendments and recommends that the bill as amended do pass.

AMENDMENTS

Amendment No. 1: On page 3, line 8, before "staff manuals" insert "administrative."

Amendment No. 2: On page 4, line 4, strike "Every" and insert in lieu thereof "Except with respect to the records made available pursuant to subsections (a) and (b), every."

Amendment No. 3: On page 4, line 4, after the comma insert "upon request for identifiable records made."

Amendment No. 4: On page 4, line 5, before "and" insert "fees to the extent authorized by statute,."

Amendment No. 5: On page 4, line 6, strike "all its" and insert in lieu thereof "such."

Amendment No. 6: On page 4, lines 11 and 12, strike "and information"; and on line 13, strike "or information."

Amendment No. 7: On page 5, line 10, strike "the public" and insert in lieu thereof "any person."

Amendment No. 8: On page 5, lines 11 and 12, strike "dealing solely with matters of law or policy" and insert in lieu thereof "which would not be available by law to a private party in litigation with the agency."

Amendment No. 9: On page 5, line 17, strike the word "and"; and on page 5, line 20, strike the period and insert in lieu thereof "; and (9) geological and geophysical information and data (including maps) concerning wells."

PURPOSE OF AMENDMENTS

Amendment No. 1: The limitation of the staff manuals and instructions affecting the public which must be made available to the public to those which pertain to administrative matters rather than to law enforcement matters protects the traditional confidential nature of instructions to Government personnel prosecuting violations of law in court, while permitting a public examination of the basis for administrative action.

Amendment No. 2: This is a technical amendment to emphasize that the agency records made available by subsections (a) and (b) are not covered by subsection (c) which deals with other agency records.

Amendment No. 3: The purpose of this amendment is to require that requests of inspection of agency records identify the particular records requested. It is contemplated by the committee that the standards of identification applicable to the discovery of records in court proceedings would be appropriate guidelines with respect to the identification of agency records, especially as the courts would have jurisdiction to determine any allegations of improper withholding.

Amendment No. 4: It is contemplated that, where authorized by statute, an agency will require reasonable fees to be paid in appropriate cases.

Amendment No. 5: This is a technical amendment to require that the only records which must be made available are those for which a request has been made.

Amendment No. 6: This is a technical amendment to delete the term "information" which is included within the term "agency records" to the extent that it is in the form of a record.

Amendment No. 7: It was pointed out in statements to the committee that agencies may obtain information of a highly personal and individual nature. To better convey this idea the substitute language is provided.

Amendment No. 8: The purpose of clause (5) is to protect from disclosure only those agency memorandums and letters which would not be subject to discovery by a private party in litigation with the agency. This would include the working papers of the agency attorney and documents which would come within the attorney-client privilege if applied to private parties.

Amendment No. 9: The purpose of clause (9) is to protect from disclosure certain information which is highly valuable to several important industries and which should be kept confidential when it is contained in Government records.

PURPOSE OF BILL

In introducing S. 1666, the predecessor of the present bill, Senator Long quoted the words of Madison, who was chairman of the committee which drafted the first amendment to the Constitution:

> Knowledge will forever govern ignorance, and a people who mean to be their own governors, must arm themselves

> with the power knowledge gives. A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both.

Today the very vastness of our Government and its myriad of agencies makes it difficult for the electorate to obtain that "popular information" of which Madison spoke. But it is only when one further considers the hundreds of departments, branches, and agencies which are not directly responsible to the people, that one begins to understand the great importance of having an information policy of full disclosure.

Although the theory of an informed electorate is vital to the proper operation of a democracy, there is nowhere in our present law a statute which affirmatively provides for that information. Many witnesses have testified that the present public information section of the Administrative Procedure Act has been used more as an excuse for withholding than as a disclosure statute.

Section 3 of the Administrative Procedure Act, that section which this bill would amend, is full of loopholes which allow agencies to deny legitimate information to the public. Innumerable times it appears that information is withheld only to cover up embarrassing mistakes or irregularities and the withholding justified by such phrases in section 3 of the Administrative Procedure Act as—"requiring secrecy in the public interest," or "required for good cause to be held confidential."

It is the purpose of the present bill to eliminate such phrases, to establish a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language and to provide a court procedure by which citizens and the press may obtain information wrongfully withheld. It is important and necessary that the present void be filled. It is essential that agency personnel, and the courts as well, be given definitive guidelines in setting information policies. Standards such as "for good cause" are certainly not sufficient.

At the same time that a broad philosophy of "freedom of information" is enacted into law, it is necessary to protect certain equally important rights of privacy with respect to certain information in Government files, such as medical and personnel records. It is also necessary for the very operation of our Government to allow it to keep confidential certain material, such as the investigatory files of the Federal Bureau of Investigation.

It is not an easy task to balance the opposing interests, but it is not an impossible one either. It is not necessary to conclude that to protect one of the interests, the other must, of necessity, either be abrogated or substantially subordinated. Success lies in providing a workable formula which encompasses, balances, and protects all interests, yet places emphasis on the fullest responsible disclosure.

HISTORY OF LEGISLATION

After it became apparent that section 3 of the Administrative Procedure Act was being used as an excuse for secrecy, proposals for change began.

The first of these proposals, S. 2504, 84th Congress, introduced by Senator Wiley and S. 2541, 84th Congress, by Senator McCarthy, arose out of recommendations by the Hoover Commission Task

Force. These were quickly followed in the 85th Congress by the Henning's bill, S. 2148, and by S. 4094, introduced by Senators Ervin and Butler, which was incorporated as a part of the proposed Code of Federal Administrative Procedure.

S. 4094 was reintroduced by Senator Hennings in the 86th Congress as S. 186. This was followed in the second session by a slightly revised version of the same bill, numbered S. 2780. Senators Ervin and Butler reintroduced S. 4094 which was designated S. 1070, 86th Congress.

More recently, Senator Carroll introduced S. 1567, cosponsored by Senators Hart, Long, and Proxmire. Also introduced in the 87th Congress were the Ervin bill, S. 1887, its companion bill in the House, H.R. 9926, S. 1907 by Senator Proxmire, and S. 3410 introduced by Senators Dirksen and Carroll.

Although hearings were held on the Hennings bills, and considerable interest was aroused by all of the bills, no legislation resulted.

In the last Congress, the Senate passed S. 1666, upon which this bill is based, on July 31, 1964, but sufficient time did not remain in that Congress for its full consideration by the House. The present bill is substantially S. 1666, as passed by the Senate, with amendments reflecting suggestions made to the committee in the course of the hearings.

INADEQUACY OF PRESENT LAW

The present section 3 of the Administrative Procedure Act, which would be replaced by S. 1160, is so brief that it can be profitably placed at this point in the report:

PUBLIC INFORMATION

Section 3: Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—

(*a*) *Rules.*—Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public; but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(*b*) *Opinions and orders.*—Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudicatoin of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

(*c*) *Public records.*—Save as otherwise required by statute, matters of official record shall in accordance with published rule be made

available to persons properly and directly concerned except information held confidential for good cause found.

The serious deficiencies in this present statute are obvious. They fall into four categories:

(1) There is excepted from the operation of the whole section "any function of the United States requiring secrecy in the public interest * * *." There is no attempt in the bill or its legislative history to delimit "in the public interest," and there is no authority granted for any review of the use of this vague phrase by Federal officials who wish to withhold information.

(2) Although subsection (b) requires the agency to make available to public inspection "all final opinions or orders in the adjudication of cases," it vitiates this command by adding the following limitation: "* * * except those required for good cause to be held confidential * * *."

(3) As to public records generally, subsection (c) requires their availability "to persons properly and directly concerned except information held confidential for good cause found." This is a double-barreled loophole because not only is there the vague phrase "for good cause found," there is also a further excuse for withholding if persons are not "properly and directly concerned."

(4) There is no remedy in case of wrongful withholding of information from citizens by Government officials.

PRESENT SECTION 3 OF ADMINISTRATIVE PROCEDURE ACT IS WITHHOLDING STATUTE, NOT DISCLOSURE STATUTE

It is the conclusion of the committee that the present section 3 of the Administrative Procedure Act is of little or no value to the public in gaining access to records of the Federal Government. Indeed, it has had precisely the opposite effect: it is cited as statutory authority for the withholding of virtually any piece of information that an official or an agency does not wish to disclose.

Under the present section 3, any Government official can under color of law withhold almost anything from any citizen under the vague standards—or, more precisely, lack of standards—in section 3. It would require almost no effort for any official to think up a reason why a piece of information should be withheld (1) because it was in the "public interest," or (2) "for good cause found," or (3) that the person making the request was not "properly and directly concerned." And, even if his reason had not a scintilla of validity, there is absolutely nothing that a citizen seeking information can do because there is no remedy available.

WHAT S. 1160 WOULD DO

S. 1160 would emphasize that section 3 of the Administrative Procedure Act is not a withholding statute but a disclosure statute by the following major changes:

(1) It sets up workable standards for what records should and should not be open to public inspection. In particular, it avoids the use of such vague phrases as "good cause found" and replaces them with specific and limited types of information that may be withheld.

(2) It eliminates the test of who shall have the right to different information. For the great majority of different records, the public as a whole has a right to know what its Government is doing.

There is, of course, a certain need for confidentiality in some aspects of Government operations and these are protected specifically; but outside these limited areas, all citizens have a right to know.

(3) The revised section 3 gives to any aggrieved citizen a remedy in court.

DETAILED DESCRIPTION OF BILL

Description of subsection (a)

Subsection (a) deals entirely with publication of material in the Federal Register. This subsection has fewer changes from the existing law than any other; primarily because there have been few complaints about omission from the Federal Register of necessary official material. In fact, what complaints there have been have been more on the side of too much publication rather than too little.

The principal change in subsection (a) has been to deal with the exceptions to its provisions in a single subsection, subsection (e).

There are a number of minor changes which attempt to make it more clear that the purpose of inclusion of material in the Federal Register is to guide the public in determining where and by whom decisions are made, as well as where they may secure information and make submittals and requests.

There is also a provision, suggested by a number of agencies, for incorporation of other publications by reference in the Federal Register. This may be helpful in reducing the bulky present size of the Register.

The new sanction imposed for failure to publish the matters enumerated in section 3(a) was added to expressly provide that a person shall not be adversely affected by matters required to be published and not so published. This gives added incentive to the agencies to publish the required material.

The following technical changes were also made with regard to subsection 3(a):

The phrase "* * * but not rules addressed to and served upon named persons in accordance with law * * *" was stricken because section 3(a) as amended only requires the publication of rules of general applicability.

"Rules of procedure" was added to remove an uncertainty. "Description of forms available" was added to eliminate the need of publishing lengthy forms.

The new clause (E) is an obvious change, added for the sake of completeness and clarity.

Description of subsection (b)

Subsection (b) of S. 1160 (as subsec. (b) of sec. 3 of the Administrative Procedure Act) deals with agency opinions, orders, and rules. This Administrative Procedure Act subsection is replaced by a detailed subsection, specifying what orders, opinions, and rules must be made available. The exceptions have again been moved to a single subsection, subsection (e), dealing with exceptions.

Apart from the exemptions, agencies must make available for public inspection and copying all final opinions (including concurring and dissenting opinions); all orders made in the adjudication of cases; and those statements of policy and interpretations which have been adopted by the agency and are not required to be published in the

Federal Register; and administrative staff manuals and instructions to staff that affect any member of the public.

There is a provision for the deletion of certain details in opinions, statements of policy, interpretations, staff manuals and instructions to prevent "a clearly unwarranted invasion of personal privacy." The authority to delete identifying details after written justification is necessary in order to be able to balance the public's right to know with the private citizen's right to be secure in his personal affairs which have no bearing or effect on the general public. For example, it may be pertinent to know that unseasonably harsh weather has caused an increase in public relief costs; but it is not necessary that the identity of any person so affected be made public.

Written justification for deletion of identifying details is to be placed as preamble to "* * * the opinion, statement of policy, interpretation or staff manual or instruction * * *" that is made available.

Requiring the agencies to keep a current index of their orders, opinions, etc., is necessary to afford the private citizen the essential information to enable him to deal effectively and knowledgeably with the Federal agencies. This change will prevent a citizen from losing a controversy with an agency because of some obscure and hidden order or opinion which the agency knows about but which has been unavailable to the citizen simply because he had no way in which to discover it. However, considerations of time and expense cause this indexing requirement to be made prospective in application only.

Many agencies already have indexing programs, e.g., the Interstate Commerce Commission. Such indexes satisfy the requirements of this bill insofar as they achieve the purpose of the indexing requirement. No other special or new indexing will be necessary for such agencies.

Subsection (b) contains its own sanction that orders, opinions, etc., which are not properly indexed and made available to the public may not be relied upon or cited as precedent by an gency.

There are also a number of technical changes in section 3(b):

The phrase "* * * and copying * * *" was added because it is frequently of little use to be able to inspect orders or the like unless one is able to copy them for future reference. Hence the right to copy these matters is supplemental to the right to inspect and makes the latter right meaningful.

The addition of "* * * concurring and dissenting opinions * * *" is added to insure that, if one or more agency members dissent or concur, the public and the parties should have access to these views and ideas.

The enumeration of orders, etc., defines what materials are subject to section 3(b)'s requirements. The "unless" clause was added to provide the agencies with an alternative means of making these materials available through publication.

Description of subsection (c)

Subsection (c) deals with "agency records" and would have almost the reverse result of present subsection (c) which deals with "public records." Whereas the present subsection 3(c) of the Administrative Procedure Act has been construed to authorize widespread withholding of agency records, subsection 3(c) of S. 1160 requires their disclosure.

The records must be identifiable by the person requesting them, i.e., a reasonable description enabling the Government employee to locate the requested records. This requirement of identification is not to be used as a method of withholding records.

Subsection (c) contains a specific court remedy for any alleged wrongful withholding of agency records by agency personnel. The aggrieved person can bring an action in the district court where he resides, has his place of business, or in which the agency records are situated. The court may require the agency to pay costs and reasonable attorney's fees of the complainant as in other cases.

That the proceeding must be de novo is essential in order that the ultimate decision as to the propriety of the agency's action is made by the court and prevent it from becoming meaningless judicial sanctioning of agency discretion.

Placing the burden of proof upon the agency puts the task of justifying the withholding on the only party able to explain it. The private party can hardly be asked to prove that an agency has improperly withheld public information because he will not know the reasons for the agency action.

The court is authorized to give actions under this subsection precedence on the docket over other causes. Complaints of wrongful withholding shall be heard "at the earliest practicable date and expedited in every way."

Description of subsection (d)

This subsection provides that a record be kept of all final votes by agency members in every agency proceeding and that this record of votes be available to the public.

Agency practice in this area varies. This change makes the publication of final votes of agency members a uniform practice and provides the public with a very important part of the agency's decisional process.

Description of subsection (e)

Subsection (e) deals with the categories of matters which are exempt from disclosure under the bill. Exemption No. 1 is for matters specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy. The change of standard from "in the public interest" is made both to delimit more narrowly the exception and to give it a more precise definition. The phrase "public interest" in section 3(a) of the Administrative Procedure Act has been subject to conflicting interpretations, often colored by personal prejudices and predilections. It admits of no clear delineations, and it has served in many cases to defeat the very purpose for which it was intended—the public's right to know the operations of its Government. Rather than protecting the public's interest, it has caused widespread public dissatisfaction and confusion. Retention of such an exception in section 3(a) is, therefore, inconsistent with the general objective of enabling the public readily to gain access to the information necessary to deal effectively and upon equal footing with Federal agencies.

Exemption No. 2 relates only to the internal personnel rules and practices of an agency. Examples of these may be rules as to personnel's use of parking facilities or regulation of lunch hours, statements of policy as to sick leave, and the like.

Exemption No. 3 deals with matters specifically exempt from disclosure by another statute.

Exemption No. 4 is for "trade secrets and commercial or financial information obtained from any person and privileged or confidential." This exception is necessary to protect the confidentiality of information which is obtained by the Government through questionnaires or other inquiries, but which would customarily not be released to the public by the person from whom it was obtained. This would include business sales statistics, inventories, customer lists, and manufacturing processes. It would also include information customarily subject to the doctor-patient, lawyer-client, lender-borrower, and other such privileges. Specifically it would include any commercial, technical, and financial data, submitted by an applicant or a borrower to a lending agency in connection with any loan application or loan.

Exemption No. 5 relates to "inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency." It was pointed out in the comments of many of the agencies that it would be impossible to have any frank discussion of legal or policy matters in writing if all such writings were to be subjected to public scrutiny. It was argued, and with merit, that efficiency of Government would be greatly hampered if, with respect to legal and policy matters, all Government agencies were prematurely forced to "operate in a fishbowl." The committee is convinced of the merits of this general proposition, but it has attempted to delimit the exception as narrowly as consistent with efficient Government operation.

Exemption No. 6 contains an exemption for "personnel and medical files, and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Such agencies as the Veterans' Administration, Department of Health, Education, and Welfare, Selective Service, etc., have great quantities of files, the confidentiality of which has been maintained by agency rule but without statutory authority. There is a consensus that these files should not be opened to the public, and the committee decided upon a general exemption rather than a number of specific statutory authorizations for various agencies. It is believed that the scope of the exemption is held within bounds by the use of the limitation of "a clearly unwarranted invasion of personal privacy."

The phrase "clearly unwarranted invasion of personal privacy" enunciates a policy that will involve a balancing of interests between the protection of an individual's private affairs from unnecessary public scrutiny, and the preservation of the public's right to governmental information. The application of this policy should lend itself particularly to those Government agencies where persons are required to submit vast amounts of personal data usually for limited purposes. For example, health, welfare, and selective service records are highly personal to the person involved, yet facts concerning the award of a pension or benefit should be disclosed to the public.

Exemption No. 7 deals with "investigatory files compiled for law enforcement purposes." These are the files prepared by Government agencies to prosecute law violators. Their disclosure of such files, except to the extent they are available by law to a private party, could harm the Government's case in court.

Exemption No. 8 is directed specifically to insuring the security of our financial institutions by making available only to the Government agencies responsible for the regulation or supervision of such institutions the examination, operating, or condition reports prepared by on behalf of, or for the use of such agencies.

Description of subsection (f)

The purpose of this subsection is to make it clear beyond doubt that all *materials* of the Government are to be made available to the public by publication or otherwise unless explicitly allowed to be kept secret by one of the exemptions in subsection (e). Further, it is made clear that, because this section only refers to the public's right to know, it cannot, therefore, be backhandedly construed as authorizing the withholding of information from the Congress, the collective representative of the public.

Description of subsection (g)

This subsection provides a definition of the term "private party" which is not presently defined in the act being amended by this bill.

Description of subsection (h)

The 1-year period before this act goes into effect is to allow ample time for the agencies to conform their practices to the requirements of this act.

CONCLUSION

The committee feels that this bill, as amended, would establish a much-needed policy of disclosure, while balancing the necessary interests of confidentiality.

A government by secrecy benefits no one.

It injures the people it seeks to serve; it injures its own integrity and operation.

It breeds mistrust, dampens the fervor of its citizens, and mocks their loyalty.

For these reasons, the committee reports the bill with the recommendation that it be adopted, as amended.

CHANGES IN EXISTING LAW

Inasmuch as S. 1160 is new law, the provisions of subsection (4) of rule XXIX of the Standing Rules of the Senate are not applicable.

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Calendar No. 798

89TH CONGRESS
1ST SESSION

S. 1160

[Report No. 813]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 1965

Mr. LONG of Missouri (for himself, Mr. ANDERSON, Mr. BARTLETT, Mr. BAYH, Mr. BOGGS, Mr. BURDICK, Mr. CASE, Mr. DIRKSEN, Mr. ERVIN, Mr. FONG, Mr. HART, Mr. METCALF, Mr. MORSE, Mr. MOSS, Mr. NELSON, Mrs. NEUBERGER, Mr. PROXMIRE, Mr. RIBICOFF, Mr. SMATHERS, Mr. SYMINGTON, Mr. TYDINGS, and Mr. YARBOROUGH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 4 (legislative day, OCTOBER 1), 1965

Reported by Mr. LONG of Missouri, with amendments

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

A BILL

To amend section 3 of the Administrative Procedure Act, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), is amended to read as follows:

"SEC. 3. Every agency shall make available to the public the following information:

"(a) PUBLICATION IN THE FEDERAL REGISTER.—

Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(b) AGENCY OPINIONS AND ORDERS.—Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) *administrative* staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided,* That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed

and either made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.

"(c) AGENCY RECORDS.—~~Every~~ *Except with respect to the records made available pursuant to subsections (a) and (b), every* agency shall, *upon request for identifiable records made* in accordance with published rules stating the time, place, *fees to the extent authorized by statute* and procedure to be followed, make ~~all its~~ *such* records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records ~~and information~~ and to order the production of any agency records ~~or information~~ improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(d) AGENCY PROCEEDINGS.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

"(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from ~~the public~~ *any person* and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters ~~dealing solely with matters of law or policy~~ *which would not be available by law to a private party in litigation with the agency*; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; ~~and~~ (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions*; and (9) geological and geophysical information and data (including maps) concerning wells.*

"(f) LIMITATION OF EXEMPTIONS.—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

"(g) PRIVATE PARTY.—As used in this section, 'private party' means any party other than an agency.

"(h) EFFECTIVE DATE.—This amendment shall become effective one year following the date of the enactment of this Act."

Calendar No. 798

89TH CONGRESS
1ST SESSION

S. 1160

[Report No. 813]

A BILL

To amend section 3 of the Administrative Procedure Act, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes.

By Mr. LONG of Missouri, Mr. ANDERSON, Mr. BARTLETT, Mr. BAYH, Mr. BOGGS, Mr. BURDICK, Mr. CASE, Mr. DIRKSEN, Mr. ERVIN, Mr. FONG, Mr. HART, Mr. METCALF, Mr. MORSE, Mr. MOSS, Mr. NELSON, Mrs. NEUBERGER, Mr. PROXMIRE, Mr. RIBICOFF, Mr. SMATHERS, Mr. SYMINGTON, Mr. TYDINGS, and Mr. YARBOROUGH

FEBRUARY 17, 1965
Read twice and referred to the Committee on the Judiciary

OCTOBER 4 (legislative day, OCTOBER 1), 1965
Reported with amendments

CLARIFYING AND PROTECTING THE RIGHT OF THE PUBLIC TO INFORMATION

The Senate proceeded to consider the bill (S. 1160) to amend section 3 of the Administrative Procedure Act, chapter 324, of the act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes which had been reported from the Committee on the Judiciary with amendments on page 3, line 8, after the letter "(C)", to insert "administrative"; on page 4, line 4, after the word "Records.", to strike out "Every" and insert "Except with respect to the records made available pursuant to subsections (a) and (b), every"; in line 6, after the word "shall", to insert "upon request for identifiable records made"; in line 8, after the word "place", to insert "fees to the extent authorized by statute"; in line 9,

after the word "make", to strike out "all its" and insert "such"; in line 14, after the word "records", to strike out "and information"; in line 15, after the word "records", to strike out "or information"; on page 5, line 12, after the word "from", to strike out "the public" and insert "any person"; in line 14, after the word "letters", to strike out "dealing solely with matters of law or policy" and insert "which would not be available by law to a private party in litigation with the agency"; in line 20, after the word "party", to strike out "and"; and, in line 24, after the word "institutions", to insert a semicolon and "and (9) geological and geophysical information and data (including maps) concerning wells"; 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, That section 3, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), is amended to read as follows:

"SEC. 3. Every agency shall make available to the public the following information:

"(a) PUBLICATION IN THE FEDERAL REGISTER.—Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(b) AGENCY OPINIONS AND ORDERS.—Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided,* That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.

"(c) AGENCY RECORDS.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promply available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(d) AGENCY PROCEEDINGS.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

"(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysical information and data (including maps) concerning wells.

"(f) LIMITATION OF EXEMPTIONS.—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

"(g) PRIVATE PARTY.—As used in this section, 'private party' means any party other than an agency.

"(h) EFFECTIVE DATE.—This amendment shall become effective one year following the date of the enactment of this Act."

The amendments were agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 813), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

In introducing S. 1666, the predecessor of the present bill, Senator LONG quoted the words of Madison, who was chairman of the committee which drafted the first amendment to the Constitution:

"Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it is but a prolog to a farce or a tragedy or perhaps both."

Today the very vastness of our Government and its myriad of agencies makes it difficult for the electorate to obtain that "popular information" of which Madison spoke. But it is only when one further considers the hundreds of departments, branches, and agencies which are not directly responsible to the people, that one begins to understand the great importance of having an information policy of full disclosure.

Although the theory of an informed electorate is vital to the proper operation of a democracy, there is nowhere in our present law a statute which affirmatively provides for that information. Many witnesses have testified that the present public information section of the Administrative Procedure Act has been used more as an excuse for withholding than as a disclosure statute.

Section 3 of the Administrative Procedure Act, that section which this bill would amend, is full of loopholes which allow agencies to deny legitimate information to the public. Innumerable times it appears that information is withheld only to cover up embarrassing mistakes or irregularities and the withholding justified by such phrases in section 3 of the Administrative Procedure Act as—"requiring secrecy in the public interest," or "required for good cause to be held confidential."

It is the purpose of the present bill to eliminate such phrases, to establish a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language and to provide a court procedure by which citizens and the press may obtain information wrongfully withheld. It is important and necessary that the present void be filled. It is essential that agency personnel, and the courts as well, be given definitive guidelines in setting information policies. Standards such as "for good cause" are certainly not sufficient.

At the same time that a broad philosophy of "freedom of information" is enacted into law, it is necessary to protect certain equally important rights of privacy with respect to certain information in Government files, such as medical and personnel records. It is also necessary for the very operation of our Government to allow it to keep confidential certain material, such as the investigatory files of the Federal Bureau of Investigation.

It is not an easy task to balance the opposing interests, but it is not an impossible one either. It is not necessary to conclude that to protect one of the interests, the other must, of necessity, either be abrogated or substantially subordinated. Success lies in providing a workable formula which encompasses, balances, and protects all interests, yet places emphasis on the fullest responsible disclosure.

HISTORY OF LEGISLATION

After it became apparent that section 3 of the Administrative Procedure Act was be-

ing used as an excuse for secrecy, proposals for change began.

The first of these proposals, S. 2504, 84th Congress, introduced by Senator Wiley, and S. 2541, 84th Congress, by Senator McCarthy, arose out of recommendations by the Hoover Commission Task Force. These were quickly followed in the 85th Congress by the Hennings bill, S. 2148, and by S. 4094, introduced by Senators ERVIN and Butler, which was incorporated as a part of the proposed Code of Federal Administrative Procedure.

S. 4094 was reintroduced by Senator Hennings in the 86th Congress as S. 186. This was followed in the second session by a slightly revised version of the same bill, numbered S. 2780. Senators ERVIN and Butler reintroduced S. 4094 which was designated S. 1070, 86th Congress.

More recently, Senator Carroll introduced S. 1567, cosponsored by Senators HART, LONG, and PROXMIRE. Also introduced in the 87th Congress were the Ervin bill, S. 1887, its companion bill in the House, H.R. 9926, S. 1907 by Senator PROXMIRE, and S. 3410 introduced by Senators DIRKSEN and Carroll.

Although hearings were held on the Hennings bills, and considerable interest was aroused by all of the bills, no legislation resulted.

In the last Congress, the Senate passed S. 1666, upon which this bill is based, on July 31, 1964, but sufficient time did not remain in that Congress for its full consideration by the House. The present bill is substantially S. 1666, as passed by the Senate, with amendments reflecting suggestions made to the committee in the course of the hearings.

INADEQUACY OF PRESENT LAW

The present section 3 of the Administrative Procedure Act, which would be replaced by S. 1160, is so brief that it can be profitably placed at this point in the report:

"PUBLIC INFORMATION

"Section 3: Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—

"(a) Rules: Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public; but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

"(b) Opinions and orders: Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

"(c) Public records: Save as otherwise required by statue, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found."

The serious deficiencies in this present statute are obvious. They fall into four categories:

1. There is excepted from the operation of the whole section "any function of the United States requiring secrecy in the public interest * * *." There is no attempt in the bill or its legislative history to delimit "in the public interest," and there is no authority granted for any review of the use of this vague phrase by Federal officials who wish to withhold information.

2. Although subsection (b) requires the agency to make available to public inspection "all final opinions or orders in the adjudication of cases," it vitiates this command by adding the following limitation: "* * * except those required for good cause to be held confidential * * *."

3. As to public records generally, subsection (c) requires their availability "to persons properly and directly concerned except information held confidential for good cause found." This is a double-barreled loophole because not only is there the vague phrase "for good cause found," there is also a further excuse for withholding if persons are not "properly and directly concerned."

4. There is no remedy in case of wrongful withholding of information from citizens by Government officials.

PRESENT SECTION 3 OF ADMINISTRATIVE PROCEDURE ACT IS WITHHOLDING STATUTE, NOT DISCLOSURE STATUTE

It is the conclusion of the committee that the present section 3 of the Administrative Procedure Act is of little or no value to the public in gaining access to records of the Federal Government. Indeed, it has had precisely the opposite effect: it is cited as statutory authority for the withholding of virtually any piece of information that an official or an agency does not wish to disclose.

Under the present section 3, any Government official can under color of law withhold almost anything from any citizen under the vague standards—or, more precisely, lack of standards—in section 3. It would require almost no effort for any official to think up a reason why a piece of information should be withheld (1) because it was in the "public interest," or (2) "for good cause found," or (3) that the person making the request was not "properly and directly concerned." And, even if his reason had not a scintilla of validity, there is absolutely nothing that a citizen seeking information can do because there is no remedy available.

WHAT S. 1160 WOULD DO

S. 1160 would emphasize that section 3 of the Administrative Procedure Act is not a withholding statute but a disclosure statute by the following major changes:

1. It sets up workable standards for what records should and should not be open to public inspection. In particular, it avoids the use of such vague phrases as "good cause found" and replaces them with specific and limited types of information that may be withheld.

2. It eliminates the test of who shall have the right to different information. For the great majority of different records, the public as a whole has a right to know what its Government is doing. There is, of course, a certain need for confidentiality in some aspects of Government operations and these are protected specifically; but outside these limited areas, all citizens have a right to know.

3. The revised section 3 gives to any aggrieved citizen a remedy in court.

DETAILED DESCRIPTION OF BILL

Description of subsection (a)

Subsection (a) deals entirely with publication of material in the Federal Register. This subsection has fewer changes from the existing law than any other; primarily because there have been few complaints about omission from the Federal Register of necessary official material. In fact, what complaints there have been have been more on the side of too much publication rather than too little.

The principal change in subsection (a) has been to deal with the exceptions to its provisions in a single subsection, subsection (e).

There are a number of minor changes which attempt to make it more clear that the purpose of inclusion of material in the Federal Register is to guide the public in determining where and by whom decisions are made, as well as where they may secure information and make submittals and requests.

There is also a provision, suggested by a number of agencies, for incorporation of other publications by reference in the Federal Register. This may be helpful in reducing the bulky present size of the Register.

The new sanction imposed for failure to publish the matters enumerated in section 3(a) was added to expressly provide that a person shall not be adversely affected by matters required to be published and not so published. This gives added incentive to the agencies to publish the required material.

The following technical changes were also made with regard to subsection 3(a):

The phrase "* * * but not rules addressed to and served upon named persons in accordance with law * * *" was stricken because section 3(a) as amended only requires the publication of rules of general applicability.

"Rules of procedure" was added to remove an uncertainty. "Description of forms available" was added to eliminate the need of publishing lengthy forms.

The new clause (E) is an obvious change, added for the sake of completeness and clarity.

Description of subsection (b)

Subsection (b) of S. 1160 (as subsec. (b) of sec. 3 of the Administrative Procedure Act) deals with agency opinions, orders, and rules. This Administrative Procedure Act subsection is replaced by a detailed subsection, specifying what orders, opinions, and rules must be made available. The exceptions have again been moved to a single subsection, subsection (e), dealing with exceptions.

Apart from the exemptions, agencies must make available for public inspection and copying all final opinions (including concurring and dissenting opinions); all orders made in the adjudication of cases; and those statements of policy and interpretations which have been adopted by the agency and are not required to be published in the Federal Register; and administrative staff manuals and instructions to staff that affect any member of the public.

There is a provision for the deletion of certain details in opinions, statements of policy, interpretations, staff manuals and instructions to prevent "a clearly unwarranted invasion of personal privacy." The authority to delete identifying details after written justification is necessary in order to be able to balance the public's right to know with the private citizen's right to be secure in his personal affairs which have no bearing or effect on the general public. For example, it may be pertinent to know that unseasonably harsh weather has caused an increase in public relief costs; but it is not necessary that the identity of any person so affected be made public.

Written justification for deletion of identifying details is to be placed as preamble to "* * * the opinion, statement of policy, interpretation or staff manual or instruction * * *" that is made available.

Requiring the agencies to keep a current index of their orders, opinions, etc., is necessary to afford the private citizen the essential information to enable him to deal effectively and knowledgeably with the Federal agencies. This change will prevent a citizen from losing a controversy with an agency because of some obscure and hidden order or opinion which the agency knows about but which has been unavailable to the citizen

simply because he had no way in which to discover it. However, considerations of time and expense cause this indexing requirement to be made prospective in application only.

Many agencies already have indexing programs, e.g., the Interstate Commerce Commission. Such indexes satisfy the requirements of this bill insofar as they achieve the purpose of the indexing requirement. No other special or new indexing will be necessary for such agencies.

Subsection (b) contains its own sanction that orders, opinions, etc., which are not properly indexed and made available to the public may not be relied upon or cited as precedent by an agency.

There are also a number of technical changes in section 3(b):

The phrase "* * * and copying * * *" was added because it is frequently of little use to be able to inspect orders or the like unless one is able to copy them for future reference. Hence the right to copy these matters is supplemental to the right to inspect and makes the latter right meaningful.

The addition of "* * * concurring and dissenting opinions * * *" is added to insure that, if one or more agency members dissent or concur, the public and the parties should have access to these views and ideas.

The enumeration of orders, etc., defines what materials are subject to section 3(b)'s requirements. The "unless" clause was added to provide the agencies with an alternative means of making these materials available through publication.

Description of subsection (c)

Subsection (c) deals with "agency records" and would have almost the reverse result of present subsection (c) which deals with "public records." Whereas the present subsection 3(c) of the Administrative Procedure Act has been construed to authorize widespread withholding of agency records, subsection 3(c) of S. 1160 requires their disclosure.

The records must be identifiable by the person requesting them, i.e., a reasonable description enabling the Government employee to locate the requested records. This requirement of identification is not to be used as a method of withholding records.

Subsection (c) contains a specific court remedy for any alleged wrongful withholding of agency records by agency personnel. The aggrieved person can bring an action in the district court where he resides, has his place of business, or in which the agency records are situated. The court may require the agency to pay costs and reasonable attorney's fees of the complainant as in other cases.

That the proceeding must be de novo is essential in order that the ultimate decision as to the propriety of the agency's action is made by the court and prevent it from becoming meaningless judicial sanctioning of agency discretion.

Placing the burden of proof upon the agency puts the task of justifying the withholding on the only party able to explain it. The private party can hardly be asked to prove that an agency has improperly withheld public information because he will not know the reasons for the agency action.

The court is authorized to give actions under this subsection precedence on the docket over other causes. Complaints of wrongful withholding shall be heard "at the earliest practicable date and expedited in every way."

Description of subsection (d)

This subsection provides that a record be kept of all final votes by agency members in every agency proceeding and that this record of votes be available to the public.

Agency practice in this area varies. This change makes the publication of final votes of agency members a uniform practice and provides the public with a very important part of the agency's decisional process.

Description of subsection (e)

Subsection (e) deals with the categories of matters which are exempt from disclosure under the bill. Exemption No. 1 is for matters specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy. The change of standard from "in the public interest" is made both to delimit more narrowly the exception and to give it a more precise definition. The phrase "public interest" in section 3(a) of the Administrative Procedure Act has been subject to conflicting interpretations, often colored by personal prejudices and predilections. It admits of no clear delineations, and it has served in many cases to defeat the very purpose for which it was intended—the public's right to know the operations of its Government. Rather than protecting the public's interest, it has caused widespread public dissatisfaction and confusion. Retention of such an exception in section 3(a) is, therefore, inconsistent with the general objective of enabling the public readily to gain access to the information necessary to deal effectively and upon equal footing with Federal agencies.

Exemption No. 2 relates only to the internal personnel rules and practices of an agency. Examples of these may be rules as to personnel's use of parking facilities or regulation of lunch hours, statements of policy as to sick leave, and the like.

Exemption No. 3 deals with matters specifically exempt from disclosure by another statute.

Exemption No. 4 is for "trade secrets and commercial or financial information obtained from any person and privileged or confidential." This exception is necessary to protect the confidentiality of information which is obtained by the Government through questionnaires or other inquiries, but which would customarily not be released to the public by the person from whom it was obtained. This would include business sales statistics, inventories, customer lists, and manufacturing processes. It would also include information customarily subject to the doctor-patient, lawyer-client, lender-borrower, and other such privileges. Specifically it would include any commercial, technical, and financial data, submitted by an applicant or a borrower to a lending agency in connection with any loan application or loan.

Exemption No. 5 relates to "inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency." It was pointed out in the comments of many of the agencies that it would be impossible to have any frank discussion of legal or policy matters in writing if all such writings were to be subjected to public scrutiny. It was argued, and with merit, that efficiency of Government would be greatly hampered if, with respect to legal and policy matters, all Government agencies were prematurely forced to "operate in a fishbowl." The committee is convinced of the merits of this general proposition, but it has attempted to delimit the exception as narrowly as consistent with efficient Government operation.

Exemption No. 6 contains an exemption for "personnel and medical files, and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Such agencies as the Veterans' Administration, Department of Health, Education, and Welfare, Selective Service, etc., have great quantities of files, the confidentiality of which has been maintained by agency rule but without statutory authority. There is a consensus that these files should not be opened to the public, and the committee decided upon a general exemption rather than a number of specific statutory authorizations for various agencies. It is believed that the scope of the exemption is held within bounds by the use of the limitation of "a clearly unwarranted invasion of personal privacy."

The phrase "clearly unwarranted invasion of personal privacy" enunciates a policy that will involve a balancing of interests between the protection of an individual's private affairs from unnecessary public scrutiny, and the preservation of the public's right to governmental information. The application of this policy should lend itself particularly to those Government agencies where persons are required to submit vast amounts of personal data usually for limited purposes. For example, health, welfare, and selective service records are highly personal to the person involved, yet facts concerning the award of a pension or benefit should be disclosed to the public.

Exemption No. 7 deals with "investigatory files compiled for law enforcement purposes." These are the files prepared by Government agencies to prosecute law violators. Their disclosure of such files, except to the extent they are available by law to a private party, could harm the Government's case in court.

Exemption No. 8 is directed specifically to insuring the security of our financial institutions by making available only to the Government agencies responsible for the regulation or supervision of such institutions the examination, operating, or condition reports prepared by, on behalf of, or for the use of such agencies.

Description of subsection (f)

The purpose of this subsection is to make it clear beyond doubt that all materials of the Government are to be made available to the public by publication or otherwise unless explicitly allowed to be kept secret by one of the exemptions in subsection (e). Further, it is made clear that, because this section only refers to the public's right to know, it cannot, therefore, be backhandedly construed as authorizing the withholding of information from the Congress, the collective representative of the public.

Description of subsection (g)

This subsection provides a definition of the term "private party" which is not presently defined in the act being amended by this bill.

Description of subsection (h)

The 1-year period before this act goes into effect is to allow ample time for the agencies to conform their practices to the requirements of this act.

CONCLUSION

The committee feels that this bill, as amended, would establish a much-needed policy of disclosure, while balancing the necessary interest of confidentiality.

A government by secrecy benefits no one.

It injures the people it seeks to serve; it injures its own integrity and operation.

It breeds mistrust, dampens the fervor of its citizens, and mocks their loyalty.

For these reasons, the committee reports the bill with the recommendation that it be adopted, as amended.

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1497

CLARIFYING AND PROTECTING THE RIGHT OF THE PUBLIC TO INFORMATION

MAY 9, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DAWSON, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 1160]

The Committee on Government Operations, to whom was referred the bill (S. 1160) to amend section 3 of the Administrative Procedure Act, chapter 324, of the act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. PURPOSE

Section 3 of the Administrative Procedure Act (5 U.S.C. 1002) requires every executive agency to publish or make available to the public its methods of operation, public procedures, rules, policies, and precedents, and to make available other "matters of official record" to any person who is properly and directly concerned therewith. These requirements are subject to several broad exceptions discussed below. The present section 3 is not a general public records law in that it does not afford to the public at large access to official records generally.

S. 1160 would revise the section to provide a true Federal public records statute by requiring the availability, to any member of the public, of all of the executive branch records described in its requirements, except those involving matters which are within nine stated exemptions. It makes the following major changes:

1. It eliminates the "properly and directly concerned" test of who shall have access to public records, stating that the great majority of records shall be available to "any person." So that there would be no undue burden on the operations of Government agencies, reason-

able access regulations may be established and fees for record searches charged as is required by present law.[1]

2. It sets up workable standards for the categories of records which may be exempt from public disclosure, replacing the vague phrases "good cause found," "in the public interest," and "internal management" with specific definitions of information which may be withheld. Some of the specific categories cover information necessary to protect the national security; others cover material such as the Federal Bureau of Investigation files which are not now protected by law.[2]

3. It gives an aggrieved citizen a remedy by permitting an appeal to a U.S. district court. The court review procedure would be expected to persuade against the initial improper withholding and would not add substantially to crowded court dockets.[3]

II. Background

The broad outlines for legislative action to guarantee public access to Government information were laid out by Dr. Harold L. Cross in 1953. In that year he published, for the American Society of Newspaper Editors, the first comprehensive study of growing restrictions on the people's right to know the facts of government. Newspapermen, legislators, and other Government officials were concerned about the mushrooming growth of Government secrecy, but as James S. Pope, who was chairman of the Freedom of Information Committee of ASNE, explained in the foreword of the Cross book, "The People's Right To Know":

> * * * we had only the foggiest idea of whence sprang the blossoming Washington legend that agency and department heads enjoyed a sort of personal ownership of news about their units. We knew it was all wrong, but we didn't know how to start the battle for reformation.

Basic to the work of Dr. Cross was the—

> conviction that inherent in the right to speak and the right to print was the right to know. The right to speak and the right to print, without the right to know, are pretty empty * * *.[4]

Dr. Cross outlined three areas where, through legislative inaction, the weed of improper secrecy had been permitted to blossom and was choking out the basic right to know: the "housekeeping" statute which gives Government officials general authority to operate their agencies, the "executive privilege" concept which affects legislative access to executive branch information, and section 3 of the Administrative Procedure Act which affects public access to the rules and regulations of Government action.

In 1958 Congress corrected abuse of the Government's 180-year-old "housekeeping" statute by enacting a bill introduced in the House by Congressman John E. Moss and in the Senate by Senator Thomas E. Hennings. The Moss-Hennings bill stated that provisions of the

[1] Hearings, pp. 61 and 67; see also 5 U.S.C. 140.
[2] Hearings, pp. 15, 20, 27, and 39.
[3] Hearings, pp. 107 and 109.
[4] Hearings, Foreign Operations and Government Information Subcommittee, on a proposed Federal public records law, Mar. 30, 31, Apr. 1, 2, and 5, 1965, p. 26, cited hereafter as "hearings."

"housekeeping" statute (5 U.S.C. 22) which permitted department heads to regulate the storage and use of Government records did not permit them to withhold those records from the public.

The concept that Government officials far down the administrative line from the President could use a claim of "executive privilege" to withhold information from the Congress was narrowed in 1962 when President Kennedy informed Congress that he, and he alone, would invoke it. This limitation on the use of the "executive privilege" claim to withhold information from Congress was affirmed by President Johnson in a letter to Congressman Moss on April 2, 1965.[5]

While there have been substantial improvements in two of the areas of excessive Government secrecy, nothing has been done to correct abuses in the third area. In fact, section 3 of the Administrative Procedure Act has become the major statutory excuse for withholding Government records from public view.

THE "PUBLIC INFORMATION" SECTION OF THE ADMINISTRATIVE PROCEDURE ACT

The Administrative Procedure Act, which was adopted in 1946 to bring some order out of the growing chaos of Government regulation, set uniform standards for the thousands of Government administrative actions affecting the public; it restated the law of judicial review permitting the public to appeal to the courts about wrongful administrative actions; it provided for public participation in an agency's rulemaking activities. But most important it required "agencies to keep the public currently informed of their organization, procedures, and rules." [6] The intent of the public information section of the Administrative Procedure Act (sec. 3) was set forth clearly by the Judiciary Committee, in reporting the measure to the Senate. The report declares that the public information provisions—

> are in many ways among the most important, far-reaching, and useful provisions * * *. The section has been drawn upon the theory that administrative operations and procedures are public property which the general public, rather than a few specialists or lobbyists, is entitled to know or have ready means of knowing with definiteness and assurance.[7]

The act was signed in June 1946, and on July 15, 1946, the Department of Justice distributed to all agencies a 12-page memorandum interpreting section 3, which was to become effective on September 11, 1946. The memorandum, which together with similar memorandums interpreting the other sections of the act was later made available in the Attorney General's Manual, noted that Congress had left up to each agency the decision on what information about the agency's actions was to be classed as "official records." [8]

The Administrative Procedure Act had been in operation less than 10 years when a Hoover Commission task force recommended minor changes in the public information section. S. 2504 (Wiley) and S. 2541 (McCarthy) were introduced in the 84th Congress to carry out the minimal task force recommendations, but the bills died without even a hearing. In the 85th Congress, the first major revision of the public

[5] Hearings, p. 123.
[6] Attorney General's Manual on the Administrative Procedure Act, prepared by the Department of Justice, 1947, p. 9; cited hereafter as "Attorney General's Manual."
[7] H. Rept. 752, 79th Cong., 1st sess., p. 198.
[8] Attorney General's Manual, p. 24.

information provisions was introduced simultaneously in the House by Congressman Moss (H.R. 7174) and in the Senate by Senator Hennings (S. 2148). The legislation was based on a detailed study by Jacob Scher, Northwestern University expert on press law, who was serving as special counsel to the House Government Information Subcommittee. There was no action in either the House or Senate on the Moss and Hennings bills, and modified versions were introduced year after year with no final action. In the 88th Congress the Senate passed S. 1666 too late in the session for House action. In the 89th Congress the Senate passed S. 1160 sponsored by 22 Members of the Senate, and the Foreign Operations and Government Information Subcommittee held extensive hearings on similar legislation—H.R. 5012 and 23 comparable House bills.

III. The Need for Legislation

Section 3 of the Administrative Procedure Act (5 U.S.C. 1002), though titled "Public Information" and clearly intended for that purpose, has been used as an authority for withholding, rather than disclosing, information. Such a 180° turn was easy to accomplish given the broad language of 5 U.S.C. 1002. The law, in its entirety, states:

PUBLIC INFORMATION

SEC. 3. Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—

(a) RULES.—Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(b) OPINIONS AND ORDERS.—Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

(c) PUBLIC RECORDS.—Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.

In a sense, "public information" is a misnomer for 5 U.S.C. 1002, since the section permits withholding of Federal agency records if secrecy is required "in the public interest" or if the records relate "solely to the internal management of an agency." Government information also may be held confidential "for good cause found." Even if no good cause can be found for secrecy, the records will be made available only to "persons properly and directly concerned." Neither in the Administrative Procedure Act nor its legislative history are these broad phrases defined, nor is there a recognition of the basic right of any person—not just those special classes "properly and directly concerned"—to gain access to the records of official Government actions. Above all, there is no remedy available to a citizen who has been wrongfully denied access to the Government's public records. The present statute, therefore, is not in any realistic sense a public information statute.

ABUSE OF THE "PUBLIC INFORMATION" SECTION

Improper denials occur again and again. For more than 10 years, through the administrations of both political parties, case after case of improper withholding based upon 5 U.S.C. 1002 has been documented. The Administrative Procedure Act provides no adequate remedy to members of the public to force disclosures in such cases.

Earlier this year the Foreign Operations and Government Information Subcommittee uncovered a serious violation of subsection (a) of 5 U.S.C. 1002 which requires every Government agency to publish its rules and a description of its organization and method of operation. In spite of repeated demands, this clear legal requirement has been ignored by the Board of Review on Loss of Nationality in the Department of State, which has authority over questions of citizenship.

In 1962 the National Science Foundation decided it would not be "in the public interest" to disclose cost estimates submitted by unsuccessful contractors in connection with a multimillion-dollar deep sea study. It appeared that the firm which had won the lucrative contract had not submitted the lowest bid. It took White House intervention to reverse the agency's decision that it had authority for this secrecy "in the public interest." [9]

Matters which relate solely to "internal management" and thus can be withheld under the provisions of 5 U.S.C. 1002 range from the important to the insignificant. They range from a proposed spending program, still being worked out in the agency for future presentation to the Congress, to a routine telephone book. In 1961, for example, the Secretary of the Navy ruled that "telephone directories fall in the category of information relating to the internal management of the Navy," and he cited 5 U.S.C. 1002 as his authority for this ruling.[10] On the other hand, in some instances the premature disclosure of agency plans that are undergoing development and are likely to be revised before they are presented, particularly plans relating to expenditures, could have adverse effects upon both public and private interests. Indeed, there may be plans which, even though finalized, cannot be made freely available in advance of the effective date without damage to such interests. There may be legitimate reasons for

[9] H. Rept. 918, 88th Cong., pp. 89-99.
[10] H. Rept. 1257, 87th Cong., pp. 77-82.

nondisclosure, and S. 1160 is designed to permit nondisclosure in such cases.

The statutory requirement that information about routine administrative actions need be given only to "persons properly and directly concerned" has been relied upon almost daily to withhold Government information from the public. A most striking example is the almost automatic refusal to disclose the names and salaries of Federal employees. Shortly after World War II the western office of a Federal regulatory agency refused to make available the names and salaries of its administrative and supervisory employees. In 1959 the Postmaster General ruled that the public was not "properly and directly concerned" in knowing the names and salaries of postal employees. This ruling has been reiterated by every Postmaster General in every administration since and was only overturned recently by a Civil Service Commission ruling that "the names, position titles, grades, salaries, and duty stations of Federal employees are public information." [11]

If none of the other restrictive phrases of 5 U.S.C. 1002 applies to the official Government record which an agency wishes to keep confidential, it can be hidden behind the "good cause found" shield. Historically, Government agencies whose mistakes cannot bear public scrutiny have found "good cause" for secrecy. A recurring example is the refusal by regulatory boards and commissions which are composed of more than one member to make public their votes on issues or to publicize the views of dissenting members. According to the latest subcommittee survey, six regulatory agencies do not publicize dissenting views. And the Board of Engineers for Rivers and Harbors, which rules on billions of dollars' worth of Federal construction projects, used the "good cause found" authority to close its meetings to the press and to refuse to divulge the votes of its members on controversial issues.[12]

Thus, even though 5 U.S.C. 1002 is titled a "public information" section, the requirements for publicity are so hedged with restrictions that it has been cited as the basic statutory authority for 24 separate terms—in addition to "Top Secret," "Secret," and "Confidential" used by Executive order only on national defense matters—which Federal agencies have devised to stamp on administrative information they want to keep from public view. The 24 restrictive phrases range from the often-used "Official Use Only" through the simple "Nonpublic" and more complicated "Individual Company Data" to the long and confusing "Limitation on Availability of Equipment Files for Public Reference."

It is vital to our way of life to reach a workable balance between the right of the public to know and the need of the Government to keep information in confidence to the extent necessary without permitting indiscriminate secrecy. The right of the individual to be able to find out how his Government is operating can be just as important to him as his right to privacy and his right to confide in his Government. This bill strikes a balance considering all these interests.

[11] H. Rept. 2084, 86th Cong., pp. 128–133; H. Rept. 818, 87th Cong., pp. 106–108; Congressional Record, Mar. 21, 1966, pp. A1598–1599.
[12] H. Rept. 2578, 85th Cong., pp. 42–53; H. Rept. 1137, 86th Cong., pp. 71–74.

IV. Detailed Description

Subsection (a).—A number of the minor changes which subsection (a) of S. 1160 would make in the present law clarify the fact that the Federal Register is a publication in which the public can find the details of the administrative operations of Federal agencies. They would be able to find out where and by whom decisions are made in each Federal agency and how to make submittals or requests. These administrative details are required to be published in the Federal Register by the present law, but it is unclear exactly what type of material must be published.

Subsection (a) also includes a provision to help reduce the bulk of the Federal Register by making it unnecessary to publish material "which is reasonably available" if that material has been incorporated in the Federal Register by reference. Presumably, the reference would indicate where and how the material may be obtained. Permission to incorporate material in the Federal Register by reference would have to be granted by the Director of the Federal Register, instead of permitting each agency head to decide what should be published.

An added incentive for agencies to publish the necessary details about their official activities in the Federal Register is the provision that no person shall be "adversely affected" by material required to be published—or incorporated by reference—in the Federal Register but not so published. This tightens the present law which states that no person shall be required to resort to "organization and procedure" not published in the Federal Register.

Subsection (b).—The present subsection (b) permits an agency's orders and opinions to be withheld from the public if the material is "required for good cause found to be held confidential." Subsection (b) of S. 1160 deletes this general, undefined authority for secrecy. Instead, the bill lists in a later subsection the specific categories of information which may be exempted from disclosure.

In addition to the orders and opinions required to be made public by the present law, subsection (b) of S. 1160 would require agencies to make available statements of policy, interpretations, staff manuals, and instructions that affect any member of the public. This material is the end product of Federal administration. It has the force and effect of law in most cases, yet under the present statute these Federal agency decisions have been kept secret from the members of the public affected by the decisions.

As the Federal Government has extended its activities to solve the Nation's expanding problems—and particularly in the 20 years since the Administrative Procedure Act was established—the bureaucracy has developed its own form of case law. This law is embodied in thousands of orders, opinions, statements, and instructions issued by hundreds of agencies. This is the material which would be made available under subsection (b) of S. 1160. However, under S. 1160 an agency may not be required to make available for public inspection and copying any advisory interpretation on a specific set of facts which is requested by and addressed to a particular person, provided that such interpretation is not cited or relied upon by any officer or employee of the agency as a precedent in the disposition of other cases. Furthermore, an agency may not be required to make available those portions of its staff manuals and instructions which set forth criteria or guidelines for the staff in auditing or inspection procedures, or in

the selection or handling of cases, such as operational tactics, allowable tolerances, or criteria for defense, prosecution, or settlement of cases.

Subsection (b) solves the conflict between the requirement for public access to records of agency actions and the need to protect individual privacy. It permits an agency to delete personal identifications from its public records "to prevent a clearly unwarranted invasion of personal privacy." The public has a need to know, for example, the details of an agency opinion or statement of policy on an income tax matter, but there is no need to identify the individuals involved in a tax matter if the identification has no bearing or effect on the general public. Subsection (b) of S. 1160 would prevent the privacy deletion from being used as a general excuse for secrecy by requiring that the justification for each deletion be explained in writing.

Subsection (b) would help bring order out of the confusion of agency orders, opinions, policy statements, interpretations, manuals, and instructions by requiring each agency to maintain for public inspection an index of all the documents having precedential significance which would be made available or published under the law. The indexing requirement will prevent a citizen from losing a controversy with an agency because of some obscure or hidden order or opinion which the agency knows about but which has been unavailable to the citizen simply because he had no way to discover it. However, considerations of time and expense caused this indexing requirement to be made prospective in application only.

Many agencies—including the Interstate Commerce Commission which is the oldest Federal regulatory agency—already have adequate indexing programs in operation. As an incentive to establish an effective indexing system, subsection (b) of S. 1160 includes a provision that no agency action may be relied upon, used, or cited as a precedent against a private party unless it is indexed or unless the private party has adequate notice of the terms of the agency order.

Subsection (b) requires that Federal agency records which are available for public inspection also must be available for copying, since the right to inspect records is of little value without the right to copy them for future reference. Presumably the copying process would be without expense to the Government since the law (5 U.S.C. 140) already directs Federal agencies to charge a fee for any direct or indirect services such as providing reports and documents.

Subsection (b) also requires concurring and dissenting opinions to be made available for public inspection. The present law, requiring most final opinions and orders to be made public, implies that dissents and concurrences need not be disclosed. As a the result of a Government Information Subcommittee investigation a number of years ago, two major regulatory agencies agreed to make public the dissenting opinions of their members, but a recent survey indicated that five agencies—including the Federal Deposit Insurance Corporation and the Renegotiation Board—do not make public the minority views of their members.

Subsection (c).—In place of the negative approach of the present law (5 U.S.C. 1002) which permits only persons properly and directly concerned to have access to official records if the records are not held confidential for good cause found, subsection (c) of S. 1160 establishes the basic principle of a public records law by making the records available to any person.

The persons requesting records must provide a reasonable description enabling Government employees to locate the requested material, but the identification requirement must not be used as a method for withholding. Reasonable access rules can be adopted stating the time and place records shall be available—presumably during regular working hours in the location where the records are stored or used—and stating the records search or copying fees which may be charged pursuant to 5 U.S.C. 140.

Subsection (c) contains a specific remedy for any improper withholding of agency records by granting the U.S. district courts jurisdiction to order the production of agency records improperly withheld. If a request for information is denied by an agency subordinate the person making the request is entitled to prompt review by the head of the agency. An aggrieved person is given the right to file an action in the district where he resides or has his principal place of business, or where the agency records are situated.

The proceedings are to be de novo so that the court can consider the propriety of the withholding instead of being restricted to judicial sanctioning of agency discretion. The Court will have authority whenever it considers such action equitable and appropriate to enjoin the agency from withholding its records and to order the production of agency records improperly withheld. The burden of proof is placed upon the agency which is the only party able to justify the withholding. A private citizen cannot be asked to prove that an agency has withheld information improperly because he will not know the reasons for the agency action.

The court is authorized to expedite actions under subsection (c) "in every way," and the court review procedure would be expected to serve as an influence against the initial wrongful withholding instead of adding substantially to crowded court dockets.

Subsection (d).—The subsection requires that a record be kept of all final votes of multiheaded agencies in any regulatory or adjudicative proceeding and such record shall be open to public inspection. Practices of the many agencies vary in this regard. The subsection would require public access to the records of official votes unless the information is withheld pursuant to the exemptions spelled out in the following subsection.

Subsection (e).—All of the preceding subsections of S. 1160—requirements for publication of procedural matters and for disclosure of operating procedures, provisions for court review, and for public access to votes—are subject to the exemptions from disclosure specified in subsection (e). They are:

1. Matters specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy: The language both limits the present vague phrase, "in the public interest," and gives the area of necessary secrecy a more precise definition. The permission to withhold Government records "in the public interest" is undefinable. In fact, the Department of Justice left it up to each agency to determine what would be withheld under the blanket term "public interest." [13] No Government employee at any level believes that the "public interest" would be served by disclosure of his failures or wrongdoings, but citizens both in and out of Government can agree to restrictions on categories of information which the

[13] Attorney General's Manual, p. 18.

President has determined must be kept secret to protect the national defense or to advance foreign policy, such as matters classified pursuant to Executive Order 10501.

2. Matters related solely to the internal personnel rules and practices of any agency: Operating rules, guidelines, and manuals of procedure for Government investigators or examiners would be exempt from disclosure, but this exemption would not cover all "matters of internal management" such as employee relations and working conditions and routine administrative procedures which are withheld under the present law.[14]

3. Matters which are specifically exempted from disclosure by other statutes: There are nearly 100 statutes or parts of statutes which restrict public access to specific Government records. These would not be modified by the public records provisions of S. 1160.

4. Trade secrets and commercial or financial information obtained from any person and privileged or confidential: This exemption would assure the confidentiality of information obtained by the Government through questionnaires or through material submitted and disclosures made in procedures such as the mediation of labor-management controversies.[15] It exempts such material if it would not customarily be made public by the person from whom it was obtained by the Government. The exemption would include business sales statistics, inventories, customer lists, scientific or manufacturing processes or developments, and negotiation positions or requirements in the case of labor-management mediations. It would include information customarily subject to the doctor-patient, lawyer-client, or lender-borrower privileges such as technical or financial data submitted by an applicant to a Government lending or loan guarantee agency. It would also include information which is given to an agency in confidence, since a citizen must be able to confide in his Government. Moreover, where the Government has obligated itself in good faith not to disclose documents or information which it receives, it should be able to honor such obligations.

5. Inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency: Agency witnesses argued that a full and frank exchange of opinions would be impossible if all internal communications were made public. They contended, and with merit, that advice from staff assistants and the exchange of ideas among agency personnel would not be completely frank if they were forced to "operate in a fishbowl." Moreover, a Government agency cannot always operate effectively if it is required to disclose documents or information which it has received or generated before it completes the process of awarding a contract or issuing an order, decision or regulation. This clause is intended to exempt from disclosure this and other information and records wherever necessary without, at the same time, permitting indiscriminate administrative secrecy. S. 1160 exempts from disclosure material "which would not be available by law to a private party in litigation with the agency." Thus, any internal memorandums which would routinely be disclosed to a private party through the discovery process in litigation with the agency would be available to the general public.

[14] Hearings, pp. 29 and 30.
[15] Hearings, pp. 45 and 46.

6. Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy: Such agencies as the Veterans' Administration, Department of Health, Education, and Welfare, Selective Service, and Bureau of Prisons have great quantities of files containing intimate details about millions of citizens. Confidentiality of these records has been maintained by agency regulation but without statutory authority.[16] A general exemption for the category of information is much more practical than separate statutes protecting each type of personal record. The limitation of a "clearly unwarranted invasion of personal privacy" provides a proper balance between the protection of an individual's right of privacy and the preservation of the public's right to Government information by excluding those kinds of files the disclosure of which might harm the individual. The exemption is also intended to cover detailed Government records on an individual which can be identified as applying to that individual and not the facts concerning the award of a pension or benefit or the compilation of unidentified statistical information from personal records.

7. Investigatory files compiled for law enforcement purposes except to the extent available by law to a private party: This exemption covers investigatory files related to enforcement of all kinds of laws, labor and securities laws as well as criminal laws. This would include files prepared in connection with related Government litigation and adjudicative proceedings. S. 1160 is not intended to give a private party indirectly any earlier or greater access to investigatory files than he would have directly in such litigation or proceedings.

8. Matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions: This exemption is designed to insure the security and integrity of financial institutions, for the sensitive details collected by Government agencies which regulate these institutions could, if indiscriminately disclosed, cause great harm.

9. Geological and geophysical information and data (including maps) concerning wells: This category was added after witnesses testified that geological maps based on explorations by private oil companies were not covered by the "trade secrets" provisions of present laws. Details of oil and gas findings must be filed with Federal agencies by companies which want to lease Government-owned land. Current regulations of the Bureau of Land Management prohibit disclosure of these details only if the disclosure "would be prejudicial to the interests of the Government" (43 CFR, pt. 2). Witnesses contended that disclosure of the seismic reports and other exploratory findings of oil companies would give speculators an unfair advantage over the companies which spent millions of dollars in exploration.

Subsection (f).—The purpose of this subsection is to make clear beyond doubt that all the materials of Government are to be available to the public unless specifically exempt from disclosure by the provisions of subsection (e) or limitations spelled out in earlier subsections. And subsection (f) restates the fact that a law controlling public access to Government information has absolutely no effect upon congressional access to information. Members of the Congress

[16] Hearings, pp. 15, 20, 27, and 39.

have all of the rights of access guaranteed to "any person" by S. 1160, and the Congress has additional rights of access to all Government information which it deems necessary to carry out its functions.[17]

Subsection (g).—This subsection defines "private party" as any party other than an agency. The term is not defined elsewhere in the Administrative Procedure Act to be amended by S. 1160.

Subsection (h).—A delay of 1 year in the effective date of the Federal public records law is designed to give agencies ample time to conform their practices to the new law.

V. Conclusion

A democratic society requires an informed, intelligent electorate, and the intelligence of the electorate varies as the quantity and quality of its information varies. A danger signal to our democratic society in the United States is the fact that such a political truism needs repeating. And repeated it is, in textbooks and classrooms, in newspapers and broadcasts.

The repetition is necessary because the ideals of our democratic society have outpaced the machinery which makes that society work. The needs of the electorate have outpaced the laws which guarantee public access to the facts in Government. In the time it takes for one generation to grow up and prepare to join the councils of Government—from 1946 to 1966—the law which was designed to provide public information about Government activities has become the Government's major shield of secrecy.

S. 1160 will correct this situation. It provides the necessary machinery to assure the availability of Government information necessary to an informed electorate.

VI. Changes in Existing Law Made by the Bill, as Reported

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 reported, 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 3 OF THE ADMINISTRATIVE PROCEDURE ACT

(60 STAT. 238)

Public Information

Sec. 3. [Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—] *Every agency shall make available to the public the following information:*

(a) [Rules] *Publication in the Federal Register.*—Every agency shall separately state and currently publish in the Federal Register *for the guidance of the public* [(1)] (*A*) descriptions of its central and field organization [including delegations by the Agency of final authority] and the established places at which, *the officers from whom,* and *the* methods whereby, the public may secure information

[17] Hearings, p. 23.

[or], make submittals or requests, *or obtain decisions*; [(2)] (*B*) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal [or] *and* informal procedures available [as well as forms and instructions as to the scope and contents of all papers, reports, or examinations]; (*C*) *rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;* [and (3)] (*D*) substantive rules *of general applicability* adopted as authorized by law, and statements of general policy or interpretations *of general applicability* formulated and adopted by the agency [for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law]*; and* (*E*) *every amendment, revision, or repeal of the foregoing.* [No] *Except to the extent that a person has actual and timely notice of the terms thereof, no* person shall in any manner be required to resort to [organization or procedure], *or be adversely affected by any matter required to be published in the Federal Register and* not so published. *For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.*

(b) *Agency* Opinions and Orders.—Every agency shall [publish or], in accordance with published [rule] *rules,* make available [to] *for* public inspection *and copying* (*A*) all final opinions (*including concurring and dissenting opinions*) *and all* [or] orders *made* in the adjudication of cases [(except those required for good cause to be held confidential and not cited as precedents) and all rules], (*B*) *those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and* (*C*) *administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: Provided, That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.*

(c) [Public Records.—Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.] *Agency Records.—Except with respect to the records made available pursuant to subsections* (*a*) *and* (*b*)*, every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person. Upon complaint, the district court*

of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(d) AGENCY PROCEEDINGS.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysical information and data (including maps) concerning wells.

(f) LIMITATION OF EXEMPTIONS.—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

(g) PRIVATE PARTY.—As used in this section, "private party" means any party other than an agency.

(h) EFFECTIVE DATE.—This amendment shall become effective one year following the date of the enactment of this Act.

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its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(b) AGENCY OPINIONS AND ORDERS.—Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided*, That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.

"(C) AGENCY RECORDS.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(d) AGENCY PROCEEDINGS.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

"(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysical information and data (including maps) concerning wells.

"(f) LIMITATION OF EXEMPTIONS.—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

"(g) PRIVATE PARTY.—As used in this section, 'private party' means any party other than an agency.

"(h) EFFECTIVE DATE.—This amendment shall become effective one year following the date of the enactment of this Act."

The SPEAKER. Is a second demanded?

Mr. REID of New York. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MOSS. I yield myself such time as I may consume.

(Mr. MOSS asked and was given permission to revise and extend his remarks.)

Mr. MOSS. Mr. Speaker, our system of government is based on the participation of the governed, and as our population grows in numbers it is essential that it also grow in knowledge and understanding. We must remove every barrier to information about—and understanding of—government activities consistent with our security if the American public is to be adequately equipped to fulfill the ever more demanding role of responsible citizenship.

S. 1160 is a bill which will accomplish that objective by shoring up the public right of access to the facts of government and, inherently, providing easier access to the officials clothed with governmental responsibility. S. 1160 will grant any person the right of access to official records of the Federal Government, and, most important, by far the most important, is the fact that this bill provides for judicial review of the refusal of access and the withholding of

CLARIFYING AND PROTECTING THE RIGHT OF THE PUBLIC TO INFORMATION

Mr. MOSS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1160) to amend section 3 of the Administrative Procedure Act, chapter 324 of the act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes.

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 section 3, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), is amended to read as follows:

"SEC. 3. Every agency shall make available to the public the following information:

"(a) PUBLICATION IN THE FEDERAL REGISTER.—Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which

pands the rights of the citizens and which protects them against arbitrary or capricious denials.

Mr. Speaker, let me reassure those few who may have doubts as to the wisdom of this legislation that the committee has, with the utmost sense of responsibility, attempted to achieve a balance between a public need to know and a necessary restraint upon access to information in specific instances. The bill lists nine categories of Federal documents which may be withheld to protect the national security or permit effective operation of the Government but the burden of proof to justify withholding is put upon the Federal agencies.

That is a reasonable burden for the Government to bear. It is my hope that this fact, in itself, will be a moderating influence on those officials who, on occasion, have an almost proprietary attitude toward their own niche in Government.

Mr. Speaker, I must confess to disquiet at efforts which have been made to paint the Government information problems which we hope to correct here today in the gaudy colors of partisan politics. Let me now enter a firm and unequivocal denial that that is the case. Government information problems are political problems—bipartisan or nonpartisan, public problems, political problems but not partisan problems.

In assuming the chairmanship of the Special Government Information Subcommittee 11 years ago, I strongly emphasized the fact that the problems of concern to us did not start with the Eisenhower administration then in power nor would they end with that administration. At a convention of the American Society of Newspaper Editors some 10 years ago, I said:

> The problem I have dealt with is one which has been with us since the very first administration. It is not partisan, it is political only in the sense that any activity of government is, of necessity, political . . . No one party started the trend to secrecy in the Federal Government. This is a problem which will go with you and the American people as long as we have a representative government.

Let me emphasize today that the Government information problems did not start with President Lyndon Johnson. I hope, with his cooperation following our action here today, that they will be diminished. I am not so naive as to believe they will cease to exist.

I have read stories that President Johnson is opposed to this legislation. I have not been so informed, and I would be doing a great disservice to the President and his able assistants if I failed to acknowledge the excellent cooperation I have received from several of his associates in the White House.

I am pleased to report the fact of that cooperation to the House today. It is especially important when we recognize how very sensitive to the institution of the Presidency some of these information questions are. Despite this, I can say to you that no chairman could have received greater cooperation.

We do have pressing and important Government information problems, and I believe their solution is vital to the future of democracy in the United States. The individual instances of governmental withholding of information are not dramatic. Again, going back to statements made early in my chairmanship of the Special Subcommittee on Government Information, I repeatedly cautioned those who looked for dramatic instances that the problems were really the day-to-day barriers, the day-to-day excesses in restriction, the arrogance on occasion of an official who has a proprietary attitude toward Government. In fact, at the subcommittee's very first hearing I said:

> Rather than exploiting the sensational, the subcommittee is trying to develop all the pertinent facts and, in effect, lay bare the attitude of the executive agencies on the issue of whether the public is entitled to all possible information about the activities, plans and the policies of the Federal Government.

Now 11 years later I can, with the assurance of experience, reaffirm the lack of dramatic instances of withholding. The barriers to access, the instances of arbitrary and capricious withholding are dramatic only in their totality.

During the last 11 years, the subcommittee has, with the fullest cooperation from many in Government and from representatives of every facet of the news media, endeavored to build a greater awareness of the need to remove unjustifiable barriers to information, even if that information did not appear to be overly important. I suppose one could regard information as food for the intellect, like a proper diet for the body. It does not have to qualify as a main course to be important intellectual food. It might be just a dash of flavor to sharpen the wit or satisfy the curiosity, but it is as basic to the intellectual diet as are proper seasonings to the physical diet.

Our Constitution recognized this need by guaranteeing free speech and a free press. Mr. Speaker, those wise men who wrote that document—which was then and is now a most radical document—could not have intended to give us empty rights. Inherent in the right of free speech and of free press is the right to know. It is our solemn responsibility as inheritors of the cause to do all in our power to strengthen those rights—to give them meaning. Our actions today in this House will do precisely that.

The present law which S. 1160 amends is the so-called public information section of the 20-year-old Administrative Procedure Act. The law now permits withholding of Federal Government records if secrecy is required "in the public interest" or if the records relate "solely to the internal management of an agency." Government information also may be held confidential "for good cause found." Even if no good cause can be found for secrecy, the records will be made available only to "persons properly and directly concerned." These phrases are the warp and woof of the blanket of secrecy which can cover the day-to-day administrative actions of the Federal agencies.

Neither in the Administrative Procedure Act nor its legislative history are these broad phrases defined, nor is there a recognition of the basic right of any person—not just those special classes "properly and directly concerned"—to gain access to the records of official Government actions. Above all, there is no remedy available to a citizen who has been wrongfully denied access to the Government's public records.

S. 1160 would make three major changes in the law.

First. The bill would eliminate the "properly and directly concerned" test of who shall have access to public records, stating that the great majority of records shall be available to "any person." So that there would be no undue burden on the operations of Government agencies, reasonable access regulations would be stablished.

Second. The bill would set up workable standards for the categories of records which may be exempt from public disclosure, replacing the vague phrases "good cause found," "in the public interest," and "internal management" with specific definitions of information which may be withheld.

Third. The bill would give an aggrieved citizen a remedy by permitting him to appeal to a U.S. district court if official records are improperly withheld. Thus, for the first time in our Government's history there would be proper arbitration of conflicts over access to Government documents.

S. 1160 is a moderate bill and carefully worked out. This measure is not intended to impinge upon the appropriate power of the Executive or to harass the agencies of Government. We are simply attempting to enforce a basic public right—the right to access to Government information. We have expressed an intent in the report on this bill which we hope the courts will read with great care.

While the bill establishes a procedure to secure the right to know the facts of Government, it will not force disclosure of specific categories of information such as documents involving true national security or personnel investigative files.

This legislation has twice been passed by the Senate, once near the end of the 88th Congress too late for House action and again last year after extensive hearings. Similar legislation was introduced in the House, at the beginning of the 89th Congress, by myself and 25 other Members, of both political parties, and comprehensive hearings were held on the legislation by the Foreign Operations and Government Information Subcommittee. After the subcommittee selected the Senate version as the best, most workable bill, it was adopted unanimously by the House Government Operations Committee.

S. 1160 has the support of dozens of organizations deeply interested in the workings of the Federal Government—professional groups such as the American Bar Association, business organizations such as the U.S. Chamber of Commerce, committees of newspapermen, editors and broadcasters, and many others. It has been worked out carefully with cooperation of White House officials and representatives of the major Government agencies, and with the utmost co-

operation of the Republican members of the subcommittee; Congressman OGDEN R. REID, of New York; Congressman DONALD RUMSFELD, of Illinois; and the Honorable ROBERT P. GRIFFIN, of Michigan, now serving in the Senate. It is the fruit of more than 10 years of study and discussion initiated by such men as the late Dr. Harold L. Cross and added to by scholars such as the late Dr. Jacob Scher. Among those who have given unstintingly of their counsel and advice is a great and distinguished colleague in the House who has given the fullest support. Without that support nothing could have been accomplished. So I take this occasion to pay personal tribute to Congressman WILLIAM L. DAWSON, my friend, my confidant and adviser over the years.

Among those Members of the Congress who have given greatly of their time and effort to develop the legislation before us today are two Senators from the great State of Missouri, the late Senator Thomas Henning and his very distinguished successor, Senator EDWARD LONG who authored the bill before us today.

And there has been no greater champion of the people's right to know the facts of Government than Congressman DANTE B. FASCELL. I want to take this opportunity to pay the most sincere and heartfelt tribute to Congressman FASCELL who helped me set up the Special Subcommittee on Government Information and served as a most effective and dedicated member for nearly 10 years.

The list of editors, broadcasters and newsmen and distinguished members of the corps who have helped develop the legislation over these 10 years is endless.

But I would particularly like to thank those who have served as chairmen of Freedom of Information Committees and various organizations that have supported the legislation.

They include James Pope, formerly of the Louisville Courier-Journal, J. Russell Wiggins of the Washington Post, Herbert Brucker of the Hartford Courant, Eugene S. Pulliam of the Indianapolis News, Creed Black of the Chicago Daily News, Eugene Patterson of the Atlanta Constitution, each of whom served as chairman of the American Society of Newspaper Editors Freedom of Information Committee, and John Colburn of the Whichita Eagle & Beacon who served as chairman of both the ASNE committee and the similar committee of the American Society of Newspaper Publishers.

Also Mason Walsh of the Dallas Times Herald, David Schultz of the Redwood City Tribune, Charles S. Rowe of the Fredericksburg Free Lance Star, Richard D. Smyser of the Oak Ridge Oakridger, and Hu Blonk of the Wenatchee Daily World, each of whom served as chairman of the Associated Press Managing Editors Freedom of Information Committee; V. M. Newton, Jr., of the Tampa Tribune, Julius Frandsen of the United Press International, and Clark Mollenhoff of the Cowles Publications, each of whom served as chairman of the Sigma Delta Chi Freedom of Information Committee, and Joseph Costa, for many years the chairman of the National Press Photographers Freedom of Information Committee. The closest cooperation has been provided by Stanford Smith, general manager of the American Newspaper Publishers Association and Theodore A. Serrill, executive vice president of the National Newspaper Association.

Mr. Speaker, I strongly urge the favorable vote of every Member of this body on this bill, S. 1160.

Mr. KING of Utah. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I am happy to yield to the gentleman.

Mr. KING of Utah. Mr. Speaker, I commend the distinguished gentlemen now in the well for the work he has done in bringing this bill to fruition today. The gentleman from California is recognized throughout the Nation as one of the leading authorities on the subject of freedom of information. He has worked for 12 years diligently to bring this event to pass.

Mr. Speaker, I wish to take this opportunity to voice my support of S. 1160, the Federal Public Records Act, now popularly referred to as the freedom of information bill. Let me preface my remarks by expressing to my distinguished colleague from California [Mr. Moss], chairman of the Government Information Subcommittee of the House of Representatives, and to the distinguished gentleman from Missouri, Senator EDWARD LONG, chairman of the Administrative Practices and Procedure Subcommittee of the Senate, for their untiring efforts toward the advancement of the principle that the public has not only the right to know but the need to know the facts that comprise the business of Government. Under the expert guidance of these gentlemen, an exhaustive study has been conducted and a wealth of information gleaned. Equipped with a strong factual background and an understanding of the complex nature of the myriad of issues raised, we may proceed now to consider appropriate legislative action within a meaningful frame of reference.

S. 1160, the Federal Public Records Act, attempts to establish viable safeguards to protect the public access to sources of information relevant to governmental activities. Protection of public access to information sources was the original intent of the Congress when it enacted into law the Administrative Procedure Act of 1946. Regretfully, in the light of the experience of the intervening 20 years, we are confronted with an ever-growing accumulation of evidence that clearly substantiates the following conclusion: the overall intent of the Congress, as embodied in the Administrative Procedure Act of 1946, has not been realized and the specific safeguards erected to guarantee the right of public access to the information stores of Government appear woefully inadequate to perform the assigned tasks. The time is ripe for a careful and thoughtful reappraisal of the issues inherent in the right to know concept; the time is at hand for a renewal of our dedication to a principle that is at the cornerstone of our democratic society.

What are some of the major factors that have contributed to this widespread breakdown in the flow of information from the Government to the people? The free and total flow of information has been stemmed by the very real and very grave cold war crises that threaten our Nation. It is apparent that if we are to survive as a free nation, we must impose some checks on the flow of data—data which could provide invaluable assistance to our enemies.

The demands of a growing urban, industrial society has become greater both in volume and in complexity. The individual looks to his Government more and more for the satisfactory solution of problems that defy his own personal resources. The growth of the structure of Government commensurate with the demands placed upon it has given rise to confusion, misunderstanding, and a widening gap between the principle and the practice of the popular right to know. Chairman Moss has summarized this dilemma when he said "Government secrecy tends to grow as Government itself grows."

There are additional factors that must be considered. Paradoxically, the broad and somewhat obscure phraselogy of section 3 of the Public Information Section of the Administrative Procedure Act has, in effect, narrowed the stream of data and facts that the Federal agencies are and have been willing to release to the American people. Agency personnel charged with the responsibility of interpreting and enforcing the provisions of section 3 have labored under a severe handicap; their working guidelines have made for a host of varying interpretations and fostered numerous misinterpretations. Chaos and confusion have nurtured a needless choking off of information disclosure. Without realistic guidelines within which to operate, officials have exercised extreme caution in an effort to avoid the charges of premature, unwise, or unauthorized disclosure of Government information. Remedial action is called for. The primary purpose underlying S. 1160 is a long overdue and urgently needed clarification of the public information provisions of the Administrative Procedure Act.

Finally, the present condition of nonavailability of public information has perhaps been encouraged by a disregard by the American people of this truism: the freedoms that we daily exercise—the freedoms that are the foundation of our democratic society—were not easily obtained nor are they easily retained. Inroads and encroachments—be they overt or covert, be they internal or external—must be effectively guarded against. For freedoms once diminished are not readily revitalized; freedoms once lost are recovered with difficulty.

Thus far I have discussed some of the major forces that are simultaneously working toward increasing the gap that separates the principle and the practice of the people's right to know the affairs of their Government. The overriding importance of the Federal Public Records Act currently before us can be underscored by a brief examination of the highwater marks that loom large in the historical background of the present dispute concerning the legitimate bounds of the people's right to know the affairs of Government.

If the people are to be informed, they must be first accorded the right to sources of knowledge—and one of the initial queries posed by Americans and their English forebears alike was: what is the nature of the business of the legislative branch of Government? Accounts of legislative activities were not always freely known by those whose destinies they were to shape. At the close of the 17th century, the House of Commons and the House of Lords had adopted regulations prohibiting the publishing of their votes and their debates. Since the bans on the publishing of votes and debates initially provided a haven of refuge from a Sovereign's harsh and often arbitrary reprisals, the elimination of these bans was difficult. Privacy was viewed as offering a means of retaining against all challenges—be they from the Sovereign or an inquiring populace—the prerogatives that the Houses of Parliament had struggled to secure. Not until the late 18th century did the forces favoring public accountability cause significant changes in the milieu that surrounded parliamentary proceedings. Although restrictive disclosure measures heretofore imposed were never formally repealed, their strict enforcement was no longer feasible. The forces championing the popular right to know had gained considerable strength and the odds were clearly against Parliament's retaining many of its jealously guarded prerogatives. To save face, both Houses yielded to the realities of the situation with which they were confronted and allowed representatives of the press—the eyes and ears of the people—to attend and recount their deliberations.

The annals recording the history of freedom of the press tell of dauntless printers who sought means of circumventing the bans on publicizing legislative records. As early as 1703, one Abel Boyer violated the letter and the spirit of the annuonced restrictions when he published monthly the Political State of Great Britain. He did so, however, without incurring the full measure of official wrath. By omitting the full names of participants in debate, and by delaying publication of the accounts of a session's deliberations until after it had adjourned, he was able to achieve his purpose. Others sought to foil the intent and dilute the effectiveness of the restrictions by revealing the activities of a committee of the House of Commons. Lest others follow similar suit, the Commons soon after passed a resolution stating:

> No news writers do presume in their letters or other papers that they disperse as minutes, or under any denomination, to intermeddle with the debates, or any other proceedings of this House, or any committee thereof.

Those who insisted on defying official pleasure were quickly brought to task. Many were imprisoned, many were fined; some were released having sworn to cease and desist from further offensive actions. Spurred by public demand for additional news, printers and editors devised a fictitious political body and proceeded to related fictional debates. Their readers were, nevertheless, aware that the accounts were those of Parliament. Public demand for the right to know the information of Government had gained a momentum that could not be slowed. In 1789, the public point of view—a point of view that demanded the removal of the shackles of secrecy—became the Parliamentary modus operandi. For in that year, one James Perry, of the Morning Chronicle, succeeded in his efforts to have news reporters admitted to Parliament and was able to provide his readers with an account of the previous evening's business. The efforts of Parliament to exclude representatives of the news media were channeled in new directions—with members speaking out against printers and editors, who in their opinion, were unfairly misrepresenting individual points of view; objectivity in reporting Parliament's business became their primary concern.

In the Colonies, too, Americans conducted determined campaigns paralleling those waged in England. Colonial governments demonstrated a formidable hostility toward those who earnestly believed that the rank-and-file citizenry was entitled to a full accounting by its governing bodies. The power that knowledge provides was fully understood; by some it was feared. In 1671, in correspondence to his lords commissioners, Governor Berkeley, of Virginia, wrote:

> I thank God, there are no free schools nor printing; and I hope we shall not have these hundred years; for learning has brought disobedience, and heresy, and sects into the world, and printing has divulged them, and libels against the best Government. God keep us from both.

In 1725, Massachusetts newspaper printers were "ordered upon their peril not to insert in their prints anything of the Public Affairs of this province relating to the war without the order of the Government." Forty-one years were to pass until, in 1776, a motion offered by James Otis was carried and the proceedings of the Massachusetts General Court were opened to the public on the occasion of the debates surrounding the repeal of the onerous Stamp Act.

The clouds of secrecy that hovered over the American Colonies were not quickly dispelled; vestiges of concealment lingered on until well into the 18th century.

The deliberations that produced the Constitution of the United States were closed. Early meetings of the United States Senate were not regularly opened to the public until February of 1794. Some 177 years ago, the House of Representatives heatedly debated and finally tabled a motion that would have excluded members of the press from its sessions. It was the beginning of the 19th century before representatives of the press were formally granted admission to the Chambers of the Senate and the House of Representatives.

While the American people have long fought to expand the scope of their knowledge about Government, their achievements in this direction are being countered by the trend to delegate considerable lawmaking authority to executive departments and agencies. Effective protective measures have not always accompanied the exercise of this newly located rulemaking authority.

Access to the affairs of legislative bodies has become increasingly difficult thanks to another factor: the business of legislatures is being conducted in the committees of the parent body—committees that may choose to call an executive session and subsequently close their doors to the public.

In short, the trend toward more secrecy in government may be seen in the legislative branch. Can this trend be evidenced in the other two branches?

The scope of popular interest in Government operations has run the full gamut. The public has persevered in its assertion that it has an unquestionable right to the knowledge of the proceedings that constitute the legislative as well as the judicial and executive functions of the Government.

One of the greatest weapons in the arsenal of tyranny has been the secret arrest, trial, and punishment of those accused of wrongdoing. Individual liberties, regardless of the lipservice paid them, become empty and meaningless sentiments if they are curtailed or suspended or ignored in the darkness of closed judicial proceedings. The dangers to man's freedoms that lurk in secret judicial deliberations were recognized by the insurgent barons who forced King John to grant as one of many demands that "the King's courts of justice shall be stationary; and shall no longer follow his person; they shall be open to everyone; and justice shall no longer be sold, refused, or delayed by them." This promise was remembered by that generation of Americans that devised our scheme of government. To guarantee the optimum exercise and enjoyment by every man of his fundamental and essential liberties, the authors of the Bill of Rights incorporated these guarantees in the sixth amendment:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.

Contemporary developments lend support to the thesis that the right of the public to be admitted to judicial proceedings is being undermined. More and more courtrooms are being closed to the people on the grounds that the thorough and open discussion of a broad category of offenses would be repugnant to society's concensus of good taste. What is more, court powers that were once exercised within the framework of due process guarantees are being transferred to quasi-judicial agencies, before which many of the due process guarantees have been cast by the wayside.

What is the current status of information availability within the executive departments and agencies? Although the public's right to know has not been openly denied, the march of events has worked a serious diminution in the range and types of information that are being freely dispensed to inquiring citizens, their Representatives in Congress, and to members of the press. Counterbalancing the presumption that in a democracy the public has the right to know the business of its Government is the executive

privilege theory—a theory whose roots run deep in the American political tradition. This concept holds that the President may authorize the withholding of such information as he deems appropriate to the national well-being. Thomas Jefferson stated the principles upon which this privilege rests in these terms:

With respect to papers, there is certainly a public and a private side to our offices. To the former belong grants of land, patents for inventions, certain commissions, proclamations, and other papers patent in their nature.

To the other belong mere executive proceedings. All nations have found it necessary, that for the advantageous conduct of their affairs, some of these proceedings, at least, should remain known to their executive functionary only. He, of course, from the nature of the case, must be the sole judge of which of them the public interests will permit publication. Hence, under our Constitution, in requests of papers, from the legislative to the executive branch, an exception is carefully expressed, as to those which he may deem the public welfare may require not to be disclosed.

While the bounds of the executive privilege claim have, of late, been more carefully spelled out and, in effect, narrowed, widespread withholding of Government records by executive agency officials continues in spite of the enactment of limiting statutes. In 1958, the Congress passed the Moss-Hennings bill, which granted agency heads considerable leeway in the handling of agency records but gave no official legislative sanction to a general withholding of such records from the public. The enactment of the Administrative Procedure Act held out promise for introducing a measure of uniformity in the administrative regulations that were applied to agency disclosures. According to the terms of section 3 or the public information section of this act:

Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency, executive agencies are required to publish or make available to the public, their rules, statements of policy, policy interpretations and modes of operation as well as other data constituting matters of official record.

Quoting subsection (c) of section 3:

Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.

A careful analysis of the precise wording of the widely criticized public information section offers ample evidence for doubt as to the effectiveness of the guarantees which its authors and sponsors sought to effect. Broad withholding powers have grown out of the vague and loosely defined terms with which this act is replete. Federal agencies may curb the distribution of their records should the public interest so require. What specifically is the public interest? The Manual on the Administrative Procedure Act allows each of the agencies to determine those functions which may remain secret in the public interest. Federal agencies may limit the dissemination of a wide range of information that they deem related "solely to the internal management" of the agency. What are the limitations, if any, that are attached to this provision? Federal agencies may withhold information "for good cause found." What constitutes such a "good cause?" Even if information sought does not violate an agency's ad hoc definition of the "public interest"—even if information sought does not relate "solely to the internal management" of the agency or if "no good cause" can be found for its retention, agencies may decline to release records to persons other than those "properly and directly concerned." What are the criteria that an individual must present to establish a "proper and direct concern?" We search in vain if we expect to find meaningful and uniform definitions or reasonable limitations of the qualifying clauses contained in the controversial public information section of the Administrative Procedure Act. We search in vain, for what we seek does not presently exist.

Threats to cherished liberties and fundamental rights are inherent in the relatively unchecked operations of a mushrooming bureaucracy—threats though they be more subtle are no less real and no less dangerous than those which our Founding Fathers labored to prevent.

The changes that are contained in the Federal Public Records Act before us today offer a means of restoring to the American people their free and legitimate access to the affairs of Government. It seeks to accomplish this important objective in a variety of ways. Subsection (a) of S. 1160 clarifies the types of information which Federal agencies will be required to publish in the Federal Register. By making requisite the publication of "descriptions of an agency's central and field organization and the established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals or requests, or obtain decisions," the individual may be more readily apprised by responsible officials of those aspects of administrative procedure that are of vital personal consequence. Material "readily available" to interested parties may be incorporated "by reference" in the Register. "Incorporation by reference" will provide interested parties with meaningful citations to unabridged sources that contain the desired data. The Director of the Federal Register, rather than individual agency heads, must give approval before material may be so incorporated.

Subsection (b) of the Federal Public Records Act will eliminate the vague provisions that have allowed agency personnel to classify as "unavailable to the public" materials "required for good cause to be held confidential." All material will be considered available upon request unless it clearly falls within one of the specifically defined categories exempt from public disclosure. This subsection should be a boon not only to the frustrated citizen whose requests for the right to know have been denied time and time again. The reasons for denial seldom prove satisfactory or enlightening—for all too often they are couched in administrative jargon that is meaningless to the ordinary citizen. Subsection (b) of S. 1160 should be equally valuable to harried Government officials assigned the monumental responsibility of deciding what information may be released and what must be withheld in light of the proper functioning of the Government. The information guarantees of this subsection state:

Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) staff manuals and instructions to staff that affect any member of the public unless such materials are promptly published and copies offered for sale.

We have labored long and hard to establish firmly the premise that the public has not only the right but the need to know. We have also accepted the fact that the individual is entitled to respect for his right of privacy. The question arises as to how far we are able to extend the right to know doctrine before the inevitable collision with the right of the individual to the enjoyment of confidentiality and privacy. Subsection (b) attempts to resolve this conflict by allowing Federal agencies to delete personally identifying details from publicly inspected opinions, policy statements, policy interpretations, staff manuals, or instructions in order "to prevent a clearly unwarranted invasion of personal privacy." Should agencies delete personal identifications that cannot reasonably be shown to have direct relationship to the general public interest, they must justify in writing the reasons for their actions. This "in writing" qualification is incorporated to prevent the "invasion of personal privacy clause" from being distorted and used as a broad shield for unnecessary secrecy.

To insure that no citizen will be denied full access to data that may be of crucial importance to his case, for want of knowledge that the material exists, each agency must "maintain and make available for public inspection and copying a current index providing identifying information to the public as to any matter which is issued, adopted, or promulgated after the effective date of this act and which is required by this subsection to be made available or published."

Perhaps the most serious defect in the present law rests in the qualification contained in subsection (c) of the public information provisions which limits those to whom Federal regulatory and executive agencies may give information to "persons properly and directly concerned." These words have been interpreted over the years in such a fashion as to render this section of the Administrative Procedure Act a vehicle for the

withholding from the public eye of information relevant to the conduct of Government operations. Final determination of whether or not a citizen's interest is sufficiently "direct and proper" is made by the various agencies. The taxpaying citizen who feels that he has been unfairly denied access to information has had no avenue of appeal. Subsection (c) of the proposed Federal Public Records Act legislation would require that:

> Every agency in accordance with published rules stating the time, place, and procedure to be followed, make all its records promptly available to *any person*.

Should any person be denied the right to inspect agency records, he could appeal to and seek review by a U.S. district court. Quoting the "agency records" subsection of S. 1160:

> Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, shall have jurisdiction to enjoin the agency from withholding of agency records and information and to order the production of any agency records or information improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action.

While we recognize the merits of and justifications for arguments advanced in support of limited secrecy in a government that must survive in the climate of a cold war, we must also recognize that the gains—however small—made by secrecy effect an overall reduction in freedom. As the forces of secrecy gain, the forces of freedom lose. It is, therefore, incumbent upon us to exercise prudence in accepting measures which constitute limitations on the freedoms of our people. Restrictions must be kept to a minimum and must be carefully circumscribed lest they grow and, in so doing, cause irreparable damage to liberties that are the American heritage and the American way of life.

S. 1160 seeks to open to all citizens, so far as consistent with other national goals of equal importance, the broadest possible range of information. I feel that the limitations imposed are clearly justifiable in terms of other objectives that are ranked equally important within our value system. The presumption prevails in favor of the people's right to know unless information relates to matters that are, first, specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; second, matters related solely to the internal personnel rules and practices of any agency; third, matters specifically exempted from disclosure by other statutes; fourth, trade secrets and commercial or financial information obtained from the public and privileged or confidential; fifth, interagency or intraagency memorandums or letters which would not be available by law to a private party in litigation with the agency; sixth, personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; seventh, investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; eighth, matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and ninth, geological and geophysical information and data concerning wells.

Ours is perhaps the freest government that man has known. Though it be unique in this respect, it will remain so only if we keep a constant vigilance against threats—large or small—to its principles and institutions. If the Federal Public Records Act is enacted, it will be recorded as a landmark in the continuing quest for the preservation of man's fundamental liberties—for it will go far in halting and reversing the growing trend toward more secrecy in Government and less public participation in the decisions of Government.

James Madison eloquently argued on behalf of the people's right to know when he proclaimed that "Knowledge will forever govern ignorance. And a people who mean to be their own governors must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both."

This is a measure in which every Member of Congress can take great pride. In the long view, it could eventually rank as the greatest single accomplishment of the 89th Congress.

Not only does it assert in newer and stronger terms the public's right to know, but it also demonstrates anew the ultimate power of the Congress to make national policy on its own—with or without Executive concurrence—where the public interest so demands. It thus helps to reaffirm the initiative of the legislature and the balance of powers, at a time when the Congress is the object of much concern and criticism over the apparent decline of its influence in the policymaking process.

Though I took a place on the Subcommittee on Foreign Operations and Government Information only last year, I take deep pride in my service with it and in the shining role it has played in shaping this historic act. I firmly hope and expect that the act will win the unanimous support of the House.

(Mr. KING of Utah asked and was given permission to revise and extend his remarks.)

Mr. OLSEN of Montana. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I am pleased to yield to the gentleman from Montana.

Mr. OLSEN of Montana. Mr. Speaker, I too wish to commend the gentleman in the well for his great work over the years on this subject of freedom of information as to Government records. However, I do want to ask the gentleman a question with reference to the Bureau of the Census. The Bureau of the Census can only gather the information that it does gather because that information will be held confidential or the sources of information will be held to be confidential. I presume that the provisions on page 5 of the bill under "Exemptions," No. (3), in other words providing that the provisions of this bill shall not be applicable to matters that are "(3) specifically exempted from disclosure by statute;"—that would exempt the Bureau of the Census from this new provision.

Mr. MOSS. That is correct.

Mr. OLSEN of Montana. I thank the gentleman.

Mr. EDMONDSON. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I am very pleased to yield to my colleague.

Mr. EDMONDSON. Mr. Speaker, I rise in support of the bill and congratulate the gentleman from California for the outstanding leadership he has given to this body in a field that vitally affects the basic health of our democracy as this subject matter does.

I think the gentleman from California has won not only the respect and admiration of all of his colleagues in the House for the manner in which he has championed this worthwhile cause, but he has also won the respect and admiration of the people of the United States. I was glad to join him by introducing H.R. 5018 on the same subject and urge approval of S. 1160.

Mr. MOSS. I thank the gentleman.

Mr. MAILLIARD. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I am pleased to yield to my colleague.

Mr. MAILLIARD. Mr. Speaker, I also want to compliment the gentleman for bringing to fruition many years of effort in this field.

I would like to ask my colleague a question, and of course I realize the gentleman cannot answer every question in detail. But I am very much interested in the fact that under the Merchant Marine Act where the computation of a construction subsidy is based upon an estimate that is made in the Maritime Administration, to date the Maritime Administration has refused to divulge to the companies their determination of how much the Government pays and how much the individual owner has to pay. That is based on these computations.

The Maritime Administration has never been willing to reveal to the people directly involved how the determination is made. In the gentleman's opinion, under this bill, would this kind of information be available at least to those whose direct interests are involved?

Mr. MOSS. It is my opinion that that information, unless it is exempted by statute, would be available under the terms of the amendment now before the House.

Mr. MAILLIARD. I appreciate the response of the gentleman very much indeed.

The SPEAKER. The gentleman from California [Mr. Moss] has consumed 20 minutes.

The SPEAKER. The Chair recognizes the gentleman from New York [Mr. REID.]

Mr. REID of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1160, a bill to clarify and protect the right of the public to information, and for other purposes.

It is, I believe, very clear in these United States that the public's right of access, their inherent right to know, and strengthened opportunities for a free press in this country are important, are basic and should be shored up and sustained to the maximum extent possible. The right of the public to information is paramount and each generation must uphold anew that which sustains a free press.

I believe this legislation is clearly in the public interest and will measurably improve the access of the public and the press to information and uphold the principle of the right to know.

To put this legislation in clear perspective, the existing Administrative Procedure Act of 1946 does contain a series of limiting clauses which does not enhance the public's right of access. Specifically it contains four principal qualifications:

First, an individual must be "properly and directly concerned" before information can be made available. It can still be withheld for "good cause found." Matters of "internal management" can be withheld and, specifically and most importantly, section 3 of the act states at the outset that "any function of the United States requiring secrecy in the public interest" does not have to be disclosed.

Section 3 reads in its entirety as follows:

Except to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency—

(a) RULES.—Every agency shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and methods whereby, the public may secure information or make submittals or requests; (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and contents of all papers, reports, or examinations; and (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for the guidance of the public, but not rules addressed to and served upon named persons in accordance with law. No person shall in any manner be required to resort to organization or procedure not so published.

(b) OPINIONS AND ORDERS.—Every agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

(c) PUBLIC RECORDS.—Save as otherwise required by statute, matters of official record shall in accordance with published rule be made available to persons properly and directly concerned except information held confidential for good cause found.

This is a broad delegation to the Exective. Further, none of these key phrases is defined in the statute, nor has any of them—to the best of my knowledge—been interpreted by judicial decisions. The Attorney General's Manual on the Administrative Procedure Act merely states that:

Each agency must examine its functions and the substantive statutes under which it operates to determine which of its materials are to be treated as matters of official record for the purposes of the section (section 3).

I believe that the present legislation properly limits that practice in several new and significant particulars:

First, any person will now have the right of access to records of Federal Executive and regulatory agencies. Some of the new provisions include the requirement that any "amendment, revisions, or repeal" of material required to be published in the Federal Register must also be published; and the requirement that every agency make available for "public inspection and copying" all final opinions—including dissents and concurrences—all administrative staff manuals, and a current index of all material it has published. Also, this bill clearly stipulates that this legislation shall not be "authority to withhold information from Congress."

Second, in the bill there is a very clear listing of specific categories of exemptions, and they are more narrowly construed than in the existing Administrative Procedure Act.

Under the present law, information may be withheld—under a broad standard—where there is involved "any function of the United States requiring secrecy in the public interest." The instant bill would create an exemption in this area solely for matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." In my judgment, this more narrow standard will better serve the public interest.

Third, and perhaps most important, an individual has the right of prompt judicial review in the Federal district court in which he resides or has his principal place of business, or in which the agency records are situated. This is not only a new right but it is a right that must be promptly acted on by the courts, as stated on page 4 of the instant bill:

Proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

So the provision for judicial review is, in my judgment, an important one and one that must be expedited.

This legislation also requires an index of all decisions as well as the clear spelling out of the operational mechanics of the agencies and departments, and other certain specifics incident to the public's right to know.

I think it is important also to indicate that this new legislation would cover, for example, the Passport Office of the Department of State, and would require an explanation of procedures which have heretofore never been published.

In addition, the legislation requires that there be the publication of the names and salaries of all those who are Federal employees except, of course, the exemptions that specifically apply. I think this is also a salutory improvement. The exemptions, I think, are narrowly construed and the public's right to access is much more firmly and properly upheld.

Our distinguished chairman of this subcommittee, who has done so much in this House to make this legislation a reality here today, and is deserving of the commendation of this House, has pointed to the fact that a number of groups and newspaper organizations strongly support the legislation. I would merely state that it does enjoy the support of the American Society of Newspaper Editors, the American Newspaper Publishers Association, Sigma Delta Chi, AP Managing Editors, National Newspaper Association, National Press Association, National Editorial Association, the American Bar Association, the American Civil Liberties Union, the National Association of Broadcasters, the New York State Publishers Association, and others.

Specifically, Mr. Eugene Patterson, chairman of the Freedom of Information Committee of the American Society of Newspaper Editors, has said:

We feel this carefully drawn and long-debated bill now provides Congress with a sound vehicle for action this year to change the emphasis of the present Administrative Procedure Act, which has the effect of encouraging agencies to withhold information needlessly. We believe the existing instruction to agencies—that they may withhold any information "for good cause found," while leaving them as sole judges of their own "good cause"—naturally has created among some agency heads a feeling that "anything the American people don't know won't hurt them, whereas anything they do know may hurt me."

Mr. Edward J. Hughes, chairman of the legislative committee of the New York State Publishers Association, has written me that obtaining "proper and workable Freedom of Information legislation at the Federal level has been of direct and great interest and importance to us." Mr. Hughes continues that passage of this legislation will "dispose constructively of a longstanding and vexing problem."

I would also say that were Dr. Harold Cross alive today, I believe he would take particular pride in the action I hope this body will take. I knew Dr. Cross and he was perhaps the most knowledgeable man in the United States in this area. He worked closely with the Herald Tribune and I believe he would be particularly happy with regard to this legislation.

Lastly, Mr. Speaker, I believe it is important to make clear not only that this legislation is needed, not only that it specifies more narrowly the areas where information can be withheld by the Government, not only that it greatly strengthens the right of access. but it also should be stated clearly that it is important—and I have no reason to doubt this—that the President sign this legislation promptly.

I would call attention to the fact that there are in the hearings some reports of agencies who, while agreeing with the objective of the legislation, have reserva-

tions or outright objections to its particular form. I hope the President will take counsel of the importance of the principle here involved, and of the action of this House today, and that he will sign the bill promptly, because this is clearly in the interest of the public's paramount right to know, of a free press and, in my judgment, in the interest of the Nation.

Mr. FULTON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Pennsylvania.

Mr. FULTON of Pennsylvania. Mr. Speaker, I compliment my friend the gentleman from New York [Mr. REID] on his excellent statement, and also his dedication to duty in studying and contributing so much to working out good rules for freedom of information in Government departments and agencies.

Along with those others who have been interested in this serious problem of the right of access to Government facts. The gentleman from New York [Mr. REID] should certainly be given the highest credit.

Mr. REID of New York. I thank the gentleman.

Mr. KUNKEL. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Pennsylvania.

Mr. KUNKEL. Mr. Speaker, I commend the gentleman in the well and the gentleman from California for bringing this legislation to the floor.

I strongly support it.

In fact, I would almost go further than the committee does in this legislation. It is very important to have at least this much enacted promptly. I do hope the President will sign it into law promptly, because right now there are a great many instances occurring from time to time which indicate the necessity of having something like this on the statute books. It is a definite step in the right direction—I am counting on the committee doing a good overseeing job to see that it functions as intended.

Mr. REID of New York. I thank the gentleman for htis thoughtful statement. I add merely that the freedom of the press must be reinsured by each generation. I believe the greater access that this bill will provide sustains that great principle.

Mr. LAIRD. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Wisconsin.

Mr. LAIRD. Mr. Speaker, I thank the gentleman for yielding to me. I rise in support of this legislation, S. 1160.

(Mr. LAIRD asked and was given permission to revise and extend his remarks.)

Mr. LAIRD. Mr. Speaker, this legislation is long overdue, and marks a historic breakthrough for freedom of information in that it puts the burden of proof on officials of the bureaus and agencies of the executive branch who seek to withhold information from the press and public, rather than on the inquiring individual who is trying to get essential information as a citizen and taxpayer.

Mr. Speaker, this is not a partisan bill—at least not here in the Congress. We have heard that the administration is not happy about it and has delayed its enactment for a number of years, but the overwhelming support it has received from distinguished members of the Government Operations Committee—both on the majority and minority side—and the absence of any opposition here in the House is clear evidence of the very real concern responsible Members feel over what our Ambassador to the United Nations, Arthur Goldberg, has aptly termed the credibility problem of the U.S. Government. The same concern over the credibility gap is shared by the American public and the press, and it is a great satisfaction to me that the Congress is taking even this first step toward closing it.

Our distinguished minority leader, the gentleman from Michigan [Mr. GERALD R. FORD] at a House Republican policy committee news conference last May 18, challenged the President to sign this bill. I hope the President will sign it, and beyond that, will faithfully execute it so that the people's right to know will be more surely founded in law in the future.

But Mr. Speaker, we cannot legislate candor nor can we compel those who are charged with the life-and-death decisions of this Nation to take the American people into their confidence. We can only plead, as the loyal opposition, that our people are strong, self-reliant and courageous, and are worthy of such confidence. Americans have faced grave crises in the past and have always responded nobly. It was a great Republican who towered above partisianship who warned that you cannot fool all of the people all of the time, and it was a great Democrat, Woodrow Wilson, who said:

> I am seeking only to face realities and to face them without soft concealments.

Mr. Speaker, I would like to point out that the provisions of this bill do not take effect until 1 year after it becomes law. Thus it will not serve to guarantee any greater freedom of information in the forthcoming political campaign than we have grown accustomed to getting from the executive branch of the Government in recent years. We of the minority would be happy to have it become operative Federal law immediately, but it is perhaps superfluous to say that we are not in control of this Congress.

In any event, if implemented by the continuing vigilance of the press, the public, and the Congress, this bill will make it easier for the citizen and taxpayer to obtain the essential information about his Government which he needs and to which he is entitled. It helps to shred the paper curtain of bureaucracy that covers up public mismanagement with public misinformation, and secret sins with secret silence. I am confident that I speak for most of my Republican colleagues in urging passage of this legislation.

Mr. Speaker, I append the full text of the House Republican Policy Committee statement on the freedom of information bill, S. 1160, adopted and announced on May 18 by my friend, the distinguished chairman of our policy committee, the gentleman from Arizona [Mr. RHODES]:

REPUBLICAN POLICY COMMITTEE STATEMENT ON FREEDOM OF INFORMATION LEGISLATION, S. 1160

The Republican Policy Committee commends the Committee on Government Operations for reporting S. 1160. This bill clarifies and protects the right of the public to essential information. Subject to certain exceptions and the right to court review, it would require every executive agency to give public notice or to make available to the public its methods of operation, public procedures, rules, policies, and precedents.

The Republican Policy Committee, the Republican Members of the Committee on Government Operations, and such groups as the American Newspaper Publishers Association, the professional journalism society Sigma Delta Chi, the National Editorial Association and the American Bar Association have long urged the enactment of this legislation. Due to the opposition of the Johnson-Humphrey Administration, however, this proposal has been bottled up in Committee for over a year. Certainly, information regarding the business of the government should be shared with the people. The screen of secrecy which now exisits is a barrier to reporters as representatives of the public, to citizens in pursuit of information vital to their welfare, and to Members of Congress as they seek to carry out their constitutional functions.

Under this legislation, if a request for information is denied, the aggrieved person has the right to file an action in a U.S. District Court, and such court may order the production of any agency records that are improperly withheld. So that the court may consider the propriety of withholding, rather than being restricted to judicial sanctioning of agency discretion, the proceedings are de novo. In the trial, the burden of proof is correctly placed upon the agency. A private citizen cannot be asked to prove that an agency has withheld information improperly for he does not know the basis for the agency action.

Certainly, as the Committee report has stated: "No Government employee at any level believes that the 'public interest' would be served by disclosure of his failures or wrongdoings . . ." For example, the cost estimates submitted by contractors in connection with the multimillion-dollar deep sea "Mohole" project were withheld from the public even though it appeared that the firm which had won the lucrative contract had not submitted the lowest bid. Moreover, it was only as a result of searching inquiries by the press and Senator KUCHEL (R., Cal.) that President Kennedy intervened to reverse the National Science Foundation's decision that it would not be "in the public interest" to disclose these estimates.

The requirements for disclosure in the present law are so hedged with restrictions that it has been cited as the statutory authority for 24 separate classifications devised by Federal agencies to keep administrative information from public view. Bureaucratic goobledygook used to deny access to information has included such gems as: "Eyes Only," "Limited Official Use," "Confidential Treatment," and "Limitation on Availability of Equipment for Public Reference." This paper curtain must be pierced. This bill is an important first step.

In this period of selective disclosures, managed news, half-truths, and admitted distortions, the need for this legislation is abundantly clear. High officials have warned that our Government is in grave danger of losing the public's confidence both at home and abroad. The credibility gap that has affected the Administration pronouncements on domestic affairs and Vietnam has spread to

other parts of the world. The on-again, off-again, obviously less-than-truthful manner in which the reduction of American forces in Europe has been handled has made this country the subject of ridicule and jokes. "Would you believe?" has now become more than a clever saying. It is a legitimate inquiry.

Americans have always taken great pride in their individual and national credibility. We have recognized that men and nations can be no better than their word. This legislation will help to blaze a trail of truthfulness and accurate disclosure in what has become a jungle of falsification, unjustified secrecy, and misstatement by statistic. The Republican Policy Committee urges the prompt enactment of S. 1160.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Speaker, I rise in support of this legislation. I congratulate the gentleman in the well, the gentleman from New York [Mr. REID] and the gentleman from California [Mr. Moss], for bringing this legislation to us. Certainly this legislation reaffirms our complete faith in the integrity of our Nation's free press.

It has been wisely stated that a fully informed public and a fully informed press need never engage in reckless or irresponsible speculation. This legislation goes a long way in giving our free press the tools and the information it needs to present a true picture of government properly and correctly to the American people.

As long as we have a fully informed free press in this country, we need never worry about the endurance of freedom in America. I congratulate the gentlemen for this very thoughtful legislation.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

I commend the distinguished gentleman from New York for his long interest in this struggle. I compliment him also for giving strong bipartisan support, which is necessary for the achievement of this longstanding and vital goal.

(Mr. FASCELL asked and was given permission to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, this is indeed an historic day for the people of America, for the communications media of America and the entire democratic process. It is, I am sure a particularly gratifying day for our colleague, the distinguished gentleman from California, JOHN MOSS.

As chairman of the subcommittee he has worked tirelessly for 11 years to enact this public records disclosure law. His determination, perseverance, and dedication to principle makes possible this action today. I am proud to have been a member of the subcommittee and to have cosponsored this bill

Mr. Speaker, this House now has under consideration a bill concerned with one of the most fundamental issues of our democracy. This is the right of the people to be fully informed about the policies and activities of the Federal Government.

No one would dispute the theoretical validity of this right. But as a matter of practical experience, the people have found the acquisition of full and complete information about the Government to be an increasingly serious problem.

A major cause of this problem can probably be attributed to the sheer size of the Government. The Federal Establishment is now so huge and so complex, with so many departments and agencies responsible for so many functions, that some confusion, misunderstanding, and contradictions are almost inevitable.

We cannot, however, placidly accept this situation or throw up our hands in a gesture of futility. On the contrary, the immensity of the Federal Government, its vast powers, and its intricate and complicated operations make it all the more important that every citizen should know as much as possible about what is taking place.

We need not endorse the devil theory or conspiratorial theory of government to realize that part of the cause of the information freeze can be blamed on some Government officials who under certain circumstances may completely withhold or selectively release material that ought to be readily and completely available.

The present bill amends section 3 of the Administrative Procedure Act of 1946. I have been in favor of such an amendment for a long time. In fact, on February 17, 1965, I introduced a companion bill, H.R. 5013, in this House. Since I first became a member of the Government Information Subcommittee 11 years ago, I have felt that legislation along these lines was essential to promote the free flow of Government information, and the case for its passage now is, if anything, ever stronger.

At first glance section 3 as now written seems innocent enough. It sets forth rules requiring agencies to publish in the Federal Register methods whereby the public may obtain data, general information about agency procedures, and policies and interpretations formulated and adopted by the agency. As a general practice this law appears to make available to the people agency opinions, orders, and public records.

However, 11 years of study, hearings, investigations, and reports have proven that this language has been interpreted so as to defeat the ostensible purpose of the law. Also under present law any citizen who feels that he has been denied information by an agency is left powerless to do anything about it.

The whole of section 3 may be rendered meaningless because the agency can withhold from the public such information as in its judgment involves "any function of the United States requiring secrecy in the public interest." This phrase is not defined in the law, nor is there any authority for any review of the way it may be used. Again, the law requires an agency to make available for public perusal "all final opinions or orders in the adjudication of cases," but then adds, "except those required for good cause to be held confidential."

Subsection (c) orders agencies to make available its record in general "to persons properly and directly concerned except information held confidential for good cause found." Here indeed is what has been accurately described as a double-barreled loophole. It is left to the agency to decide what persons are "properly and directly concerned," and it is left to agency to interpret the phrase, "for good cause found."

Finally, as I have already indicated, there is under this section no judicial remedy open to anyone to whom agency records and other information have been denied.

Under the protection of these vague phrases, which they alone must interpret, agency officials are given a wide area of discretion within which they can make capricious and arbitrary decisions about who gets information and who does not.

On the other hand, it should in all fairness be pointed out that these officials should be given more specific directions and guidance than are found in the present law.

For this reason I believe the passage of S. 1160 would be welcomed not only by the public, who would find much more information available to them, but by agency officials as well because they would have a much clearer idea of what they could and could not do.

The enactment of S. 1160 would accomplish what the existing section 3 was supposed to do. It would make it an information disclosure statute.

In the words of Senate Report No. 813 accompanying this bill, S. 1160 would bring about the following major changes:

1. It sets up workable standards for what records should and should not be open to public inspection. In particular, it avoids the use of such vague phrases as "good cause found" and replaces them with specific and limited types of information that may be withheld.

2. It eliminates the test of who shall have the right to different information. For the great majority of different records, the public as a whole has a right to know what its Government is doing. There is, of course, a certain need for confidentiality in some aspects of Government operations and these are protected specifically; but outside these limited areas, all citizens have a right to know.

As indicated under point 2 above, we all recognize the fact that some information must be withheld from public scrutiny. National security matters come first to mind, but there are other classes of data as well. These include personnel files, disclosure of which would constitute an invasion of privacy, information specifically protected by Executive order or statute, certain inter- and intra-agency memorandums and letters, trade secrets, commercial and financial data, investigatory files, and a few other categories.

Let me make another very important point. S. 1160 opens the way to the Federal court system to any citizen who believes that an agency has unjustly held back information. If an aggrieved person seeks redress in a Federal district court, the burden would fall on the agency to sustain its action. If the court enjoins the agency from continuing to

withhold the information, agency officials must comply with the ruling or face punishment for contempt.

I strongly urge my colleagues to join me in giving prompt and overwhelming approval to this measure. In so doing we shall make available to the American people the information to which they are entitled and the information they must have to make their full contribution to a strong and free national government. Furthermore, we shall be reaffirming in the strongest possible manner that democratic principle that all power to govern, including the right to know is vested in the people; the people in turn gave by the adoption of the Constitution a limited grant of that unlimited power to a Federal Government and State governments.

In the constitutional grant the people expressly revalidated the guarantee of freedom of speech and freedom of the press among other guarantees, recognizing in so doing how basic are these guarantees to a constitutional, representative, and democratic government. There is no doubt about the power of the Congress to act and no serious question that it should and must.

Mr. REID of New York. I thank the gentleman from Florida. I note his long and clear dedication to freedom of the press, and his action on behalf of this bill.

Mr. HECHLER. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I am happy to yield to the gentleman from West Virginia.

Mr. HECHLER. Mr. Speaker, I add my words of commendation to the gentleman from California, the gentleman from New York, and others who have worked so hard to bring this bill to the House.

Today—June 20—is West Virginia Day. On June 20, 1863, West Virginia was admitted to the Union as the 35th State. The State motto, "Montani Semper Liberi," is particularly appropriate as we consider this freedom of information bill.

I am very proud to support this legislation, because there is much information which is now withheld from the public which really should be made available to the public. We are all familiar with the examples of Government agencies which try to tell only the good things and suppress anything which they think might hurt the image of the agency or top officials thereof. There are numerous categories of information which would be sprung loose by this legislation.

It seems to me that it would be in the public interest to make public the votes of members of boards and commissions, and also to publicize the views of dissenting members. I understand that six agencies do not presently publicize dissenting views. Also, the Board of Rivers and Harbors, which rules on billions of dollars of Federal construction projects, closes its meetings to the press and declines to divulge the votes of its members on controversial issues.

Therefore, I very much hope that this bill will pass by an overwhelming vote. Under unanimous consent, I include an editorial published in the Huntington, W. Va., Herald-Dispatch, and also an editorial from the Charleston, W. Va., Gazette:

[From the Huntington (W. Va.) Herald-Dispatch, June 16, 1966]

FOR FREEDOM OF INFORMATION, SENATE BILL 1160 IS NEEDED

If ours is truly a government of, by and for the people, then the people should have free access to information on what the government is doing and how it is doing it. Exception should only be made in matters involving the national security.

Yet today there are agencies of government which seek to keep a curtain of secrecy over some of their activities. Records which ought to be available to the public are either resolutely withheld or concealed in such a manner that investigation and disclosure require elaborate and expensive techniques.

A good example occurred last summer, when the Post Office Department, in response to a Presidential directive, hired thousands of young people who were supposed to be "economically and educationally disadvantaged."

Suspicions were aroused that the jobs were being distributed as Congressional patronage to people who did not need them. But when reporters tried to get the names of the jobholders in order to check their qualifications, the Department cited a regulation forbidding release of such information.

The then Postmaster General John Gronouski finally gave out the names (which confirmed the suspicions of the press), but only after Congressional committees of Congress with jurisdiction over the Post Office Department challenged the secrecy regulations.

This incident, more than any other that has occurred recently, persuaded the U.S. Senate to pass a bill known as S. 1160 under which every agency of the federal government would be required to make all its records available to any person upon request. The bill provides for court action in cases of unjustified secrecy. And of course it makes the essential exemptions for "sensitive" government information involving national security.

Congressman DONALD RUMSFELD (R-Ill.), one of the supporters of S. 1160 in the House, calls the bill "one of the most important measures to be considered by Congress in 20 years."

"This bill really goes to the heart of news management," he declared. "If information is being denied, the press can go into Federal Court in the district where it is being denied and demand the agency produce the records."

The Congressman was critical of the press and other information media for failing to make a better campaign on the bill's behalf. He stressed that it was designed for the protection of the public and the public has not been properly warned of the need for the legislation.

If this is true, it is probably because some newspapers fail to emphasize that press freedom is a public right, not a private privilege.

S. 1160 would be a substantial aid in protecting the rights of the people to full information about their government. In the exercise of that right, the bill would give the press additional responsibilities, but also additional methods of discharging them.

If S. 1160 comes to the House floor, it will be hard to stop. The problem is to get it to the voting stage.

We urge readers to send a letter or a card to their Congressman, telling him that the whole system of representative government is based on involvement by the people. But through lack of information, the people lose interest and subsequently they lose their rights. S. 1160 will help to prevent both losses.

[From the Charleston (W. Va.) Gazette, June 18, 1966]

BILL REVEALING U.S. ACTIONS TO PUBLIC VIEW NECESSITY

Now pending in the House of Representatives is a Senate-approved bill (S1160) to require all federal agencies to make public their records and other information, and to authorize suits in federal district courts to obtain information improperly withheld.

This is legislation of vital importance to the American public, for it would prevent the withholding of information for the purpose of covering up wrongdoing or mistakes, and would guard against the practice of giving out only that which is favorable and suppressing that which is unfavorable.

The measure would protect certain categories of sensitive government information, such as matters involving national security, but it would put the burden on federal agencies to prove they don't have to supply certain information rather than require interested citizens to show cause why they are entitled to it.

Rep. DONALD RUMSFELD, R-Ill., who with Rep. JOHN E. MOSS, D-Calif., is leading the fight for the bill in the House, gave perhaps the best reason for enactment of the legislation in these words:

"Our government is so large and so complicated that few understand it well and others barely understand it at all. Yet we must understand it to make it function better."

The Senate passed the bill by a voice vote last October. The House subcommittee on foreign operations and government information, better known as the Moss subcommittee, approved it on March 30, and the House Committee on Government Operations passed on it April 27. It's expected to go before the House next week.

Rep. RUMSFELD, who termed the bill "one of the most important measures to be considered by Congress in 20 years," cited the case of the Post Office Department and summer employes last year as an example of how a government agency can distort or violate provisions of law under cover of secrecy.

Newspapers disclosed that the Post Office Department was distributing as congressional patronage thousands of jobs that were supposed to go to economically and educationally disadvantaged youths.

But the department used regulation 744.44, which states that the names, salaries and other information about postal employes should not be given to any individual, commercial firm, or other non-federal agency—as the basis for refusing to divulge the names of appointees to the press, four congressmen, or the Moss committee, all of whom challenged the secrecy regulations.

In other words, the department could put political hacks into jobs designed to help disadvantaged youths, and get away with it by hiding under the cloak of a bureaucratic regulation. There finally was a reluctant authorization to release the names, but the department still refused to change the basic regulation. This sort of manipulation would be put on the run by passage of S. 1160.

The federal government is a vast and complex operation that reaches into every state and every community, with literally millions of employes. Wherever it operates it is using public money and conducting public business, and there is no reason why it should not be held accountable for what it is doing.

Under present laws, as Rep. RUMSFELD pointed out, "Any bureaucrat can deny requests for information by calling up Section 3 of the Administrative Procedure Act, passed in 1946. To get information under this act a person has to show good cause and there are numerous different reasons under the act which a federal agency can use to claim the

person is not properly or directly concerned. Most of the reasons are loose catch phrases."

Any law or regulation that protects government officials and employes from the public view, will in the very least, incline them to be careless in the way they conduct the public business. A law that exposes them to that view is bound to encourage competency and honesty. Certainly the pending bill is in the public interest. It should be enacted into law, and we respectfully urge the West Virginia Congressmen to give it their full support.

(Mr. HECHLER asked and was given permission to revise and extend his remarks.)

Mr. REID of New York. I thank the gentleman.

Mr. KUPFERMAN. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from New York.

Mr. KUPFERMAN. Mr. Speaker, the gentleman from New York [Mr. REID] has stated the matter so well that it does not require more discussion from me on behalf of this bill. I commend the gentleman from New York and others associated with him for having brought the bill to the floor and helping us pass it today.

Mr. REID of New York. I thank the gentleman.

Mr. GRIDER. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Tennessee.

Mr. GRIDER. Mr. Speaker, I rise in support of S. 1160, legislation for clarifying and protecting the right of the public to information.

This legislation has been pending for more than a decade. Although few people question the people's right to know what is going on in their Government, we have quibbled for far too long over the means of making this information available. In the process we may have lost sight of the desired end result—freedom of information.

The need for maintaining security in some of our cold war dealings is not questioned here. As the Commercial Appeal says in an excellent editorial about this legislation:

The new law would protect necessary secrecy, but the ways of the transgressor against the public interest would be much harder.

Our colleague from California [Mr. Moss] and members of his committee have done a splendid job with this legislation. This bill is clearly in the public interest.

Mr. Speaker, I include at this point in my remarks the editorial "Freedom of Information," which appeared June 16, 1966, in the Memphis Commercial Appeal:

FREEDOM OF INFORMATION

The House of Representatives is scheduled to act Monday on the Freedom of Information Bill, an event of the first class in the unending struggle to let people know how governments operate. Such knowledge is an essential if there is to be sound government by the people.

This bill has been in preparation 13 years. It is coming up for a vote now because pulse feeling in Congress indicated that it will win approval this year in contrast to some other years of foot dragging by members of the House who announce for the principle but doubt the specific procedure.

The Senate has passed an identical bill.

At the heart of the proposed law is an ending of the necessity for a citizen to have to go into court to establish that he is entitled to get documents, for instance showing the rules under which a governmental agency operates, or which officials made what decisions.

This would be reversed. The official will have to prove in court that the requested document can be withheld legally.

A trend toward secrecy seems to be a part of the human nature of officials with responsibility. There are a few things that need to be done behind a temporary veil, especially in preparing the nation's defenses, often in the buying of property, and sometimes in the management of personnel.

But the urge is to use the "classified" stamp to cover blunders, errors and mistakes which the public must know to obtain corrections.

The new law would protect necessary secrecy but the ways of the transgressor against the public interest would be much harder. The real situation is that a 1946 law intended to open more records to the public has been converted gradually into a shield against questioners. Technically the 1966 proposal is a series of amendments which will clear away the wording behind which reluctant officials have been hiding.

It results from careful preparation by JOHN MOSS (D., Calif.) with the help of many others.

It is most reassuring to have Representative Moss say of a bill which seems to be cleared for adoption that we are about to have for the first time a real guarantee of the right of the people to know the facts of government.

(Mr. GRIDER asked and was given permission to revise and extend his remarks, and to include an editorial.)

Mr. VAN DEERLIN. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I am happy to yield to the gentleman from California.

Mr. VAN DEERLIN. Mr. Speaker, those of us who have served with JOHN MOSS on the California delegation are well aware of the long and considerable effort which he has applied to this subject.

The Associated Press, in a story published less than a week ago, related that 13 of the 14 years this gentleman has served in the House have been devoted to developing the bill before us today. I join my colleagues in recognizing this effort, and I ask unanimous consent to include that Associated Press article in the RECORD.

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

There was no objection.

The article is as follows:

[From the Los Angeles (Calif.) Times, June 12, 1966]

HOUSE APPROVAL SEEN ON RIGHT-TO-KNOW BILL—BATTLE AGAINST GOVERNMENT SECRECY, LED BY REPRESENTATIVE MOSS, OF CALIFORNIA, NEARS END

WASHINGTON.—A battle most Americans thought was won when the United States was founded is just now moving into its final stage in Congress.

It involves the right of Americans to know what their government is up to. It's a battle against secrecy, locked files and papers stamped "not for public inspection."

It's been a quiet fight mainly because it has been led by a quiet, careful congressman, Representative JOHN E. MOSS, Democrat, of California, who has been waging it for 13 of the 14 years he has been in the House.

Now, the House is about to act on the product of the years of study, hearings, investigations and reports—a bill that in some quarters is regarded as a sort of new Magna Charta. It's called the freedom of information bill, or the right to know.

It would require federal agencies to make available information about the rules they operate under, the people who run them and their acts, decisions and policies that affect the public. Large areas of government activity that must of necessity be kept secret would remain secret.

SENATE BILL IDENTICAL

House approval is believed certain, and since the Senate has already passed an identical bill, it should wind up on President Johnson's desk this month.

How it will be received at the White House is not clear. In 1960, as vice president-elect, Mr. Johnson told a convention of newspaper editors "the executive branch must see that there is no smoke screen of secrecy." But the 27 federal departments and agencies that presented their views on the bill to Moss' government information subcommittee opposed its passage.

Norbert A. Schlei, assistant attorney general, who presented the main government case against the bill, said the problem of releasing information to the public was "just too complicated, too ever-changing" to be dealt with in a single piece of legislation.

"If you have enough rules," he said, "you end up with less information getting out because of the complexity of the rule system you establish . . ."

BASIC DIFFICULTY

"I do not think you can take the whole problem, federal governmentwide, and wrap it up in one package. That is the basic difficulty; that is why the federal agencies are ranged against this proposal."

Another government witness, Fred Burton Smith, acting general counsel of the Treasury Department, said if the bill was enacted "the executive branch will be unable to execute effectively many of the laws designed to protect the public and will be unable to prevent invasions of privacy among individuals whose records have become government records."

Smith said the exemptions contained in the bill were inadequate and its court provisions inappropriate. In addition, he said, persons without a legitimate interest in a matter would have access to records and added that the whole package was of doubtful constitutionality.

STRENGTHENED FEELING

Far from deterring him, such testimony has only strengthened Moss's feeling that Congress had to do the job of making more information available to the public because the executive branch obviously wouldn't.

The bill he is bringing to the House floor, June 20, is actually a series of amendments to a law Congress passed in 1946 in the belief it was requiring greater disclosure of government information to the public. And that, for Moss, takes care of the constitutional question.

"If we could pass a weak public information law," he asks, "why can't we strengthen it."

The 1946 law has many interpretations. And the interpretations made by the executive agencies were such that the law, which was intended to open records to the public, is now the chief statutory authority cited by the agencies for keeping them closed.

SECRECY PERMITTED

The law permits withholding of records if secrecy "is required in the public interest," or if the records relate "solely to the internal management of an agency."

If a record doesn't fit those categories it can be kept secret "for good cause found." And even if no good cause is found, the information can only be given to "persons properly and directly concerned."

Between 1946, when that law was enacted, and 1958 the amount of file space occupied by classified documents increased by 1 million cubic feet, and 24 new terms were added to "top secret," "secret," and "confidential," to hide documents from public view.

They ranged from simple "nonpublic," to "while this document is unclassified, it is for use only in industry and not for public release."

USED VARIOUS WAYS

The law has been used as authority for refusing to disclose cost estimates submitted by unsuccessful bidders on nonsecret contracts, for withholding names and salaries of federal employes, and keeping secret dissenting views of regulatory board members.

It was used by the Navy to stamp its Pentagon telephone directories as not for public use on the ground they related to the internal management of the Navy.

S1160, as the bill before the House is designated, lists specifically the kind of information that can be withheld and says the rest must be made available promptly to "any" person.

The areas protected against public disclosure include national defense and foreign policy secrets, investigatory files of law enforcement agencies, trade secrets and information gathered in labor-management mediation efforts, reports of financial institutions, personnel and medical files and papers that are solely for the internal use of an agency.

IMPORTANT PROVISION

In the view of many veterans of the fight for the right to know, it's most important provision would require an agency to prove in court that it has authority to withhold a document that has been requested. Under the present law the situation is reversed and the person who wants the document has to prove that it is being improperly withheld.

The bill would require—and here is where an added burden would be placed on the departments—that each agency maintain an index of all documents that become available for public inspection after the law is enacted. To discourage frivolous requests, fees could be charged for record searches.

Moss bumped his head on the government secrecy shield during his first term in Congress when the Civil Service Commission refused to open some records to him.

"I decided right then I had better find out about the ground rules," he said in a recent interview. "While I had no background of law, I had served in the California legislature and such a thing was unheard of."

(California is one of 37 states that have open records laws.)

Moss was given a unique opportunity to learn the ground rules in his second term in Congress when a special subcommittee of Government Operations Committee was created to investigate complaints that government agencies were blocking the flow of information to the press and public.

Although only a junior member of the committee, Moss had already impressed House leaders with his diligence and seriousness of purpose and he was made chairman of the new subcommittee. His characteristics proved valuable in the venture he undertook.

The right of a free people to know how their elected representatives are conducting the public business has been taken for granted by most Americans. But the Constitution contains no requirement that the government keep the people informed.

The seeds of the secrecy controversy were sown during the first session of Congress when it gave the executive branch, in a "housekeeping" act, authority to prescribe rules for the custody, use and preservation of its record. They flourished in the climate created by the separation of the executive and legislative functions of government.

EXECUTIVE PRIVILEGE

Since George Washington, Presidents have relied on a vague concept called "executive privilege" to withhold from Congress information they feel should be kept secret in the national interest.

There are constitutional problems involved in any move by Congress to deal with that issue, and S. 1160 seeks to avoid it entirely.

Moss, acting on the many complaints he receives, has clashed repeatedly with government officials far down the bureaucratic lines who have claimed "executive privilege" in refusing to divulge information, and in 1962 he succeeded in getting a letter from President John F. Kennedy stating that only the President would invoke it in the future.

President Johnson gave Moss a similar pledge last year.

BORNE BY NEWSPAPERMEN

Until the Moss subcommittee entered the field, the battle against government secrecy had been borne mainly by newspapermen.

In 1953, the American Society of Newspaper Editors published the first comprehensive study of the growing restrictions on public access to government records—a book by Harold L. Cross entitled "The People's Right to Know."

The book provided the basis for the legislative remedy the subcommittee proceeded to seek, and Cross summed up the idea that has driven Moss ever since when he said, 'the right to speak and the right to print, without the right to know, are pretty empty."

World War II, with its emphasis on security, gave a tremendous boost to the trend toward secrecy and so did the activities of the late Sen. Joseph McCarthy, Republican, of Wisconsin, as intimidated officials pursued anonymity by keeping everything they could from public view. Expansion of federal activities in recent years made the problem ever more acute.

In 1958, Moss and the late Sen. Tom Hennings, Democrat, of Missouri, succeeded in amending the old "housekeeping" law to make clear it did not grant any right for agencies to withhold their records.

Opposition of the executive branch blocked any further congressional action. Moss, hoping to win administration support, did not push his bill until he was convinced this year it could not be obtained.

Moss feels S1160 marks a legislative milestone in the United States.

"For the first time in the nation's history," he said recently, "the people's right to know the facts of government will be guaranteed."

There is wide agreement with this view, but warnings against too much optimism are also being expressed.

Noting the exemptions written into the bill, a Capitol Hill veteran observed, "Any bureaucrat worthy of the name should be able to find some place in those exemptions to tuck a document he doesn't want seen."

Mr. SHRIVER. Mr. Speaker, will the gentleman yield?

Mr. REID of New York. I am happy to yield to the gentleman from Kansas.

Mr. SHRIVER. Mr. Speaker, I rise in support of S. 1160 which clarifies and strengthens section 3 of the Administrative Procedure Act relating to the right of the public to information.

Six years ago when President Johnson was Vice President-elect he made a statement before the convention of the Associated Press Managing Editors Association which was often repeated during hearings on this bill. He declared:

In the years ahead, those of us in the executive branch must see that there is no smokescreen of secrecy. The people of a free country have a right to know about the conduct of their public affairs.

Mr. Speaker, over the past 30 years more and more power has been concentrated in the Federal Government in Washington. Important decisions are made each day affecting the lives of every individual.

Today we are not debating the merits of the growth of Federal Government. But as the Government grows, it is essential that the public be kept aware of what it is doing. Ours is still a system of checks and balances. Therefore as the balance of government is placed more and more at the Federal level, the check of public awareness must be sharpened.

For more than a decade such groups as the American Newspaper Publishers Association, Sigma Delta Chi, the National Editorial Association, and the American Bar Association have urged enactment of this legislation. More than a year ago the Foreign Operations and Government Information Subcommittee of the Committee on Government Operations held extensive hearings on this legislation.

At that time Mr. John H. Colburn, editor and publisher of the Wichita, Kans., Eagle and Beacon, which is one of the outstanding daily newspapers in mid-America, testified in behalf of the American Newspaper Publishers Association.

Mr. Colburn pointed to a screen of secrecy which is a barrier to reporters, as representatives of the public—to citizens in pursuit of information vital to their business enterprises—and is a formidable barrier to many Congressmen seeking to carry out their constitutional functions.

Mr. Colburn, in testifying before the subcommittee, stated:

Let me emphasize and reiterate the point made by others in the past: Reporters and editors seek no special privileges. Our concern is the concern of any responsible citizen. We recognize that certain areas of information must be protected and withheld in order not to jeopardize the security of this Nation. We recognize legitimate reasons for restricting access to certain other categories of information, which have been spelled out clearly in the proposed legislation.

What disappoints us keenly—what we fail to comprehend is the continued opposition of Government agencies to a simple concept. That is the concept to share the legitimate business of the public with the people.

In calling for congressional action to protect the right to know of the people, Mr. Colburn declared:

Good government in these complex periods needs the participation, support and encouragement of more responsible citizens. Knowing that they can depend on an unrestricted flow of legitimate information would give these citizens more confidence in our agencies and policymakers. Too many now feel frustrated and perplexed.

Therefore, it is absolutely essential that Congress take this step to further protect

the rights of the people, also to assure more ready access by Congress, by adopting this disclosure law.

Mr. Speaker, John Colburn and many other interested citizens have made a strong case for this legislation. It is regrettable that it has been bottled up in committee for so long a time.

This bill clarifies and protects the right of the public to essential information. This bill revises section 3 of the Administrative Procedure Act to provide a true Federal public records statute by requiring the availability, to any member of the public, of all of the executive branch records described in its requirements, except those involving matters which are within nine stated exemptions.

Under this legislation, if a request for information is denied, the aggrieved person has the right to file an action in a district court, and such court may order the production of any agency records that are improperly withheld. In such a trial, the burden of proof is correctly upon the agency.

It should not be up to the American public—or the press—to fight daily battles just to find out how the ordinary business of their government is being conducted. It should be the responsibility of the agencies and bureaus, who conduct this business, to tell them.

We have heard a great deal in recent times about a credibility gap in the pronouncements emanating from official Government sources. In recent years we heard an assistant secretary of defense defend the Government's right to lie. We have seen increasing deletion of testimony by administration spokesmen before congressional committees and there has been question raised whether this was done for security reasons or political reasons.

This legislation should help strengthen the public's confidence in the Government. Our efforts to strengthen the public's confidence in the Government. Our efforts to strengthen the public's right to know should not stop here. As representatives of the people we also should make sure our own house is in order. While progress has been made in reducing the number of closed-door committee sessions, the Congress must work to further reduce so-called executive sessions of House and Senate committees. Serious consideration should be given to televising and permitting radio coverage of important House committee hearings.

I hope that the Joint Committee on the Organization of the Congress will give serious considerations to these matters in its recommendations and report.

(Mr. SHRIVER asked and was given permission to revise and extend his remarks.)

Mr. REID of New York. Mr. Speaker, I yield the remainder of my time to the gentleman from Illinois [Mr. RUMSFELD].

Mr. MONAGAN. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I am happy to yield to the distinguished gentleman from Connecticut, who serves on this subcommittee.

Mr. MONAGAN. Mr. Speaker, I wish to express my support for this legislation and also to commend the chairman of our subcommittee, who has literally come from his doctor's care to be here today to lead the House in the acceptance of this monumental piece of legislation. His work has been the sine qua non in bringing this important legislation to fruition.

Mr. Speaker, I am happy to support S. 1160, an act to clarify and protect the right of the public to information.

This legislation is a landmark in the constant struggle in these days of big government to preserve for the people access to the information possessed by their own servants. Certainly it is impossible to vote intelligently on issues unless one knows all the facts surrounding them and it is to keep the public properly informed that this legislation is offered today.

I should like to take this opportunity to congratulate our chairman, the gentleman from California [Mr. Moss] on the passage of this significant bill. Over the years he has fought courageously and relentlessly against executive coverup of information which should be available to the people. The reporting and passage of this bill have come only after many years of constant work by the gentleman from California and as we send this bill to the President for signature our chairman should feel proud in the significant role that he has played in raising permanent standards of regulations on the availability of public information. This is a noteworthy accomplishment and will do much to maintain popular control of our growing bureaucracy.

I am happy to have worked with the Subcommittee on Foreign Operations and Government Information and with the House Committee on Government Operations on this bill and to have shared to some degree in the process which has refined this legislation, obtained concurrence of the executive branch and reaches its culmination now.

(Mr. MONAGAN asked and was given permission to revise and extend his remarks.)

Mr. HARDY. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I am happy to yield to the distinguished gentleman from Virginia, who also served on the Subcommittee on Government Information.

Mr. HARDY. I thank my good friend for yielding and commend him for his work on this bill.

Mr. Speaker, I just wish to express my support for this measure. I should like for the Members of the House to know that I wholeheartedly support it, and that I am particularly happy the chairman of our subcommittee, the gentleman from California [Mr. Moss] is back with us today. I know he has not been in good health recently, and I am happy to see him looking so well. I congratulate him for the fine job he has done on this most important subject and I am glad to have been privileged to work with him on the subcommittee.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I yield to the gentleman from Iowa.

Mr. GROSS. I join my friend, the gentleman from Illinois, in support of this legislation, but I want to add that it will be up to the Congress, and particularly to the committee which has brought the legislation before the House, to see to it that the agencies of Government conform to this mandate of Congress. It will be meaningless unless Congress does do a thorough oversight job, and I have in mind the attempt already being made to destroy the effectiveness of the General Accounting Office as well as the efforts of the Defense Department to hide the facts.

Mr. RUMSFELD. The gentleman's comments are most pertinent. Certainly it has been the nature of Government to play down mistakes and to promote successes. This has been the case in the past administrations. Very likely this will be true in the future.

There is no question but that S. 1160 will not change this phenomenon. Rather, the bill will make it considerably more difficult for secrecy-minded bureaucrats to decide arbitrarily that the people should be denied access to information on the conduct of Government or on how an individual Government official is handling his job.

Mr. Speaker, the problem of excessive restrictions on access to Government information is a nonpartisan problem, as the distinguished chairman, the gentleman from California [Mr. Moss] has said. No matter what party has held the political power of Government, there have been attempts to cover up mistakes and errors.

Significantly, S. 1160 provides for an appeal against arbitrary decisions by spelling out the ground rules for access to Government information, and, by providing for a court review of agency decisions under these groundrules, S. 1160 assures public access to information which is basic to the effective operation of a democratic society.

The legislation was initially opposed by a number of agencies and departments, but following the hearings and issuance of the carefully prepared report—which clarifies legislative intent—much of the opposition seems to have subsided. There still remains some opposition on the part of a few Government administrators who resist any change in the routine of government. They are familiar with the inadequacies of the present law, and over the years have learned how to take advantage of its vague phrases. Some possibly believe they hold a vested interest in the machinery of their agencies and bureaus, and there is resentment to any attempt to oversee their activities either by the public, the Congress or appointed Department heads.

But our democratic society is not based upon the vested interests of Government employees. It is based upon the participation of the public who must have full access to the facts of Govern-

ment to select intelligently their representatives to serve in Congress and in the White House. This legislation provides the machinery for access to government information necessary for an informed, intelligent electorate.

Mr. Speaker, it is a great privilege for me to be able to speak on behalf of Senate bill 1160, the freedom-of-information bill, which provides for establishment of a Federal public records law.

I believe that the strong bipartisan support enjoyed by S. 1160 is indicative of its merits and of its value to the Nation. Twice before, in 1964 and 1965, the U.S. Senate expressed its approval of this bill. On March 30, 1966, the House Subcommittee on Foreign Operations and Government Information favorably reported the bill, and on April 27, 1966, the House Committee on Government Operations reported the bill out with a do-pass recommendation. It remains for the House of Representatives to record its approval and for the President to sign the bill into law.

I consider this bill to be one of the most important measures to be considered by Congress in the past 20 years. The bill is based on three principles:

First, that public records, which are evidence of official government action, are public property, and that there should be a positive obligation to disclose this information upon request.

Second, this bill would establish a procedure to guarantee individuals access to specific public records, through the courts if necessary.

Finally, the bill would designate certain categories of official records exempt from the disclosure requirement.

I believe it is important also to state what the bill is not. The bill does not affect the relationship between the executive and legislative branches of Government. The report and the legislation itself specifically point out that this legislation deals with the executive branch of the Federal Government in its relationship to all citizens, to all people of this country.

The very special relationship between the executive and the legislative branches is not affected by this legislation.

As the bill and the report both state:

Members of the Congress have all of the rights of access guaranteed to "any person" by S. 1160, and the Congress has additional rights of access to all Government information which it deems necessary to carry out its functions.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I yield to the gentleman from Kansas who has been very active in behalf of this legislation.

(Mr. SKUBITZ asked and was given permission to revise and extend his remarks.)

Mr. SKUBITZ. Mr. Speaker, I rise in support of S. 1160. Passage of this legislation will create a more favorable climate for the peoples right to know—a right that has too long languished in an environment of bureaucratic negativism and indifference.

From the beginning of our Republic until now, Federal agencies have wrongfully withheld information from members of the electorate. This is intolerable in a form of government where the ultimate authority must rest in the consent of government.

Democracy can only operate effectively when the people have the knowledge upon which to base an intelligent vote.

The bill grants authority to the Federal district court to order production of records improperly withheld and shifts the burden of proof to the agency which chooses to withold information.

If nothing else, this provision will imbue Government employees with a sense of caution about placing secrecy stamps on documents that a court might order to be produced at a later time. Thus inefficiency or worse will be less subject to concealment.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I am happy to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Speaker, may I ask the gentleman, will this enable a Member of Congress to secure the names of people who work for the Post Office Department or any other department?

Mr. RUMSFELD. I know the gentleman almost singlehandedly worked very effectively to bring about the disclosure of such information at a previous point in time. It is certainly my opinion, although the courts would ultimately make these decisions, that his efforts would have been unnecessary had this bill been the law. Certainly there is no provision in this legislation that exempts from disclosure the type of information to which the gentleman refers that I know of.

Mr. QUIE. I thank the gentleman and want to commend him on the work he has done in bringing out this legislation. I believe it is an excellent bill.

GENERAL LEAVE TO EXTEND

Mr. REID of New York. Mr. Speaker, will the gentleman yield to me for 1 second?

Mr. RUMSFELD. I am happy to yield to the gentleman from New York, who serves as the ranking minority member of the subcommittee.

Mr. REID of New York. Mr. Speaker, in order that the gentleman may complete his statement, may I ask unanimous consent that any Member of the House may have 5 legislative days in which to include his thoughts and remarks in the RECORD on this bill?

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

There was no objection.

Mr. RUMSFELD. Mr. Speaker, in the seconds remaining, I do want to commend my colleague and good friend, the gentleman from California. As the able chairman of this subcommittee, he has worked diligently and effectively these past 11 years to secure a very important right for the people of this country. Bringing this legislation to the floor today is a proper tribute to his efforts. Certainly his work and the work of others whose names have been mentioned, the gentleman from Michigan, now a Member of the other body, Mr. GRIFFIN, who served so effectively as ranking minority member of our subcommittee and the ranking minority member of our full committee, the gentlewoman from New Jersey [Mrs. DWYER], all shared in the effort and work that resulted in this most important and throughtful piece of legislation.

Mr. Speaker, I do wish to make one other point about the bill. This bill is not to be considered, I think it is safe to say on behalf of the members of the committee, a withholding statute in any sense of the term. Rather, it is a disclosure statute. This legislation is intended to mark the end of the use of such phrases as "for good cause found," "properly and directly concerned," and "in the public interest," which are all phrases which have been used in the past by individual officials of the executive branch in order to justify, or at least to seem to justify, the withholding of information that properly belongs in the hands of the public. It is our intent that the courts interpret this legislation broadly, as a disclosure statute and not as an excuse to withhold information from the public.

I must add, that disclosure of Government information is particularly important today because Government is becoming involved in more and more aspects of every citizen's personal and business life, and so the access to information about how Government is exercising its trust becomes increasingly important. Also, people are so busy today bringing up families, making a living, that it is increasingly difficult for a person to keep informed. The growing complexity of Government itself makes it extremely difficult for a citizen to become and remain knowledgeable enough to exercise his responsibilities as a citizen; without Government secrecy it is difficult, with Government secrecy it is impossible.

Of course, withholding of information by Government is not new. The Federal Government was not a year old when Senator MACLAY of Pennsylvania asked the Treasury Department for the receipts Baron von Steuben had given for funds advanced to him. Alexander Hamilton refused the request.

In the United States, three centuries of progress can be seen in the area of access to Government information. Based on the experience of England, the Founders of our Nation established—by law and by the acknowledgment of public men—the theory that the people have a right to know. At local, State, and Federal levels it has been conceded that the people have a right to information.

James Russell Wiggins, editor of the Washington Post, argues eloquently against Government secrecy in his book, "Freedom or Secrecy." He says:

We began the century with a free government—as free as any ever devised and operated by man. The more that government becomes secret, the less it remains free. To diminish the people's information about government is to diminish the people's participation in government. The consequences of secrecy are not less because the reasons for secrecy are more. The ill effects are the same whether the reasons for secrecy are good or bad. The arguments for more secrecy may be good arguments which, in a world that is menaced by Communist imperialism, we can-

not altogether refute. They are, nevertheless, arguments for less freedom.

In August of 1822, President James Madison said:

Knowledge will forever govern ignorance. And a people who mean to be their own governors, must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both.

Thomas Jefferson, in discussing the obligation of the press to criticize and oversee the conduct of Government in the interest of keeping the public informed, said:

Were it left to me to decide whether we should have a government without newspapers or newspaper without government, I should not besitate for a moment to prefer the latter. No government ought to be without censors; and where the press is free, none ever will.

President Woodrow Wilson said in 1913:

Wherever any public business is transacted, wherever plans affecting the public are laid, or enterprises touching the public welfare, comfort or convenience go forward, wherever political programs are formulated, or candidates agreed on—over that place a voice must speak, with the divine prerogative of a people's will, the words: "Let there be light."

House Report No. 1497, submitted to the House by the Committe on Government Operations to accompany S. 1160, concludes:

A democratic society requires an informed, intelligent electorate, and the intelligence of the electorate varies as the quantity and quality of its information varies. A danger signal to our democratic society in the United States is the fact that such a political truism needs repeating. And repeated it is, in textbooks and classrooms, in newspapers and broadcasts.

The repetition is necessary because the ideals of our democratic society have outpaced the machinery which makes that society work. The needs of the electorate have outpaced the laws which guarantee public access to the facts in government. In the time it takes for one generation to grow up and prepare to join the councils of government—from 1946 to 1966—the law which was designed to provide public information about government has become the government's major shield of secrecy.

S. 1160 will correct this situation. It provides the necessary machinery to assure the availability of government information necessary to an informed electorate.

Mr. Speaker, I was interested to learn that Leonard H. Marks, Director of the U.S. Information Agency—USIA—recently suggested before the Overseas Press Club in New York City the development of a treaty "guaranteeing international freedom of information." To be sure, this is a commendable suggestion, and one which I would be delighted to hear more about. For the time being, however, I am concerned with the freedom-of-information question here in the United States. Here is our basic challenge. And it is one which we have a responsibility to accept.

The political organization that goes by the name of the United States of America consists of thousands of governing units. It is operated by millions of elected and appointed officials. Our Government is so large and so complicated that few understand it well and others barely understand it at all. Yet, we must understand it to make it function better.

In this country we have placed all our faith on the intelligence and interest of the people. We have said that ours is a Government guided by citizens. From this it follows that Government will serve us well only if the citizens are well informed.

Our system of government is a testimony to our belief that people will find their way to right solutions given sufficient information. This has been a magnificient gamble, but it has worked.

The passage by the House of S. 1160 is an important step toward insuring an informed citizenry which can support or oppose public policy from a position of understanding and knowledge.

The passage of S. 1160 will be an investment in the future; an investment which will guarantee the continuation of our free systems guided by the people.

Mr. Speaker, I urge the passage of this legislation. It merits the enthusiastic support of each Member of the House of Representatives.

(Mr. RUMSFELD asked and was given permission to revise and extend his remarks.)

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. RUMSFELD. I will be happy to yield to the distinguished gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's comments. I hardly see how it can help but improve the practice of separation of the powers as it is conducted in the executive branch of the Government. However, in the days of the right to lie rather than no comment and in the days when reportorial services are being asked to be the handmaidens of Government rather than give them full disclosure, I think it is important to have this legislation.

Mr. Speaker, I want to express my strong support, and to urge the support of my colleagues for the freedom of information bill, designed to protect the right of the public to information relating to the actions and policies of Federal agencies. This bill has been a long time in coming, too long I might add, since the withholding of information, it is designed to prevent, has been a fact of life under the present administration.

I believe this bill is one of the most important pieces of legislation to be considered by Congress, and I support its enactment 100 percent.

As in all such bills, however, the mere passage of legislation will not insure the freedom of information which we hope to achieve. For there are many ways by which executive agencies, determined to conceal public information, can do so, if and when they desire. Where there is a will, there is a way, and while this bill will make that way more difficult, it will take aggressive legislative review and oversight to insure the public's right to know.

To indicate the challenge that lies ahead, I need only refer again to an article from the Overseas Press Club publication Dateline 66, which I inserted in the CONGRESSIONAL RECORD on May 12. Assistant Secretary of Defense for Public Affairs Arthur Sylvester was quoted by CBS Correspondent Morely Safer as saying at a background meeting that—

Anyone who expects a public official to tell the truth is stupid—

And as if to emphasize his point, Sylvester was quoted as saying, again:

Did you hear that? Stupid!

Subsequently, at Mr. Sylvester's request, I inserted his letter in reply to the charge, but, since that occasion, at least four other correspondents have confirmed the substance of Morely Safer's charges, and to this date to my knowledge, not a single correspondent present at that meeting in July of 1965, has backed up the Sylvester so-called denial.

So, I repeat that the passage of this legislation will not, in itself, insure the public's right to know, but it is an important first step in that direction. As long as there are people in the administration who wish to cover up or put out misleading information, it will take vigorous action by the Congress and the Nation's press to make our objectives a reality. Passage of this bill is a great step, on the part of the legislative branch of the U.S. Government, toward proper restoration of the tried and true principle of separation of powers.

Mr. DOLE. Mr. Speaker, will the gentleman yield to me?

Mr. RUMSFELD. I will be happy to yield to the distinguished gentleman from Kansas, who also serves on the Special Subcommittee on Government Information.

(Mr. DOLE asked and was given permission to revise and extend his remarks.)

Mr. DOLE. Mr. Speaker, I rise in support of S. 1160, which would clarify and protect the right of the public to information.

Since the beginnings of our Republic, the people and their elected Representatives in Congress have been engaged in a sort of ceremonial contest with the executive bureaucracy over the freedom-of-information issue. The dispute has, to date, failed to produce a practical result.

Government agencies and Federal officials have repeatedly refused to give individuals information to which they were entitled and the documentation of such unauthorized withholding—from the press, the public, and Congress—is voluminous. However, the continued recital of cases of secrecy will never determine the basic issue involved, for the point has already been more than proven. Any circumscription of the public's right to know cannot be arrived at by congressional committee compilations of instances of withholding, nor can it be fixed by presidential flat. At some point we must stop restating the problem, authorizing investigations, and holding hearings, and come to grips with the problem.

In a democracy, the public must be well informed if it is to intelligently exercise the franchise. Logically, there is

little room for secrecy in a democracy. But, we must be realists as well as rationalists and recognize that certain Government information must be protected and that the right of individual privacy must be respected. It is generally agreed that the public's knowledge of its Government should be as complete as possible, consonant with the public interest and national security. The President by virtue of his constitutional powers in the fields of foreign affairs and national defense, without question, has some derived authority to keep secrets. But we cannot leave the determination of the answers to some arrogant or whimsical bureaucrat—they must be written into law.

To that end, I joined other members of this House in introducing and supporting legislation to establish a Federal public records law and to permit court enforcement of the people's right to know.

This bill would require every agency of the Federal Government to "make all its records promptly available to any person," and provides for court action to guarantee the right of access. The proposed law does, however, protect nine categories of sensitive Government information which would be exempted.

The protected categories are matters—

(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) related solely to the internal personnel rules and practices of any agency;

(3) specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(5) interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the agency;

(6) personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and

(9) geological and geophysical information and data (including maps) concerning wells.

The bill gives full recognition to the fact that the President must at times act in secret in the exercise of his constitutional duties when it exempts from availability to the public matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy."

Thus, the bill takes into consideration the right to know of every citizen while affording the safeguards necessary to the effective functioning of Government. The balances have too long been weighted in the direction of executive discretion, and the need for clear guidelines is manifest. I am convinced that the answer lies in a clearly delineated and justiciable right to know.

This bill is not perfect, and some critics predict it will cause more confusion without really enhancing the public's right to know. In my opinion, it is at least a step in the right direction and, as was stated in an editorial in the Monday, June 13, issue of the Wichita Eagle:

It's high time this bill became law. It should have been enacted years ago. Everyone who is interested in good government and his own rights must hope that its passage and the President's approval will be swift.

Mr. JOELSON. Mr. Speaker, I am pleased to support this legislation which protects the right of the public to information. I believe that in a democracy, it is vital that public records and proceedings must be made available to the public in order that we have a fully informed citizenry. I think that the only time that information should be withheld is where there are overriding considerations of national security which require secrecy, where disclosure might result in an unwarranted invasion of personal privacy, impede investigation for law enforcement purposes, or divulge valuable trade or commercial secrets.

Mr. ROSENTHAL. Mr. Speaker, as a member of the House Committee on Government Operations, I am particularly anxious to offer my strongest support for this measure, S. 1160, and praise for its cosponsor, the gentleman from California [Mr. Moss]. I would also like to offer my thanks to our distinguished chairman, the gentleman from Illinois [Mr. DAWSON] for his firm leadership in bringing this measure before the House.

In S. 1160, we have a chance to modernize the machinery of Government and in so doing, further insure a fundamental political right. Democracies derive legitimacy from the consent of the governed. And consent is authoritative when it is informed. In assuring the right of the citizenry to know the work of its Government, therefore, we provide a permanent check and review of power. And, as many of us on both sides of the aisle have pointed out, the continuous growth of Federal powers—particularly that of the executive branch—can be cause for general concern.

It is the disposition of bureaucracies to grow. And frequently, they cover and conceal many of their practices. Institutions as well as people can be ruled by self-interest.

Accordingly, the House Government Operations Committee, and its Subcommittee on Foreign Operations and Government Information, have given particular attention to the information policies of our executive agencies. Through extensive study, the committee has found important procedural loopholes which permit administrative secrecy and thus threaten the public's right to know. Continued vigilance in this area has, for example, revised the notorious housekeeping statute which allowed agencies to withhold certain records. Similar pressure from Congress resulted in President Kennedy's and President Johnson's limitation of the use of Executive privilege in information policy.

The measure before us today continues the search for more open information procedures. For 20 years, the Administrative Procedure Act, in section III, has been an obstacle rather than a means to information availability. The section has usually been invoked to justify refusal to disclose. In the meantime, members of the public have had no remedy to force disclosures or appeal refusals. Our entire information policy, therefore, has been weighed against the right to know and in favor of executive need for secrecy.

I believe S. 1160 takes important steps to rectify that imbalance. Certain ambiguities in section III of the Administrative Procedure Act are clarified. Thus, the properly and directly concerned test access to records is eliminated. Records must now be made available, in the new language, to "any person." Instead of the vague language of "good cause found" and "public interest," new standards for exemptable records are specified. And, perhaps most important, aggrieved citizens are given appeal rights to U.S. district courts. This procedure will likely prove a deterrent against excessive or questionable withholdings.

This legislation, Mr. Speaker, should be of particular importance to all Members of Congress. We know, as well as anyone, of the need to keep executive information and practices open to public scrutiny. Our committee, and particularly our subcommittee, headed by our energetic colleague from California, has put together proposals which we believe will reinforce public rights and democratic review.

Mr. POFF. Mr. Speaker, it was my privilege to support S. 1160 today designed to protect the right of the American public to receive full and complete disclosures from the agencies of their Government.

Today, as never before, the Federal Government is a complex entity which touches almost every fiber of the fabric of human life. Too often, the overzealous bureaucrat uses his discretionary power to blot out a bit of intelligence which the people have the right to know. This is true not only with respect to military activities for which there may, on occasion, be a valid reason for withholding full disclosure until after the execution of a particular military maneuver, but also in the case of strictly political decisions in both foreign and domestic fields.

Thomas Jefferson once said that if he could choose between government without newspapers or newspapers without government, he would unhesitatingly choose the latter. The press, in performing its responsibility of digging out facts about the operation of the giant Federal Government should not be restricted and hampered. Yet there are some 24 classifications used by Federal agencies to withhold information from the American people. When Government officials make such statements as "a government has the right to lie to protect itself" and "the only thing I fear are the facts," it is obvious that the need for collective congressional action in the field of public information is acute. In the unique American system, the people need to know all the facts in order that their judgments may be based upon those facts. Anything less is a dilution of the republican form of government.

Mr. BENNETT. Mr. Speaker, legislation of this type has been long needed. The delay, however, is easy to understand because it is a difficult subject in which to draw the precise lines needed without overstepping into areas that might be dangerous to our country. It is my belief that the measure before us does handle the matter in a proper and helpful manner and I am glad to support it.

Mr. CLANCY. Mr. Speaker, a number of important duties and engagements in Cincinnati prevent me from being on the House floor today. However, if it were possible for me to be present today, I would vote for the Freedom of Information Act, S. 1160.

The problem of Government secrecy and news manipulation has reached appalling proportions under the current administration. Both at home and abroad, the credibility of the U.S. Government has repeatedly been called into question.

Not only has the truth frequently been compromised, but in some instances Government spokesmen have more than distorted the facts, they have denied their existence. This shroud of secrecy and deception is deplorable. The man in the street has a right to know about his Government, and this includes its mistakes.

The Cincinnati Enquirer has, in two editorials on the subject of the public's right to know the truth about the activities of its Government, called for passage of the legislation we are considering today. I include these editorials with my remarks at this point because I believe they will be of interest to my colleagues:

[From the Cincinnati (Ohio) Enquirer, June 15, 1966]

LET'S OPEN UP FEDERAL RECORDS

Next Monday the House of Representatives is scheduled to come finally to grips with an issue that has been kicking around official Washington almost since the birth of the Republic—an issue that Congress thought was solved long ago. The issue, in briefest form, is the public's right to know.

Most Americans probably imagine that their right to be informed about what their government is doing is unchallenged. They may wonder about the need for any legislation aimed at reaffirming it. But the fact of the matter is that the cloak of secrecy has been stretched to conceal more and more governmental activities and procedures from public view. Many of these activities and procedures are wholly unrelated to the nation's security or to individual Americans' legitimate right to privacy. They are matters clearly in the public realm.

The legislation due for House consideration next Monday is Senate Bill 1160, the product of a 13-year study of the entire problem of freedom of information directed by Representative JOHN E. MOSS (R., Calif.). The bill has already won Senate approval, and only an affirmative House vote next Monday is necessary to send it to President Johnson's desk.

All of the 27 Federal departments and agencies that have sent witnesses to testify before the House subcommittee that conducted hearings on the bill have opposed it. One complaint is that the issue is too complex to be dealt with in a single piece of legislation.

But Representative Moss feels—and a Senate majority obviously agrees with him—that the right of Federal officials to classify government documents has been grossly misused to conceal errors and to deny the public information it is entitled to have.

The bill makes some clear and necessary exemptions—national defense and foreign policy secrets, trade secrets, investigatory files, material collected in the course of labor-management mediation, reports of financial institutions, medical files and papers designed solely for the internal use of a governmental agency.

Most important, perhaps, the bill would put on the governmental agency the burden of proving that a particular document should be withheld from public view. As matters stand today, the person who seeks a particular document must prove that it is being improperly withheld; the Moss bill would require that the Federal agency involved prove that its release would be detrimental.

It may be easy for rank-and-file Americans to imagine that the battle Representative Moss has been leading for more than a decade is a battle in the interests of the Nation's information media. But the right of a free press is not the possession of the publishers and editors; it is the right of the man in the street to know. In this case, it is his right to know about his government—its failures and errors, its triumphs and its expenditures.

The House should give prompt approval to Senate Bill 1160, and President Johnson should sign it when it reaches his desk.

[From the Cincinnati (Ohio) Enquirer, May 29, 1966]

THE RIGHT TO KNOW

It is easy for many Americans to fall into the habit of imagining that the constitutional guarantees of a free press are a matter of interest and concern only to America's newspaper publishers. And perhaps there are still a few publishers who entertain the same notion.

In reality, however, the right to a free press is a right that belongs to the public. It is the man in the street's right to know—in particular, his right to know what his servants in government are doing. Unhappily, however, it is a right whose preservation requires a battle that is never fully won. For at every level of government, there are officials who think that their particular province should be shielded from public scrutiny.

Another important stride in the right direction came the other day when the House Government Operations Committee unanimously approved a freedom of information bill (Senate Bill 1160). The bill is an attempt to insure freedom of information without jeopardizing the individual's right of privacy. It exempts nine specific categories of information—including national security, the investigative files of law enforcement agencies and several others. But it clearly reaffirms the citizen's right to examine the records of his government and the right of the press to do the same in his behalf.

Senate Bill 1160 is the culmination of a 10-year effort to clarify the provisions of the Administrative Procedure Act, which is so broad that it permits most Federal agencies to define their own rules on the release of information to the press and the public.

The House should press ahead, accept the recommendations of its committee and translate Senate Bill 1160 into law.

Mr. EDWARDS of Alabama. Mr. Speaker, I rise in support of S. 1160 which is effectively the same as my bill, H.R. 6739, introduced March 25, 1965.

This measure should have been approved and signed into law long ago as a means of giving the American citizen a greater measure of protection against the natural tendencies of the bureaucracy to prevent information from circulating freely.

I am hopeful that in spite of the President's opposition to this bill, and in spite of the opposition of executive branch agencies and departments, the President will not veto it.

This measure will not by any means solve all of our problems regarding the citizen's right to know what his Government is doing. It will still be true that we must rely on the electorate's vigorous pursuit of the information needed to make self-government work. And we will still rely on the work of an energetic and thorough corps of news reporters.

As an example of the need for this bill I have previously presented information appearing on page 11995 of the CONGRESSIONAL RECORD for June 8. It shows that one Government agency has made it a practice to refuse to yield information which is significant to operation of the law.

This kind of example is being repeated many times over. In a day of swiftly expanding Government powers, and in a day on which thoughtful citizens the country over are concerned with the encroachment of Government into the lives of all of us, the need for this bill is clear.

Mrs. REID of Illinois. Mr. Speaker, as the sponsor of H.R. 5021, one of the companion bills to S. 1160 which we are considering today, I rise in support of the public's right to know the facts about the operation of their Government. I rise, also, in opposition to the growing and alarming trend toward greater secrecy in the official affairs of our democracy.

It is indeed incongruous that although Americans are guaranteed the freedoms of the Constitution, including freedom of the press, there is no detailed Federal statute outlining the orderly disclosure of public information so essential to proper exercise of this freedom. Yet, the steady growth of bigger government multiplies rather than diminishes the need for such disclosure and the necessity for supplying information to the people. Certainly no one can dispute the fact that access to public records is vital to the basic workings of the democratic process, for it is only when the public business is conducted openly, with appropriate exceptions, that there can be freedom of expression and discussion of policy so vital to an honest national consensus on the issues of the day. It is necessary that free people be well informed, and we need only to look behind the Iron Curtain to see the unhappy consequences of the other alternative.

The need for a more definitive public records law has been apparent for a long time. We recognize today that the Administrative Procedure Act of 1946, while a step in the right direction, is now most inadequate to deal with the problems of disclosure which arise almost daily in a fast-moving and technological age—problems which serve only to lead our citizens to question the integrity and credibility of their Government and its administrators.

But while I do not condone indiscriminate and unauthorized withholding of public information by any Gov-

ernment official, the primary responsibility, in my judgment, rests with us in the Congress. We, as the elected representatives of the people, must provide an explicit and meaningful public information law, and we must then insure that the intent of Congress is not circumvented in the future. The Senate recognized this responsibility when it passed S. 1160 during the first session last year, and I am hopeful that Members of the House will overwhelmingly endorse this measure before us today.

I do not believe that any agency of Government can argue in good faith against the intent of this legislation now under consideration, for the bill contains sufficient safeguards for protecting vital defense information and other sensitive data which might in some way be detrimental to the Government or individuals if improperly released. S. 1160 contains basically the same exceptions as recommended in my bill—H.R. 5021. In sponsoring H.R. 5021, I felt that it would enable all agencies to follow a uniform system to insure adequate dissemination of authorized information, thereby removing much of the confusion resulting from differing policies now possible under existing law.

Government by secrecy, whether intentional or accidental, benefits no one and, in fact, seriously injures the people it is designed to serve. This legislation will establish a much-needed uniform policy of disclosure without impinging upon the rights of any citizen. S. 1160 is worthy legislation, and it deserves the support of every one of us.

Mr. RHODES of Arizona. Mr. Speaker, at a recent meeting of the House Republican policy committee a policy statement regarding S. 1160, freedom-of-information legislation, was adopted. As chairman of the policy committee, I would like to include at this point in the RECORD the complete text of this statement:

REPUBLICAN POLICY COMMITTEE STATEMENT ON FREEDOM OF INFORMATION LEGISLATION, S. 1160

The Republican Policy Committee commends the Committee on Government Operations for reporting S. 1160. This bill clarifies and protects the right of the public to essential information. Subject to certain exceptions and the right to court review, it would require every executive agency to give public notice or to make available to the public its methods of operation, public procedures, rules, policies, and precedents.

The Republican Policy Committee, the Republican Members of the Committee on Government Operations, and such groups as the American Newspaper Publishers Association, the professional journalism society Sigma Delta Chi, the National Editorial Association and the American Bar Association have long urged the enactment of this legislation. Due to the opposition of the Johnson-Humphrey Administration, however, this proposal has been bottled up in Committee for over a year. Certainly, information regarding the business of the government should be shared with the people. The screen of secrecy which now exists is a barrier to reporters as representatives of the public, to citizens in pursuit of information vital to their welfare, and to Members of Congress as they seek to carry out their constitutional functions.

Under this legislation, if a request for information is denied, the aggrieved person has a right to file an action in a U.S. District Court, and such court may order the production of any agency records that are improperly withheld. So that the court may consider the propriety of withholding, rather than being restricted to judicial sanctioning of agency discretion, the proceedings are de novo. In the trial, the burden of proof is correctly placed upon the agency. A private citizen cannot be asked to prove that an agency has withheld information improperly for he does not know the basis for the agency action.

Certainly, as the Committee report has stated: "No Government employee at any level believes that the 'public interest' would be served by disclosure of his failures or wrongdoings . . ." For example, the cost estimates submitted by contractors in connection with the the multimillion-dollar deep sea "Mohole" project were withheld from the public even through it appeared that the firm which had won the lucrative contract had not submitted the lowest bid. Moreover, it was only as a result of searching inquiries by the press and Senator KUCHEL) (R., Cal.) that President Kennedy intervened to reverse the National Science Foundation's decision that it would not be "in the public interest" to disclose these estimates.

The requirements for disclosure in the present law are so hedged with restrictions that it has been cited as the statutory authority for 24 separate classifications devised by Federal agencies to keep administrative information from public view. Bureaucratic gobbledygook used to deny access to information has included such gems as: "Eyes Only," "Limited Official Use," "Confidential Treatment," and "Limitation on Availability of Equipment for Public Reference." This paper curtain must be pierced. This bill is an important first step.

In this period of selective disclosures, managed news, half-truths, and admitted distortions, the need for this legislation is abundantly clear. High officials have warned that our Government is in grave danger of losing the public's confidence both at home and abroad. The credibility gap that has affected the Administration pronouncements on domestic affairs and Vietnam has spread to other parts of the world. The on-again, off-again, obviously less-than-truthful manner in which the reduction of American forces in Europe has been handled has made this country the subject of ridicule and jokes. "Would you believe?" has now become more than a clever saying. It is a legitimate inquiry.

Americans have always taken great pride in their individual and national credibility. We have recognized that men and nations can be no better than their word. This legislation will help to blaze a trial of truthfulness and accurate disclosure in what has become a jungle of falsification, unjustified secrecy, and misstatement by statistic. The Republican Policy Committee urges the prompt enactment of S. 1160.

Mr. SCHMIDHAUSER. Mr. Speaker, I believe approval of S. 1160 is absolutely essential to the integrity and strength of our democratic system of Government because as the Federal Government has extended its activities to help solve the Nation's problems, the bureaucracy has developed its own form of procedures and case law, which is not always in the best interests of the public. Under the provisions of this measure, these administrative procedures will have to bear the scrutiny of the public as well as that of Congress. This has long been overdue.

Mr. ROUSH. Mr. Speaker, I rise in support of this freedom of information bill. I felt at the time it was acted upon by the Government Operations Committee, of which I am a member, that it was one of the most significant pieces of legislation we had ever acted upon. In a democracy the government's business is the people's business. When we deprive the people of knowledge of what their government is doing then we are indeed treading on dangerous ground. We are trespassing on their right to know. We are depriving them of the opportunity to examine critically the efforts to those who are chosen to labor on their behalf. The strength of our system lies in the fact that we strive for an enlightened and knowledgeable electorate. We defeat this goal when we hide information behind a cloak of secrecy. We realize our goal when we make available, to those who exercise their right to choose, facts and information which which lead them to enlightened decisions.

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of S. 1160. The purpose of this bill is to amend section 3 of the Administrative Procedures Act and thereby to lift the veil of secrecy that makes many of the information "closets" of executive agencies inaccessible to the public. The basic consideration involved in passage of this bill, which will clarify and protect the right of the public to information, is that in a democracy like ours the people have an inherent right to know, and government does not have an inherent right to conceal.

Certainly to deny to the public information which is essential neither to government security nor to internal personal and practical functions is to deny any review of policies, findings, and decisions. It would be hard to imagine any agency, including those of executive charter, which is entitled to be above public examination and criticism.

The need for legislation to amend the present section of the Administrative Procedures Act is especially apparent when we consider that much of the information now withheld from the public directly affects matters clearly within the public domain.

For too long and with too much enthusiasm by some Goverment agencies and too much acquiescence by the public, executive agencies have become little fiefdoms where the head of a particular agency assumes sole power to decide what information shall be made available and then only in an attitude of noblesse oblige.

S. 1160 will amend section 3 of the Administrative Procedures Act by allowing any person access to information—not just those "persons properly and directly concerned." And if access is denied to him he may appeal the agency's decision and apply to the Federal courts.

Consider the contractor whose low bid has been summarily rejected without any logical explanation or the conscientious newspaperman who is seeking material for a serious article that he is preparing on the operations of a particular agency of Government. In many instances if records can in one fashion or another be committed to the "agency's use only" or "Government security" filing cabinets, the contractor or newsman will be denied

information simply by having the agency classify him as a person not "properly and directly concerned." When this occurs, the arbitrary use of the power of government can thwart an investigation which is in the public interest.

It was Thomas Jefferson who wrote:

I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man.

It is precisely this tyranny over the "mind of man" which is aided and abetted by a lack of freedom of information within Government.

I support the efforts contained within this bill to at least partially unshackle some of the restraints on the free flow of legitimate public information that have grown up within bureaucracy in recent years.

Mr. ROGERS of Florida. Mr. Speaker, in a time where public records are more and more becoming private instruments of the Government and personal privacy part of Government record, I am pleased that we are taking steps to eliminate part of the cloud of secrecy which has covered so many parts of the Government.

As an instrument of the people, we have long had the obligation under the Constitution to lay bare the mechanics of government. But the growing tendency, I am afraid, has been to cover up through administrative "magic," much of that information which is public domain.

Through this legislation we will emphasize once again the public's right to know. It is through sheer neglect that we must again define persons "directly concerned" as the American public. For they are the most concerned. The American public must have the right of inspection into its own government or that government fails to belong to the public.

Doling out partial information only cripple the electorate which needs to be strong if a democratic government is to exist.

But this is only half the battle in keeping the scales of democracy in balance. While we are striving to keep the citizens informed in the workings of their government, we must also protect the citizen's right of privacy.

The alarming number of instances of governmental invasion into individual privacy is as dangerous, if not more so, than the instances of governmental secrecy. At almost every turn the Government has been encroaching without law into the business—and yes, even into the private thoughts—of the individual.

This is probably the fastest growing and potentially the most dangerous act in our Nation today.

The instances of wiretapping by governmental agencies have become so commonplace that it no longer stuns the average citizen. But such a repulsive act cannot afford to go uncorrected. Such practices should never be permitted without a court order.

When we discover the training of lockpickers, wiretappers, safecrackers, and eavesdroppers in governmental agencies, the bounds of a democratic society have been overstepped and we approach the realm of a police state.

Let us not be satisfied that we are correcting some of the evils of a much too secretive bureaucracy.

Let us also remember that if we do not stop those inquisitive tentacles which threaten to slowly choke all personal freedoms, we will soon forget that our laws are geared to protect personal liberty.

"Where law ends," William Pitt said, "Tyranny begins."

Action is also needed by the Congress to stop this illegal and unauthorized governmental invasion of citizen's privacy.

Mr. GALLAGHER. Mr. Speaker, history and American tradition demand passage today of the freedom of information bill. This measure not only will close the final gap in public information laws, but it will once and for all establish the public's right to know certain facts about its government.

In recent years we have seen both the legislative and the executive branches of our Government demonstrate a mutual concern over the increase of instances within the Federal Government in which information was arbitrarily denied the press or the public in general. In 1958, Congress struck down the practice under which department heads used a Federal statute, permitting them to regulate the storage and use of Government records, to withhold these records from the public. Four years later, President Kennedy limited the concept of "Executive privilege," which allowed the President to withhold information from Congress, to only the President, and not to his officers. President Johnson last year affirmed this limitation.

But one loophole remains: Section 3 of the Administrative Procedure Act of 1946, the basic law relating to release of information concerning agency decisions and public access to Government records. S. 1160 would amend this section.

Congress enacted this legislation with the intent that the public's right to information would be respected. Unfortunately, some Government officials have utilized this law for the diametrically opposed use of withholding information from Congress, the press, and the public.

Under the cloak of such generalized phrases in section 3 as "in the public interest" or "for good cause found," virtually any information, whether actually confidential or simply embarrassing to some member of the Federal Government, could be withheld. As Eugene Paterson, editor of the Atlanta Constitution and chairman of the Freedom of Information Committee of the American Society of Newspapers said, such justifications for secrecy "could clap a lid on just about anybody's out-tray."

But more than contemporary needs, this bill relates to a pillar of our democracy, the freedom expressed in the first amendment guaranteeing the right of speech.

Inherent in the right to speak and the right to print was the right to know—

States Dr. Harold L. Cross, of the ASNE's Freedom of Information Committee. He pointed out:

The right to speak and the right to print, without the right to know, are pretty empty.

James Madison, who was chairman of the committee that drafted the first Constitution, had this to say:

Knowledge will forever govern ignorance, and a people who mean to be their own governors, must arm themselves with the power knowledge gives. A popular government without popular information or means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both.

This is the crux of the question. A free society needs the information required for judgments about the operation of its elected representatives, or it is no longer a free society. Naturally, a balance has to be maintained between the public's right to know and individual privacy and national security.

It is here that the freedom of information bill comes to grips with the central problem of the issue by substituting nine specific exemptions to disclosure for general categories, and by setting up a court review procedure, under which an aggrieved citizen could appeal with the withholding of information to a U.S. district court.

One of the most important provisions of the bill is subsection C, which grants authority to the Federal district courts to order production of records improperly withheld. This means that for the first time in the Government's history, a citizen will no longer be at the end of the road when his request for a Government document arbitrarily has been turned down by some bureaucrat. Unless the information the citizen is seeking falls clearly within one of the exemptions listed in the bill, he can seek court action to make the information available.

An important impact of the provision is that in any court action the burden of the proof for withholding is placed solely on the agency. As might be expected, Government witnesses testifying before the House Foreign Operations and Government Information Subcommittee on the bill, vigorously opposed the court provision. They particularly did not like the idea that the burden of proof for withholding would be placed on the agencies, arguing that historically, in court actions, the burden of proof is the responsibility of the plaintiff. But, as the committee report points out:

A private citizen cannot be asked to prove that an agency has withheld information improperly because he will not know the reasons for the agency action.

It can be anticipated that the judicial review provision, if nothing else, will have a major salutary effect, in that Government employees, down the line, are going to be very cautious about placing a secrecy stamp on a document that a district court later might order to be produced. A monumental error in judgment of this type certainly will not enhance an employee's status with his superior's, nor with anyone else in the executive branch.

I am glad to note the judicial review section has an enforcement clause which provides that if there is a noncompliance with a court order to produce records, the responsible agency officers can be cited for contempt.

There has been some speculation that in strengthening the right of access to

Government information, the bill, as drafted, may inadvertently permit the disclosure of certain types of information now kept secret by Executive order in the interest of national security.

Such speculation is without foundation. The committee, throughout its extensive hearings on the legislation and in its subsequent report, has made it crystal clear that the bill in no way affects categories of information which the President—as stated in the committee report—has determined must be classified to protect the national defense or to advance foreign policy. These areas of information most generally are classified under Executive Order No. 10501.

I would like to reiterate that the bill also prevents the disclosure of other types of "sensitive" Government information such as FBI files, income tax auditors manual, records of labor-management mediation negotiations and information a private citizen voluntarily supplies.

The FBI would be protected under exemption No. 7 prohibiting disclosures of "investigatory files." Income tax auditors' manual would be protected under No. 2—"related solely to internal personnel rules and practices." Details of labor-management negotiations would be protected under No. 4—"trade secrets and commercial or financial information." Information from private citizens would be protected under No. 6—information which would be an "invasion of privacy."

With the Government becoming larger and more complex, now is the time for Congress to establish guidelines for informational disclosure. As secrecy in Government increases, freedom of the people decreases; and the less citizens know about their Government, the more removed they become from its control. The freedom of information bill, Mr. Speaker, gives meaning to the freedom of speech amendment.

Mr. GURNEY. Mr. Speaker, I intend to vote in favor of this vitally important freedom of information bill. With all we hear about the necessity of "truth" bills, such as truth in lending and truth in packaging, I think it is significant that the first of these to be discussed on the floor of this House should be a "truth in Government" bill.

Surely there can be no better place to start telling the truth to the people of America than right here in their own Government. This is especially true in a time such as we have now, when the "credibility gap" is growing wider every day. It has come to the point where even Government leaders cannot believe each other.

This is a bill that should not be necessary—there should be no question but that records of a nonsecurity and nonpersonal nature ought to be available to the public. But recent practice in many agencies and departments has made more than clear the need for action such as we are taking today.

We cannot expect the American people to exercise their rights and repsonsibilities as citizens when they cannot even find out what their Government is doing with their money. If it were permitted to continue, this policy of secrecy could be the cornerstone of a totalitarian bureaucracy. Even today it constitutes a serious threat to our democratic institutions.

It is not only the citizens and the press who cannot get information from their Government. Even Senators and Members of the House of Representatives are told by nonsecurity departments that such routine information as lists of their employees will not be furnished them. Incredible as this is, I think most of us here have run into similar roadblocks.

The issue is a simple one: that the public's business ought to be open to the public. Too many agencies seem to have lost sight of the fact that they work for the American people. When this attitude is allowed to flourish, and when the people no longer have the right to information about their Government's activities, our system has been seriously undermined.

The bill we consider today is essential if we are to stop this undermining and restore to our citizens their right to be well-informed participants in their Government.

I urge my colleagues to join me in voting for the passage of this bill.

Mrs. DWYER. Mr. Speaker, the present bill is one of the most important to be considered during the 89th Congress. It goes to the heart of our representative and democratic form of government. If enacted, and I feel certain it will be, it will be good for the people and good for the Federal Government.

This bill is the product of 10 years of effort to strengthen the people's right to know what their Government is doing, to guarantee the people's access to Government records, and to prevent Government officials from hiding their mistakes behind a wall of official secrecy.

During these 10 years, we have conducted detailed studies, held lengthy and repeated hearings, and compiled hundreds of cases of the improper withholding of information by Government agencies. Congress is ready, I am confident, to reject administration claims that it alone has the right to decide what the public can know.

As the ranking minority member of the Committee on Government Operations, and as a sponsor of legislation similar to the pending bill, I am proud to pay tribute to the chairman and members of the Subcommittee on Foreign Operations and Government Operations for the long and careful and effective work they have done in alerting the country to the problem and in winning acceptance of a workable solution.

Under present law, Mr. Speaker, improper withholding of information has increased—largely because of loopholes in the law, vague and undefined standards, and the fact that the burden of proof is placed on the public rather than on the Government.

Our bill will close these loopholes, tighten standards, and force Federal officials to justify publicly any decision to withhold information.

Under this legislation, all Federal departments and agencies will be required to make available to the public and the press all their records and other information not specifically exempted by law. By thus assuring to all persons the right of access to Government records, the bill will place the burden of proof on Federal agencies to justify withholding of information. And by providing for court review of withholding of information, the bill will give citizens a remedy for improper withholding, since Federal district courts will be authorized to order the production of records which are found to be improperly withheld.

On the other hand, Mr. Speaker, the legislation is designed to recognize the need of the Government to prevent the dissemination of official information which could damage the national security or harm individual rights. Among the classes of information specifically exempted from the right-to-know provisions of the bill are national defense and foreign policy matters of classified secrecy as specifically determined by Executive order, trade secrets and private business data, and material in personnel files relating to personal and private matters the use of which would clearly be an invasion of privacy.

Aside from these and related exceptions, relatively few in number, it is an unassailable principle of our free system that private citizens have a right to obtain public records and public information for the simple reason that they need it in order to behave as intelligent, informed and responsible citizens. Conversely, the Government has an obligation, which the present bill makes clear and concrete, to make this information fully available without unnecessary exceptions or delay—however embarrassing such information may be to individual officials or agencies or the administration which happens to be in office.

By improving citizens' access to Government information, Mr. Speaker, this legislation will do two things of major importance: it will strengthen citizen control of their Government and it will force the Government to be more responsible and prudent in making public policy decisions.

What more can we ask of any legislation?

The SPEAKER. The question is on the motion of the gentleman from California [Mr. Moss], that the House suspend the rules and pass the bill S. 1160.

The question was taken; and the Speaker announced that two-thirds had voted in favor thereof.

Mr. REID of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 307, nays 0, not voting 126, as follows:

[Roll No. 147]

YEAS—307

Abbitt	Gathings	Moss
Abernethy	Gettys	Murphy, Ill.
Adams	Giaimo	Murphy, N.Y.
Albert	Gibbons	Natcher
Anderson, Ill.	Gonzalez	Nedzi
Anderson, Tenn	Green, Oreg.	Nelsen
Andrews, George W.	Green, Pa.	O'Hara, Ill.
Andrews, Glenn	Greigg	O'Hara, Mich.
Arends	Grider	Olsen, Mont.
Ashbrook	Griffiths	O'Neal, Ga.
Aspinall	Gross	Ottinger
Ayres	Grover	Patman
Bandstra	Gubser	Patten
Baring	Gurney	Pelly
Barrett	Hagen, Calif.	Perkins
Bates	Haley	Philbin
Battin	Hall	Pickle
Beckworth	Halpern	Pike
Belcher	Hanna	Poage
Bell	Hansen, Idaho	Poff
Bennett	Hansen, Wash.	Pool
Betts	Hardy	Pucinski
Bingham	Harvey, Ind.	Quie
Boggs	Harvey, Mich.	Race
Boland	Hathaway	Randall
Brademas	Hawkins	Redlin
Brock	Hays	Rees
Broomfield	Hébert	Reid, Ill.
Brown, Calif.	Hechler	Reid, N.Y.
Broyhill, N.C.	Heistoski	Reinecke
Broyhill, Va.	Henderson	Reuss
Buchanan	Hicks	Rhodes, Ariz.
Burke	Holland	Rhodes, Pa.
Burleson	Hosmer	Rivers, Alaska
Burton, Calif.	Hull	Rivers, S.C.
Burton, Utah	Hungate	Robison
Byrne, Pa.	Hutchinson	Rodino
Byrnes, Wis.	Ichord	Rogers, Colo.
Cabell	Irwin	Rogers, Fla.
Callan	Jacobs	Rogers, Tex.
Cameron	Jarman	Ronan
Carey	Joelson	Roncalio
Carter	Johnson, Calif.	Rosenthal
Casey	Johnson, Okla.	Roush
Cederberg	Johnson, Pa.	Rumsfeld
Chamberlain	Jones, Ala.	Ryan
Chelf	Jones, Mo.	Satterfield
Clark	Karsten	St Germain
Clawson, Del	Karth	St. Onge
Cleveland	Kastenmeier	Saylor
Clevenger	Kelly	Schisler
Colmer	King, Calif.	Schmidhauser
Conable	King, Utah	Schneebeli
Conte	Kirwan	Schweiker
Corbett	Kornegay	Secrest
Curtis	Krebs	Selden
Dague	Kunkel	Senner
Daniels	Kupferman	Shriver
Davis, Wis.	Laird	Sickles
Dawson	Langen	Sikes
de la Garza	Latta	Sisk
Denton	Leggett	Skubitz
Derwinski	Lipscomb	Slack
Devine	Love	Smith, Calif.
Dickinson	McCarthy	Smith, Iowa
Dole	McClory	Smith, N.Y.
Dorn	McCulloch	Smith, Va.
Dow	McDade	Staggers
Dowdy	McEwen	Stalbaum
Downing	McFall	Stanton
Dulski	McGrath	Stratton
Duncan, Tenn.	McVicker	Stubblefield
Dyal	MacGregor	Sullivan
Edmondson	Machen	Sweeney
Edwards, Ala.	Mackay	Talcott
Edwards, Calif.	Madden	Taylor
Edwards, La.	Mahon	Teague, Calif.
Erlenborn	Mailliard	Teague, Tex.
Evans, Colo.	Marsh	Tenzer
Farnsley	Martin, Ala.	Thompson, N.J.
Farnum	Martin, Nebr.	Thompson, Tex.
Fascell	Matsunaga	Thomson, Wis.
Findley	Matthews	Todd
Fisher	Meeds	Tuck
Foley	Michel	Tunney
Ford, Gerald R.	Miller	Tupper
Ford, William D.	Mills	Tuten
Fountain	Minish	Udall
Frelinghuysen	Mink	Ullman
Friedel	Mize	Utt
Fulton, Pa.	Moeller	Van Deerlin
Fulton, Tenn.	Monagan	Vanik
Fuqua	Moore	Vigorito
Gallagher	Moorhead	Vivian
Garmatz	Morgan	Waggonner
	Morris	Waldie
	Morse	Walker, N. Mex.
	Morton	Watkins
	Mosher	Watts
Weltner	Widnall	Yates
White, Idaho	Wilson, Charles H.	Young
White, Tex.	Wyatt	Younger
Whitener	Wydler	Zablocki
Whitten		

NAYS—0

NOT VOTING—126

Adair	Evins, Tenn.	May
Addabbo	Fallon	Minshall
Andrews, N. Dak.	Farbstein	Morrison
Annunzio	Feighan	Multer
Ashley	Fino	Murray
Ashmore	Flood	Nix
Berry	Flynt	O'Brien
Blatnik	Fogarty	O'Konski
Bolling	Fraser	Olson, Minn.
Bolton	Gilbert	O'Neill, Mass.
Bow	Gilligan	Passman
Bray	Goodell	Pepper
Brooks	Grabowski	Pirnie
Brown, Clarence J., Jr.	Gray	Powell
Cahill	Hagan, Ga.	Price
Callaway	Halleck	Purcell
Celler	Hamilton	Quillen
Clancy	Hanley	Reifel
Clausen, Don H.	Hansen, Iowa	Resnick
Cohelan	Harsha	Roberts
Collier	Herlong	Rooney, N.Y.
Conyers	Holifield	Rooney, Pa.
Cooley	Horton	Rostenkowski
Corman	Howard	Roudebush
Craley	Huot	Roybal
Cramer	Jennings	Scheuer
Culver	Jonas	Scott
Cunningham	Jones, N.C.	Shipley
Curtin	Keith	Springer
Daddario	Keogh	Stafford
Davis, Ga.	King, N.Y.	Steed
Delaney	Kluczynski	Stephens
Dent	Landrum	Thomas
Diggs	Lennon	Toll
Dingell	Long, La.	Trimble
Donohue	Long, Md.	Walker, Miss.
Duncan, Oreg.	McDowell	Watson
Dwyer	McMillan	Whalley
Ellsworth	Macdonald	Williams
Everett	Mackie	Willis
	Martin, Mass.	Wilson, Bob
	Mathias	Wolff
		Wright

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hamilton with Mr. King of New York.
Mr. Scott with Mr. Callaway.
Mr. Cooley with Mr. Jonas.
Mr. Multer with Mr. Fino.
Mr. Evins with Mrs. May.
Mr. Howard with Mrs. Dwyer.
Mr. Culver with Mr. Reifel.
Mr. Grabowski with Mr. Bow.
Mr. Holifield with Mr. Bob Wilson.
Mr. Roberts with Mr. Whalley.
Mr. Long of Louisiana with Mr. Quillen.
Mr. Cohelan with Mr. Horton.
Mr. Keogh with Mr. Cahill.
Mrs. Thomas with Mr. Springer.
Mr. Wolff with Mr. Pirnie.
Mr. Pepper with Mr. Martin of Massachusetts.
Mr. Herlong with Mr. Harsha.
Mr. Duncan of Oregon with Mr. Minshall.
Mr. Jones of North Carolina with Mr. Cramer.
Mr. Steed with Mr. Brown of Ohio.
Mr. Blatnik with Mr. Collier.
Mr. Mackie with Mr. Mathias.
Mr. Addabbo with Mr. Keith.
Mr. Williams with Mr. Walker of Mississippi.
Mr. Davis of Georgia with Mr. Berry.
Mr. Trimble with Mr. Halleck.
Mr. Flood with Mr. Andrews of North Dakota.
Mr. Shipley with Mr. Adair.
Mr. Dingell with Mr. Stafford.
Mr. Wright with Mr. Roudebush.
Mr. Everett with Mr. Clancy.
Mr. Willis with Mr. Goodell.
Mr. Fraser with Mr. Ellsworth.
Mr. Morrison with Mr. Curtin.
Mr. Resnick with Mr. Don H. Clausen.
Mr. Brooks with Mr. Cunningham.
Mr. Stephens with Mr. Bray.
Mr. Annunzio with Mr. Watson.
Mr. Celler with Mr. Ashmore.
Mr. Ashley with Mr. Roybal.
Mr. Diggs with Mr. Scheuer.
Mr. Jennings with Mr. Purcell.
Mr. Fallon with Mr. McMillan.
Mr. Daddario with Mr. McDowell.
Mr. Conyers with Mr. O'Brien.
Mr. Hagan of Georgia with Mr. Murray.
Mr. Rooney of New York with Mr. Feighan.
Mr. Rostenkowski with Mr. Powell.
Mr. Gilligan with Mr. Kee.
Mr. Huot with Mr. Nix.
Mr. Donohue with Mr. Long of Maryland.
Mr. Dent with Mr. Lennon.
Mr. Flynt with Mr. Passman.
Mr. Corman with Mr. Olson of Minnesota.
Mr. Craley with Mr. O'Neill of Massachusetts.
Mr. Delaney with Mr. Macdonald.
Mr. Farbstein with Mr. Toll.
Mr. Fogarty with Mr. Rooney of Pennsylvania.
Mr. Gilbert with Mr. Price.
Mr. Gray with Mr. Landrum.
Mr. Hanley with Mr. Kluczynski.
Mr. Hansen of Iowa with Mrs. Bolton.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

United States is the fact that such a political truism needs repeating. And repeated it is, in textbooks and classrooms, in newspapers and broadcasts.

The repetition is necessary because the ideals of our democratic society have outpaced the machinery which makes that society work. The needs of the electorate have outpaced the laws which guarantee public access to the facts in Government. In the time it takes for one generation to grow up and prepare to join the councils of Government—from 1946 to 1966—the law which was designed to provide public information about Government activities has become the Government's major shield of secrecy.

S. 1160 will correct this situation. It provides the necessary machinery to assure the availability of Government information necessary to an informed electorate.

CLARIFYING AND PROTECTING THE RIGHT OF THE PUBLIC TO INFORMATION

(Mr. CRAMER (at the request of Mr. BUCHANAN) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CRAMER. Mr. Speaker, I was unavoidably detained at an important meeting and missed by a few minutes being present for the vote on S. 1160, clarifying and protecting the right of the public to information. Had I been present, I would have voted for passage of the bill and, for the record, want to announce my position in support of the legislation, which is best evidenced by my introduction of a similar bill, H.R. 14915.

In support of this position, I can do no better than to quote the conclusion of the Committee on Government Operations in reporting the bill to the House:

A democratic society requires an informed, intelligent electorate, and the intelligence of the electorate varies as the quantity and quality of its information varies. A danger signal to our democratic society in the

Public Law 89-487
89th Congress, S. 1160
July 4, 1966

An Act

To amend section 3 of the Administrative Procedure Act, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), is amended to read as follows:

Public information, availability.
5 USC 1002.

"SEC. 3. Every agency shall make available to the public the following information:

"(a) PUBLICATION IN THE FEDERAL REGISTER.—Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(b) AGENCY OPINIONS AND ORDERS.—Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided*, That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either

made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.

"(c) AGENCY RECORDS.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(d) AGENCY PROCEEDINGS.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

"(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysical information and data (including maps) concerning wells.

"(f) LIMITATION OF EXEMPTIONS.—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

"(g) PRIVATE PARTY.—As used in this section, 'private party' means any party other than an agency.

"(h) EFFECTIVE DATE.—This amendment shall become effective one year following the date of the enactment of this Act."

Approved July 4, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 1497 (Comm. on Government Operations).
SENATE REPORT No. 813 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 111 (1965): Oct. 13, considered and passed Senate.
Vol. 112 (1966): June 20, considered and passed House.

89TH CONGRESS
1st Session

SENATE

REPORT
No. 119

ADMINISTRATIVE PRACTICE AND PROCEDURE

REPORT

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

MADE BY ITS

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

PURSUANT TO

S. Res. 261
88th Congress, 2d Session

MARCH 10, 1965.—Ordered to be printed
Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1965

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[1] Senators Joseph D. Tydings and Jacob K. Javits were not members of the Committee on the Judiciary for the period covered by this report.

89TH CONGRESS } SENATE { REPORT
1st Session } { No. 119

ADMINISTRATIVE PRACTICE AND PROCEDURE

MARCH 10, 1965.—Ordered to be printed

Mr. LONG of Missouri, from the Committee on the Judiciary, submitted the following

REPORT

[Pursuant to S. Res. 261, 88th Cong., 2d sess.]

The Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary herewith submits its report as required under Senate Resolution 261, which was considered and agreed to February 10, 1964. That resolution reads, in part as follows:

> *Resolved*, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under section 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study and investigation of administrative practice and procedure within the departments and agencies of the United States in the exercise of their rulemaking, licensing, and adjudicatory functions, *including a study of the effectiveness of the Administrative Procedure Act, with a view to determining whether additional legislation is required to provide for the fair, impartial, and effective performance of such functions.* [Emphasis supplied.]

SUMMARY

The subcommittee is satisfied with the progress made in the field of administrative law during the 2d session of the 88th Congress, though it realizes a number of problems continue to exist and that many improvements still need to be made. The following is a very brief summary of the progress made during 1964.

After many years of effort, there was established a permanent Administrative Conference of the United States. The conference concept was contained in S. 1664, backed by the Kennedy adminis-

tration and introduced by Senator Long of Missouri. The final legislation was contained in Public Law 88–499.

Considerable progress was made in the refinement of legislation designed to overhaul and modernize the Administrative Procedure Act, which governs the practices and procedures of more than 100 Federal agencies. The refinements centered around S. 1663, introduced by Senator Dirksen, of Illinois, and S. 2335, introduced by Senator Ervin, of North Carolina (on behalf of the American Bar Association). No final action on this complex legislation was taken by the Subcommittee on Administrative Practice and Procedure but it is expected that it will be the first order of business in the 89th Congress.

After lengthy hearings, and upon the recommendation of the Subcommittee on Administrative Practice and Procedure, the Committee on the Judiciary favorably reported the freedom of information bill, S. 1666, which was designed to clearly expand Government information which would be made available to the public. With minor amendments, this bill was passed by the Senate on July 31, 1964. However, no final action was taken by the House on this legislation.

Likewise, the House failed to take final action on S. 1466, which was passed by the Senate during the 1st session of the 88th Congress, and which was designed to greatly simplify the admission of qualified lawyers to practice before Federal agencies.

In August of 1964, the committee had printed a document entitled "Statistical Data Relating to Administrative Proceedings Conducted by Federal Agencies, Fiscal Year 1963." The data revealed a continuing trend toward lengthier administrative proceedings and greater backlogs in some agencies. It underlined the necessity for improvements in the Administrative Procedure Act which would cut down on the time and cost of administrative proceedings generally.

Last, the subcommittee began an investigation of complaints against the use by Federal agencies of electronic equipment for eavesdropping against both the public and their own employees. The preliminary investigation resulted in the sending of a comprehensive questionnaire to the "nonsecurity agencies" on the whole broad spectrum of invasions of privacy. It is contemplated that hearings will be held on this subject during the 89th Congress.

ADMINISTRATIVE CONFERENCE

On August 30, 1964, President Johnson signed into law Public Law 88–499 (78 Stat. 618) establishing the first permanent Administrative Conference of the United States.

The Conference will consist of a full-time Chairman, a 10-man Council, and an Assembly which shall be selected in a manner which will provide broad representation of the views of private citizens and utilize the diverse experience of the practicing bar, scholars in the field of administrative law or Government, or others especially informed by knowledge and experience with respect to Federal administrative procedure. The power of the Conference will be strictly limited to that of making recommendations. The jurisdiction of the Conference shall be as broad as the Administrative Procedure Act.

This is no superagency, but will stand in a similar relationship to the Federal agencies as the permanent and successful Judicial Conference stands in relationship to the Federal judiciary.

If the experience of the two previous temporary administrative conferences is any measuring stick, the work of this body should prove tremendously valuable to the departments and agencies. It will have the added benefit of being established on a permanent basis and, therefore, shall not waste time setting up organizational machinery every several years as was the experience of the temporary conference.

The House of Representatives considered the legislation for an Administrative Conference on August 12, 1964, and passed the bill with amendments. The House version of the bill was returned to the Senate for its consideration. The Senate accepted the House amendments in toto and the bill was sent on August 17, 1964, to the President for his approval. The bill was signed into law on August 30, 1964, and became Public Law 88–499.

ADMINISTRATIVE PROCEDURE ACT

The omnibus bill (S. 1663) designed to overhaul the Administrative Procedure Act was introduced by Senator Dirksen on June 4, 1963. It was an attempt to find some accord among numerous fragmentary and conflicting solutions which had been advanced, during the nearly 20 years since enactment of the present act, by various commissions, legal and Government scholars, lawyers, Senators, and others. Upon introduction, the bill's sponsors emphasized that the undertaking was nonpartisan, long overdue, and that a great deal of thoughtful study would be necessary before the legislation could be put into final form.

A comparative print of S. 1663 with the present Administrative Procedure Act was prepared and sent by the Committee on the Judiciary to the Federal departments and agencies for their comments. In addition, a board of consultants consisting of outstanding legal scholars in the administrative law field was formed at the request of the subcommittee, and these experts have lent their invaluable talents to the guidance of the subcommittee's activities. Members of the board of consultants are as follows:

Prof. Clark Byse, Harvard Law School, Cambridge, Mass.
Prof. Frank E. Cooper, University of Michigan Law School, Ann Arbor, Mich.
Dean Joe Covington, University of Missouri Law School, Columbia, Mo.
Prof. Roger C. Cramton, University of Michigan Law School, Ann Arbor, Mich.
Prof. Kenneth Culp Davis, University of Chicago Law School, Chicago, Ill.
Prof. Thomas I. Emerson, Yale University Law School, New Haven, Conn.
Prof. Winston M. Fisk, Claremont Men's College, Claremont, Calif.
Prof. John L. FitzGerald, Southern Methodist University School of Law, Dallas, Tex.
Prof. Marvin E. Frankel, Columbia University School of Law, New York, N.Y.
Prof. Ralph F. Fuchs, Indiana University Law School, Bloomington, Ind.
Prof. Walter Gellhorn, Columbia University School of Law, New York, N.Y.

Dean Leo A. Huard, University of Santa Clara Law School, Santa Clara, Calif.
Prof. Louis L. Jaffe, Harvard Law School, Cambridge, Mass.
Prof. James Kirby, Vanderbilt University Law School, Nashville, Tenn.
Dean Robert Kramer, George Washington University Law School, Washington, D.C.
Prof. Carl McFarland, University of Virginia Law School, Charlottesville, Va.
Associate Dean Robert B. McKay, New York University Law School, New York, N.Y.
Prof. Nathaniel L. Nathanson, Northwestern University Law School, Chicago, Ill.
Prof. Frank C. Newman, University of California Law School, Berkeley, Calif.

The comparative print and other materials prepared for comment were circulated as widely as possible through such groups as the American Bar Association, Federal Trial Examiners Conference, and local and interagency bar associations. By the beginning of the year 1964, detailed comments on S. 1663 were being submitted by many of these. Furthermore, many of the Government agencies had been most generous with their time by meeting with the subcommittee staff to discuss problems which would be raised within their agencies by the enactment of such a bill as S. 1663.

On March 10, 1964, there began a 3-day, on-the-record meeting with members of the American Bar Association. Experts from various fields of interest and various committees within the association gave a complete airing to the strengths and weaknesses of S. 1663, with relation to the association's adopted position as embodied in another bill, S. 2335. (It might be noted that this bill, S. 2335, introduced by Senator Ervin on November 26, 1963, was a refinement of prior American Bar Association proposals for complete revision of the Administrative Procedure Act.) These meetings were most fruitful adding new insights to problem areas of the legislation.

Shortly after these meetings, a period of analysis and redrafting was begun by the subcommittee. This resulted in a second committee print dated April 20, 1964; it included (1) S. 2335, 88th Congress, as introduced; (2) the Administrative Procedure Act (5 U.S.C. 1001–11); (3) S. 1663, 88th Congress, as introduced; and (4) S. 1663, 88th Congress, as tentatively revised by the subcommittee. Again, the comparison was sent by the Committee on the Judiciary to the Federal departments and agencies, and the process of wide circulation and comment was repeated.

On July 21, 22, and 23, 1964, hearings were held on the latest revision of the legislation. This record pulled together all of the wide range of criticism, comment, suggested language changes, substantive proposals, and legal analysis.

At the conclusion of the hearings, the subcommittee began a methodical study of all of the comments that had been made, with a view toward a new draft of the legislation. In this endeavor, the subcommittee continued to have the active and very helpful assistance of the American Bar Association, many of the Federal administrative agencies, and its own board of consultants. A tentative redraft, which was drawn up by the staff of the subcommittee and which at-

tempted to take into account all comments and criticisms, was completed in December 1964. It was distributed on an informal basis to all interested parties for their information and comments. It is expected that a new and revised version of S. 1663 will be formally introduced early in the 89th Congress. It is expected that this legislation will receive top priority consideration by the Subcommittee on Administrative Practice and Procedure in the 89th Congress.

FREEDOM OF INFORMATION

One of the special problems which were considered separately from the main body of the Administrative Procedure Act was the "freedom of information bill" (S. 1666). This is the entire section 3 of the act and is the primary statutory provision regulating the availability of Government information to the public. This is the only section of the act which applies to the whole Federal Government, rather than to "administrative agencies."

To permit a speedy and comprehenive consideration of this important problem, Senator Long of Missouri, and a large number of other Senators, introduced S. 1666. The provisions of S. 1666 were identical with those of section 3 of S. 1663. The cosponsors of S. 1666 were Senators Bartlett, Bayh, Boggs, Case, Dirksen, Ervin, Fong, Gruening, Hart, Keating, Kefauver, Metcalf, Morse, Nelson, Neuberger, Proxmire, Ribicoff, Smathers, Symington, Moss, and Walters.

Hearings on the bill were held on October 28, 29, 30, and 31, 1963, with a number of witnesses strongly in favor and a number in opposition. The bill, which could open up many more Government files than are currently available to the press and public, was strongly supported by the American Society of Newspaper Editors, the American Newspaper Publishers Association, the National Editorial Association, and the National Association of Broadcasters. The major changes which the bill would bring about were strongly opposed by virtually all Government agencies, although many of them professed to be sympathetic to the bill's objectives.

The subcommittee reported the bill favorably to the Committee on the Judiciary and the committee reported the bill (with amendments) favorably to the Senate on July 22, 1964 (S. Rept. 1219, 88th Cong., 2d sess.).

On July 28, 1964, the Senate passed S. 1666, with committee amendments. Later a motion was entered to reconsider this action. Then on July 31, 1964, the Senate passed S. 1666, with minor floor amendments.

At the close of the 88th Congress, the measure was pending before the Committee on the Judiciary of the House of Representatives.

ATTORNEY'S PRACTICE BILL

Over the years, a labyrinth of regulations has grown up with respect to the right of lawyers to practice before the very numerous Federal departments and agencies. There are special and individual bars, admission requirements, applications, examinations, and admission fees to the various agencies. Strong efforts were made by the organized bar, the Justice Department, and others to persuade the agencies to abandon their special requirements without legislative direction but, in many cases, without effect.

During the 1st session of the 88th Congress, two bills were introduced to remedy this situation. One was S. 318, introduced on January 15, 1963, by Senator Keating, for himself and Senator Hruska, the other was S. 1466, introduced by Senator Long of Missouri (for himself, Senators Kefauver, Dirksen, Ervin, Dodd, Hart, Scott, and Bayh), on May 18, 1963. Although these two bills were designed to accomplish the same general purpose, they did vary in detail.

After a favorable recommendation by the subcommittee, S. 1466 was reported favorably to the Senate by the Committee on the Judiciary on December 5, 1963 (S. Rept. 745, 88th Cong., 1st sess.), and it passed the Senate without a dissenting voice on December 6, 1963. As approved by the Senate, the bill would authorize practice before all Federal agencies of attorneys who are members in good standing before the bar of the highest tribunal in their State, without special examination or requirements. The bill contains very stringent criminal penalties for any misrepresentation under the act. It does not alter the right of agencies to grant or to deny the right of nonlawyers to represent persons before Federal agencies, nor does it alter the right of agencies to discipline or disbar attorneys.

S. 1466 was favorably reported by Subcommittee No. 3 of the House Committee on the Judiciary but was not taken up by the House Committee on the Judiciary prior to adjournment.

STATISTICAL DATA ON ADMINISTRATIVE PROCEEDINGS

Since the automatic ending on December 31, 1962, of the Second Administrative Conference, the subcommittee has taken over several of the Conference's functions. Of these, the subcommittee continued for 1963 the statistical studies done by the Conference. As statistics lose much of their value without continuity, the subcommittee believed it worth while to gather, evaluate, and publish the same statistical material for fiscal 1963 which was normally handled by the administrative conference. This study was ready for distribution in October 1964.

These studies bring into focus the salient facts of the "regulatory lag." They add great weight to the arguments in favor of the permanent Administrative Conference, and point up the urgency of the tasks before the subcommittee. The conclusions to be drawn from these studies are indeed striking. Since the end of fiscal year 1961 to the end of fiscal year 1963, the agency caseload has increased by 21,000 cases. There was a corresponding increase in the output of cases by 14,000. However, this meant that an additional 7,000 cases were added to the backlog of cases representing a 29-percent jump in case backlog for the period involved.

Claims disposition and licensing proceedings were the two principal proceedings causing this increase. Certain statistical unknowns prevent definite conclusions as to the cause for this increase. However, the new figures clearly show a rapid acceleration in the volume of cases.

If this creeping increase in workload is not arrested, certain areas of the governmental activity may soon find themselves in an impossible situation of backlogs and delays. If the existing procedures and processes are not soon updated, the administrative process will eventually bog down responsible Government. This survey itself demonstrates the need to speed up the work of the subcommittee.

EAVESDROPPING

Still another area of the administrative process on which the subcommittee has begun some preliminary work is in attempting to measure the extent that highly sophisticated electronic eavesdropping equipment is used by the Federal agencies both internally and in dealings with the public. This might affect the manner of revising several areas of the Administrative Procedure Act. Section 6(b) deals with agency investigations and investigatory techniques. Similarly, section 7(c) covers evidentiary matters and could be amended as to require exclusion of any evidence obtained by means of electronic eavesdropping or wiretapping. The law on the subject is extremely vague. It is hoped that the investigation will result in the discovery of some useful yardsticks.

To date, the subcommittee has been able to do little more than become acquainted with the state of the art, and uncover positive evidence that large sums of money are being spent by certain departments and agencies of the Federal Government for eavesdropping equipment. A comprehensive questionnaire on invasions of privacy has been sent to the departments and agencies in an effort to develop as many facts as possible on this subject.

CONCLUSIONS

The subcommittee believes that considerable progress has been made in the analysis and development of proposed reforms in the field of administrative law. This progress would not have been possible except for the complete spirit of bipartisanship which prevailed throughout. Nor would it have been possible without the generous cooperation of the agencies, the American Bar Association, and the board of consultants. Further, although satisfied with the progress made during the 88th Congress, the subcommittee feels no reason for complacency. There is much to be done. The administrative process needs continuing review, updating, and improvement.

○

Calendar No. 942

89TH CONGRESS, 2d Session } SENATE { REPORT No. 970

STUDY OF ADMINISTRATIVE PRACTICE AND PROCEDURE IN GOVERNMENT DEPARTMENTS AND AGENCIES

FEBRUARY 9 (legislative day, JANUARY 26), 1966.—Ordered to be printed

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. Res. 190]

The Committee on Rules and Administration, to which was referred the resolution (S. Res. 190) authorizing a study of administrative practice and procedure in Government departments and agencies, having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

Senate Resolution 190 would authorize the expenditure of not to exceed $175,000 by the Committee on the Judiciary, acting through its Subcommittee on Administrative Practice and Procedure, from February 1, 1966, through January 31, 1967—

> to make a full and complete study and investigation of administrative practices and procedures within the departments and agencies of the United States in the exercise of their rulemaking, licensing, investigatory, law enforcement, and adjudicatory functions, including a study of the effectiveness of the Administrative Procedure Act, with a view to determining whether additional legislation is required to provide for the fair, impartial, and effective performance of such functions.

The following table indicates funds authorized by the Senate for the same purpose during the 87th and 88th Congresses and the 89th Congress, 1st session. Committee expenditures are shown through December 31, 1965.

JUDICIARY

Congress and session	Authority	Date	Authorized	Expended [1]
ADMINISTRATIVE PRACTICE AND PROCEDURE				
87th			$230,000.00	$138,514.72
1st	S. Res. 51	Jan. 31, 1961	115,000.00	68,400.98
			115,000.00	68,400.98
2d	S. Res. 256	Feb. 7, 1962	115,000.00	70,113.74
			115,000.00	70,113.74
88th			230,600.00	207,922.52
1st	S. Res. 55	Mar. 14, 1963	[2] 110,600.00	89,212.17
			110,600.00	89,212.17
2d	S. Res. 261	Feb. 10, 1964	120,000.00	118,710.35
	S. Res. 352 [3]			
			120,000.00	118,710.35
89th			175,000.00	133,826.86
1st	S. Res. 39	Feb. 8, 1965	150,000.00	133,826.86
	S. Res. 120	July 30, 1965	25,000.00	
			175,000.00	133,826.86
2d				

[1] Through Dec. 31, 1965.
[2] 11-month basis.
[3] S. Res. 352, agreed to Aug. 20, 1964, authorized an additional expenditure of $10,000. That action, however, was in effect rescinded when the Senate adjourned without disposing of a motion for reconsideration of the resolution.

The purposes of Senate Resolution 190 are more fully detailed in a letter to Senator B. Everett Jordan, chairman of the Committee on Rules and Administration, from Senator James O. Eastland, chairman of the Committee on the Judiciary, transmitting a letter addressed to him by Senator Edward V. Long, chairman of the Subcommittee on Administrative Practice and Procedure, which letters (with accompanying budget) are as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
January 19, 1966.

Re Senate Resolution 190.

Hon. B. EVERETT JORDAN,
Chairman, Committee on Rules and Administration,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am enclosing a proposed budget which has been approved by the Committee on the Judiciary for the activities of the Subcommittee on Administrative Practice and Procedure for the period February 1, 1966, to January 31, 1967.

The committee also authorized the report to the Senate of an original resolution, Senate Resolution 190, to provide $175,000 for the work of the subcommittee during this period.

I am also enclosing a letter to me from the Honorable Edward V. Long, chairman of the subcommittee, setting forth its program and activities, and the justification for the proposed budget.

With kindest regards, I am,

Sincerely,

JAMES O. EASTLAND,
Chairman, Committee on the Judiciary.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON ADMINISTRATIVE
PRACTICE AND PROCEDURE,
January 19, 1966.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The standing Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary presents herewith the attached budget, and the proposed resolution approving the sum of $175,000 for a continuing study and investigation of the laws of the United States, governing Federal administrative practice and procedure, and their application; and for a continuing study and investigation of invasions of privacy by governmental and nongovernmental entities alike.

The subcommittee was originally formed pursuant to action taken by the Committee on the Judiciary at its organization meeting of January 26, 1959, when it approved an original resolution appropriating the sum of $115,000. This resolution was agreed to by the Senate, as Senate Resolution 61, on February 2, 1959. The subcommittee has been continued pursuant to Senate Resolution 234, 86th Congress, 2d session; Senate Resolution 51, 87th Congress, 1st session; Senate Resolution 256, 87th Congress, 2d session; Senate Resolution 55, 88th Congress, 1st session; Senate Resolution 261, 88th Congress, 2d session; and Senate Resolution 39, 89th Congress, 1st session. For any 12-month period, the subcommittee has received a minimum of $115,000 and a maximum of $175,000.

The subcommittee was very fortunate during the 1st session of the 89th Congress to be able to see the completion or the advancement of a number of projects which should greatly improve the administrative process and reduce both the cost and time of administrative proceedings.

First and foremost, the subcommittee completed its hearings on legislation (S. 1336) designed to rewrite and update the Administrative Procedure Act. A new draft of the legislation is now being considered by members of the subcommittee and it is hoped that the Committee on the Judiciary and the Senate may be able to act on this legislation in the 2d session of the 89th Congress.

The Senate acted favorably on the so-called freedom of information bill (S. 1160) in 1965, and it is anticipated that the House will pass this or a similar bill in 1966, leading to the solution of a problem that has faced the subcommittee for many years.

During the 1st session of the 89th Congress, both Houses passed the lawyers practice bill (S. 1758) and it was signed by the President on November 8, 1965. This legislation abolished special requirements for practice by qualified lawyers and CPA's before Federal agencies.

Each of the authorized resolutions for this subcommittee (prior to the 89th Cong.) provided that "the Committee on the Judiciary, or any duly authorized subcommittee thereof, make a full and complete study and investigation of administrative practice and procedure within the departments and agencies of the United States in the exercise of their rulemaking, licensing, and adjudicatory functions, including a study of the effectiveness of the Administrative Procedure Act, with a view to determining whether additional legislation is required to provide for the fair, impartial, and effective performance of such functions." There was a change in the wording of the resolution for the 1st session of the 89th Congress. The authorization read that "the Committee on the Judiciary, or any duly authorized subcommittee thereof, make a full and complete study and investigation of administrative practices and procedures within the departments and agencies of the United States in the exercise of their rulemaking, licensing, *investigatory, law enforcement,* and adjudicatory functions", etc. [Emphasis added.] This change in wording was helpful in obviating any possible question with respect to the committee's jurisdiction in its investigation of invasions of privacy by Government agencies.

The subcommittee's investigation of invasions of privacy has revealed a large number of practices by Federal agencies which need correcting. In at least one case (i.e., opening of first-class mail by the Internal Revenue Service), correction has already been achieved by legislation. In other instances, corrective actions have been taken through administrative channels. In yet other cases, there are strong indications that a new Federal law will be needed in the field of wiretapping and eavesdropping. The subcommittee plans to continue its investigation in the 2d session of the 89th Congress.

The staff of the subcommittee is also doing research in the following areas:

(1) An analysis of the statistical data furnished by the Federal agencies relating to the length of time consumed in administrative proceedings;

(2) "Trial by press"; and,

(3) The Scandinavian institution of ombudsman.

In view of the size and difficulty of the task ahead, I urge approval of the attached proposed budget of $175,000 for the subcommittee. This is the same amount as appropriated for the past session (in two separate resolutions).

Kind regards.

Sincerely,

EDWARD V. LONG, *Chairman.*

Enclosures.

STATEMENT OF NUMBER OF ROOMS ASSIGNED TO SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE AND NUMBER OF OCCUPANTS, 1966

Rooms 3214 and 3216 New Senate Office Building (eight persons assigned to these two rooms).

Room 319–A Old Senate Office Building (two persons assigned to this room—minority counsel and clerk).

Senate Subcommittee on Administrative Practice and Procedure, proposed budget, 1966

Position	Number	Annual salary (gross)	Monthly salary (gross)	Total for period of budget (gross)
STAFF				
Legal and investigative:				
Chief counsel	1	$21,603.59	$1,800.29	$21,603.59
Minority counsel	1	21,603.59	1,800.29	21,603.59
Special assistant	1	12,949.41	1,079.11	12,949.41
Assistant counsels	3	38,015.67	3,167.97	38,015.67
Chief investigator	1	13,946.87	1,162.23	13,946.87
Research assistant	1	8,083.72	673.64	8,083.72
Chief clerk	1	9,199.48	766.62	9,199.48
Clerk for minority	1	8,083.72	673.64	8,083.72
Assistant clerks	2	6,448.92	537.41	6,448.92
Subtotal, staff expense	12			139,934.97
ADMINISTRATIVE				
Contribution to employees benefit programs				973.44
Contribution to civil service retirement fund				9,095.77
Contribution to employees Federal employees group life insurance				453.37
Reimbursable payments to agencies				2,000.00
Travel (inclusive of field investigations)				8,000.00
Hearings (inclusive of reporters' fees)				6,000.00
Witness fees, expenses				3,000.00
Stationery, office supplies				1,500.00
Communications (telephone, telegraph)				2,000.00
Newspapers, magazines, documents				1,000.00
Contingent				1,042.45
Subtotal, administrative expense				35,065.03
Grand total				175,000.00

Funds requested, Senate Resolution 190, $175,000.

O

LISTING OF REFERENCE MATERIALS

U.S. Congress. Senate. Committee on the Judiciary. *Administrative Procedure Act. Hearings, 89th Congress, 1st session.*

U.S. Congress. House. Committee on Government Operations. *Federal Public Records Law. Hearings, 89th Congress, 1st session.*

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2169

AMENDING THE RAILROAD RETIREMENT ACT OF 1937 AND THE RAILROAD RETIREMENT TAX ACT

OCTOBER 1, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MACDONALD, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 17285]

The Committee on Interstate and Foreign Commerce, to which was referred the bill (H.R. 17285) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, to provide for supplemental annuities and to increase benefit amounts and for other purposes, having considered the same, report favorably thereon with amendments, and recommend that the bill as amended do pass.

The amendments are as follows:

1. On page 2, line 19, after "$70", change the period to a colon and insert thereafter the following: "*Provided, however,* That in cases where an individual's annuity under section 2 of this Act begins to accrue on other than the first day of the month, the amount of any supplemental annuity to which he is entitled for that month shall be reduced by one-thirtieth for each day with respect to which he is not entitled to an annuity under section 2.".

2. On page 2, line 19, strike out the sentence beginning on line 19 and ending on line 25.

3. On page 3, line 13, after the word "plan", insert a colon, strike out the following: "if such pension is not reduced by reason of the supplemental annuity to which such individual is entitled under the provisions of this subsection.", and insert the following in lieu thereof: "*Provided, however,* That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity."

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4. On page 3, line 18, strike out the word "Act" and insert in lieu thereof "subsection"; strike out the quotation mark at the end of the line and insert after such line the following:

"(4) The provisions of section 12 of this Act shall not operate to exclude the supplemental annuities herein provided for from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954."

5. On page 5, line 22, change the period to a colon and insert thereafter the following: "*Provided, however,* That if before July 1, 1966, an annuity was awarded to an individual under section 2(a) 4 or 5 of the Railroad Retirement Act of 1937, and such individual had recovered from disability and returned to the service of an employer before July 1, 1966, following which he was awarded an annuity after June 30, 1966, the annuity last awarded him shall be deemed to be an annuity first awarded within the meaning of this subsection but only if he would have a current connection with the railroad industry at the time the annuity last awarded begins to accrue, disregarding his earlier entitlement to an annuity."

6. On page 8, line 11, strike out "the next $100" and insert in lieu thereof "the remainder up to an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954".

7. On page 8, lines 15 and 16, strikeout "work recomputations" and insert in lieu thereof "recomputations other than for the correction of errors".

8. On page 9, line 2, after the comma, insert the following: "and of subsection (e) of this section,".

9. On page 9, line 5, after the word "subsection", insert "or of subsection (e) of this section,".

10. On page 9, line 6, strike out the word "its" and insert in lieu thereof "their".

11. On page 9, line 6, change the period to a colon and insert thereafter the following: "*Provided, however,* That if the application of the preceding provision of this paragraph would result in the amount of the annuity, plus the amount of a supplemental annuity (after adjustment under subsection (j)(2) of this section) payable to an individual for a month being lower than the amount which would be payable as an annuity except for such preceding provision, the annuity shall be in an amount which together with the amount of the supplemental annuity would be no less than the amount that would be payable as an annuity but for such preceding provision."

12. On page 11, line 2, strike out "$550" and insert in lieu thereof the following: "an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in Section 3121 of the Internal Revenue Code of 1954".

13. On page 11, line 14, insert the dollar sign after the quotation mark and before the figure 32.37.

14. On page 12, line 1, strike out the word "for" and insert in lieu thereof the word "of".

15. On page 12, line 17, before the colon, insert the following: ", but such a widow's or widower's annuity in an amount formerly received as a spouse's annuity shall not be increased to an amount above $74.80".

16. On page 12, line 23, strike out "work recomputations" and insert in lieu thereof "recomputations other than for the correction of errors".

17. On page 15, line 18, strike out the sentence beginning in line 18 and ending in line 24.

Brief Explanation of the Bill

In general, the bill establishes a supplemental pension system for employees covered by the Railroad Retirement Act of 1937 who are awarded annuities on or after July 1, 1966, with 25 or more years' service and who have a current connection with the railroad industry upon retirement. The supplemental pension is $45 minimum to $70 maximum monthly, is not payable until the employee reaches the age of 65, and is payable only for months after the month of enactment of the bill.

For all persons not covered by the supplemental pension, the act provides a general increase of 7 percent in benefits under the Railroad Retirement Acts, reduced by the total of benefit increases under either the Social Security Act or the Railroad Retirement Act of 1937 received by the individual concerned as a result of amendments to the Social Security Act made in 1965.

Explanation of the Amendments

Amendment No. 1 is intended to avoid the anomaly of paying a supplemental annuity for days with respect to which an individual was not entitled to a regular annuity.

Amendment No. 2 is intended to remove the exclusion from the supplemental annuity program of certain employees of railway-labor-organization employers.

Amendment No. 3 is intended to effect a reduction in the supplemental annuity by reason of entitlement to a supplemental pension even though such pension is lowered because of rights to the supplemental annuity; however, the reduction would be limited to the amount of the supplemental annuity otherwise payable minus the amount of the reduction in the supplemental pension.

The reason for the change made by amendment No. 4 is that the word "Act" would appear in section 3(j)(3) of the Railroad Retirement Act and, therefore, would technically refer to the Railroad Retirement Act. The new paragraph (4) added by this amendment distinguishes between regular annuities which, under section 12 of the Railroad Retirement Act, are excluded from income taxable under the Federal income tax provisions of the Internal Revenue Code of 1954, and the supplemental annuities which would not be so excluded.

Amendment No. 5 is intended to provide eligibility for a supplemental annuity to an invididual who sometime in the past had been awarded a disability annuity, which terminated with his recovery from disability before July 1, 1966, and who returned to the service of an employer before that date, and was awarded an annuity after June 30, 1966. In such case, if he then has a current connection with

the railroad industry, the award of the later annuity would be deemed to be the annuity first awarded to him. For this purpose he would have to have a current connection based on the circumstances prevailing at the time the later annuity began to accrue without regard to the current connection determined to exist at the time the earlier annuity began to accrue.

The effect of amendments Nos. 6 and 12 is to change $550 to one-twelfth of $6,600, which is, of course, the same, because under the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, both as amended in 1965 by Public Law 89–212, approved September 29, 1965, the maximum creditable and taxable monthly compensation base was fixed at (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater. Such maximum annual taxable wage base is now $6,600. Consequently, such maximum monthly compensation base is now one-twelfth of $6,600, or $550, but may, of course, be changed automatically by a change in the social security wage base.

The reason for the change made by amendments Nos. 7 and 16 is that there may be recomputations of social security benefits for other than work, such as changes in benefit amounts on a family composition basis.

Amendments Nos. 8, 9, and 10 are intended to avoid the possibility of paying the 7-percent increase to an individual entitled to a supplemental annuity on the basis of 25 or more years of service whose annuity is payable under the regular railroad retirement minimum formula. While it is hardly likely that an individual with that many years of service would have his annuity payable under the regular railroad retirement minimum formula, it is at least possible, and this is the basis for the proposed amendments

Amendment No. 11 is intended to provide the 7-percent increase in regular annuity amounts (or a portion thereof) to an individual who, though he is qualified for a supplemental annuity, has such annuity reduced (by reason of his entitlement to a pension under a supplemental pension plan) to nothing or to an amount which is less than the 7-percent increase. In such case, his regular annuity would be increased to the extent that the total of his annuity payments would be no less than he would receive had he not been entitled at all to a supplemental annuity.

The reason for amendments Nos. 13 and 14 is to correct typographical errors.

Amendment No. 15 is intended to prevent an increase in a widow's or widower's annuity, which is based on the spouse's guarantee provision, in cases now on the Board's annuity rolls, to an amount higher than $74.80 which is the maximum spouse's annuity which could have been paid to any one in the period January 1965–December 1966, inclusive. The reason for this is that the widow's or widower's annuities now on the rolls based on the maximum spouse's annuity rates are not increased by the amendments.

Amendment No. 17 is intended to remove the exclusion from the tax provisions of the supplemental annuity program of certain employees of railway labor organization employers whose exclusion from the benefit provisions of the program is removed by amendment No. 2.

NEED FOR LEGISLATION

SUPPLEMENTAL ANNUITIES

The railroad unions have served notices on many of the railroads, under section 6 of the Railway Labor Act, requesting supplemental annuities for employees in the railroad industry. This request was predicated on their contention that supplemental pensions are provided for most employees in other major industries. Representatives of railway labor and railroad management have been negotiating for several years on this issue. As a result of these negotiations they have reached an agreement jointly to request the Congress to enact provisions for supplemental annuities as provided for in this bill. This agreement provides, among other things, that such supplemental annuities would be payable for a period of 5 years and until about the the end of this period the issues raised by such section 6 notices would be put to rest; and that then the representatives of the two groups will discuss this issue further.

The committee believes that this was an appropriate way of settling the issue and disposing of the problem for a substantial period.

THE 7-PERCENT INCREASE IN CERTAIN ANNUITIES

By legislation enacted in 1965 (Public Law 89–97), the Congress provided for an increase in benefits under the Social Security Act by 7 percent. By reason of certain provisions in the Railroad Retirement Act coordinating the benefits under the Railroad Retirement ment Act of 1937 and the Social Security Act, about two-thirds of the annuitants on the rolls of the Railroad Retirement Board have received such an increase for this reason or because they are also entitled to social security benefits which were increased. The increase in railroad retirement benefits was applicable mostly to spouses' annuities payable in the maximum amount, to survivor annuities, and to retirement annuities based on such relatively short service on the railroads as to be computed under the minimum provision guaranteeing benefits equal to 110 percent of what the service would have produced under the Social Security Act. Thus, there was discrimination against the one-third of the annuitants who did not receive an increase, and this group, generally, is the group which has had the longest careers in the railroad industry. In recognition of this fact, the railroads and the unions also agreed on the inclusion of title II in the bill. Title II of the bill would provide a general increase of 7 percent for this one-third of such annuitants and thereby remove this inequity. Further, by agreement between the railroads and the unions, there is included in title III of the bill provision for an increase in railroad retirement tax rates of one-fourth percent each on employers and employees to finance this 7-percent increase in benefits.

The committee, therefore, recommends the enactment of the bill.

PURPOSE OF THE BILL

TITLE I—SUPPLEMENTAL ANNUITIES

The bill would, by amending the Railroad Retirement Act of 1937, establish a program, to be administered by the Railroad Retirement Board, for the payment of supplemental annuities for career railroad

employees which supplemental annuities, as the name implies, would be in addition to the regular annuities payable under existing law. The program would be financed separately from, and independently of, the regular railroad retirement program. An excise tax under the Railroad Retirement Tax Act on railroad employers of 2 cents for each man-hour of employment would be imposed to provide the required funds. There would be no tax imposed on employees for the program. The program would be for the duration of 5 years.

Supplemental annuities would be provided for individuals who are entitled to a regular annuity as an employee under the provisions of the Railroad Retirement Act of 1937, who have attained age 65, have at least 25 years of creditable service, and have a current connection with the railroad industry at the time their regular annuity begins to accrue. The supplemental annuity would be in a monthly amount of $45 plus $5 for each year of service over 25 and up to 30 credited to the individual, but in no case would the supplemental annuity be more than $70.

The supplemental annuity would accrue to qualified individuals beginning with the month following the month of enactment of the bill and the taxing provisions would become effective in that month. As stated, supplemental annuity accruals would terminate with the 60th month following enactment of the bill and the taxing provisions would not be in effect after such 60th month. The entitlement to a supplemental annuity would be limited to cases where an annuity was first awarded after June of 1966, except in cases where an individual who was awarded an annuity on the basis of disability before July 1966 recovered from his disability and returned to the service of an employer before July 1966, and was awarded another annuity after June of 1966. In such a case, however, the individual would need to have a current connection with the railroad industry at the time he was last awarded an annuity, without regard to his entitlement to the annuity which was awarded to him earlier, in order to qualify for the supplemental annuity. An individual would not qualify for a supplemental annuity by withdrawing his application on which an award was made before July 1966 in order to have an award made after that time. The reference in section 3(a) of the bill to annuity "first awarded" prevents an individual from qualifying by taking such a course.

The supplemental annuity of an individual for a month would be subject to a reduction because of his rights for that month to payments under an employer's private pension plan to the extent of the amount attributable to the employer's contribution to such pension plan. The amount by which the supplemental annuity would be reduced would be determined by the Railroad Retirement Board on the basis of the employer's contributions to the supplemental pension plan of such employer in all periods during which the employer made such contributions. Any increase in the monthly pension under an employer's supplemental pension plan which was offset by a decrease in wages, would not be a contribution by the employer to such plan as to such increase.

The aggregate amount of the monthly reductions in supplemental annuities by reason of the individual's entitlement to a supplemental pension plan to which his employer made contributions would be credited to such employer as an offset against his tax liability of 2 cents for each man-hour of employment. No such credit would be given

with respect to any months for which the individual was not paid the supplemental annuity by reason of his working in such months for an employer, or for the last person by whom he was employed before his regular annuity began to accrue, but such credit would be given if the supplemental annuity was not paid because it was reduced to zero as the result of its reduction by the amount of the supplemental pension. Employees of railway-labor-organization employers would not have their supplemental annuities reduced by reason of entitlement to a supplemental pension provided for by such employers because it was the intention of the sponsors of the legislation (as evidenced from their testimony during the hearings on the bill) not to consider any program for supplemental payments by such employers as a supplemental pension plan of an employer within the meaning of section 3(j)(2), hence such employers would receive no tax credits.

A new account would be established in the Treasury to be known as the railroad retirement supplemental account. The tax amounts derived from the excise tax of 2 cents on man-hours for which compensation is paid would be automatically appropriated to this account. The supplemental annuities and the administrative expenses required for the program would be paid from this account. Funds needed for the first 6 months of the program could be borrowed from the railroad retirement account, but would have to be repaid with interest within a year after the start of the program.

If a survey, to be made by the Board after the program has been in effect for 48 months, reveals that funds in the supplemental account plus the anticipated income thereto would not be sufficient to pay supplemental annuities in full for the last year of the program, a proportionate adjustment in the amount of such annuities would be made by the Board.

Under section 12 of the Railroad Retirement Act of 1937, annuities under the act are excluded from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954; but supplemental annuities would not be so excluded.

TITLE II—THE 7-PERCENT INCREASE IN CERTAIN REGULAR ANNUITIES AND THE INSURANCE LUMP-SUM BENEFIT

The bill would increase regular benefit amounts under the Railroad Retirement Act by 7 percent with certain exceptions. There is a provision of the Railroad Retirement Act known as the social security guarantee provision which, in effect, assures that an annuity, or the total of annuities for a month, shall be no less than 110 percent of the amount, or the additional amount, which would be payable to all persons for the month under the Social Security Act if the railroad service which is the basis for the annuity (or annuities) had been employment under that act. Annuities which are payable under this guarantee provision were increased by virtue of the raise in social security benefits effected by the Social Security Amendments of 1965. The bill would not increase annuities payable under this guarantee provision.

The spouse's annuity is in an amount equal to one-half of her husband's annuity, but it is limited to 110 percent of the highest amount that could currently be paid to anyone as a wife's benefit under the Social Security Act. The spouse's annuity payable in the maximum amount was also increased as a result of the raise in benefits

under the Social Security Act effected by the legislation enacted in 1965. The maximum spouse's annuity would, therefore, not be increased by the bill.

In cases where an individual receives benefits under the Social Security Act concurrently with an annuity under the Railroad Retirement Act, the increase provided by the bill would be limited to the amount by which the increase otherwise applicable exceeds the raise in the social security benefits, derived from an average monthly wage of $400 or less, brought about by the 1965 legislation.

Where an individual is entitled to a supplemental annuity as provided by the bill for a month, the 7-percent increase would not be included in his regular annuity under the act for that month; except in some cases where reduction of the supplemental annuity by reason of rights under an employer's pension plan lowers the supplemental annuity to an amount less than the amount the 7-percent increase would provide; in such cases there would be an increase in the regular annuity but the addition would be lowered by the amount of the supplemental annuity payable.

The lump-sum benefit under section 5(f)(1) of the Railroad Retirement Act of 1937 would also be increased by 7 percent.

The basic tax rates on employers and employees would be increased by one-fourth percent, and the basic tax rates on employee representatives would be increased by one-half percent, in order to finance the increase in regular benefit amounts.

Financing of the supplemental annuity program

The progress of the supplemental annuity account will depend mainly on the retirement rates which will prevail during the period of its existence. Since the strong possibility of an acceleration in retirement could not be ignored, the estimates are based on retirement rates moderately higher than the rates used in the Board's latest actuarial valuation (the ninth, made as of December 31, 1962). The income figure, estimated in the report of the Railroad Retirement Board on the bill, of $34.8 million a year is based on the assumption that over the next 5 years railroad employment will average 725,000 full-time jobs and that the number of paid hours associated with each job will be 200 per month.

The committee's conclusion is that the financing would be adequate to carry the program for 5 years without any significant fund left at the end of that period. There is, of course, the possibility of a deficit emerging before the specified termination date of the program but for this to happen, the acceleration in retirement would have to be much greater than there is reason to expect. However, as a precaution against such a possibility, the bill provides that if, as the result of the survey to be made by the Railroad Retirement Board after 48 months have elapsed from the beginning of the supplemental annuity program, it should appear that the balance in the railroad retirement supplemental account together with the anticipated income to such account would be insufficient to pay the supplemental annuities in full for the remaining 12 months of the program, the Board is authorized to adjust the supplemental annuity amounts proportionately.

The Federal Government has no obligation whatsoever to contribute any funds for the supplemental annuity program during the 5-year period provided for in the bill and has no obligation to provide funds for a continuation of the program after such period.

The estimated annual income, outgo, and balance figures for the railroad retirement supplemental account are shown in the table below.

[Dollar figures in millions]

Benefit year [1]	Income [2]	Benefit payment [2]	Fund at end of year
1966-67	$34.8	$13.1	$22.1
1967-68	34.8	25.3	32.7
1968-69	34.8	35.9	32.9
1969-70	34.8	46.5	22.3
1970-71	34.8	56.3	1.3

[1] Begins Oct. 1 and ends Sept. 30, next.
[2] Computed without regard to tax credits and deductions from supplemental annuities on account of pensions under private plans. These credits and deductions would balance each other so that the progress of the account would not be affected by them.

As for the borrowing from the railroad retirement account, the committee believes that the amounts borrowed would be repaid well before the period specified in the bill. Thereafter, the regular account would not be called upon to contribute to the new account in any way.

Financing of the 7-percent increase in regular benefit amounts

The income to the railroad retirement account would be augmented by a new tax of ½ percent of payroll shared equally by employees and employers, and by ½ percent of payroll on employee representatives. This additional income is intended to finance the selective 7-percent increase in regular railroad retirement benefits on a level basis. The committee believes that the financial arrangements for this part of the bill are satisfactory:

AGENCY REPORTS

Reports on the bill were filed by the Railroad Retirement Board, the Bureau of the Budget, and the Treasury Department.

The Board's report discusses the bill in detail and recommends its enactment. The Bureau's report shows concern about the possible assumption by the Government of some financial responsibility for supplemental annuities after the 5-year period. As shown by the bill, as well as the testimony of the witnesses and the report of the Railroad Retirement Board, the Government assumes no financial responsibility for the supplemental annuities during the 5-year period or thereafter. The Bureau's report also shows concern (as does the report from the Treasury Department) with the exemption by the bill of the supplemental annuities from the Federal income tax provisions. The bill was, however, amended by the committee to provide against the exclusion of the supplemental annuities from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954. The report of the Bureau of the Budget concludes with the statement that if the bill were so amended it would not oppose the bill.

All three reports are printed below.

HEARINGS ON THE BILL

Hearings on the bill were held on September 27, 1966, before the Subcommittee on Finance of the House Committee on Interstate and Foreign Commerce. Representatives of the Railroad Retirement

Board, railroad labor and railroad management testified in favor of the bill as well as in favor of all the committee amendments to the bill, and recommended its enactment.

Explanation of the Bill by Sections

TITLE I

Section 1.—This section of the bill would add a new subsection (j) at the end of section 3 of the Railroad Retirement Act to provide for the supplemental annuities. These annuities would be payable to those individuals who (i) are entitled to an annuity under section 2 of the Railroad Retirement Act of 1937 (except a spouse's annuity), (ii) have a current connection with the railroad industry at the time the annuity under such section 2 begins to accrue, (iii) have attained the age of 65, and (iv) have completed 25 or more years of service. In determining the years of service an ultimate portion of a year of 6 or more months would count as a year just as in the case of determinations with respect to regular annuities.

The supplemental annuity would be in the amount of $45 a month plus an additional amount of $5 for each year of service credited to the individual in excess of 25 years, but the amount would be limited to $70 even though the individual has more than 30 years of creditable service. If the individual becomes entitled to a regular annuity on other than the first day of a month and a supplemental annuity for the same month, the supplemental annuity would not begin to accrue earlier than the day on which his regular annuity began to accrue, and the amount of the supplemental annuity for that month would be reduced by one-thirtieth of the amount otherwise payable as a supplemental annuity for each day of such month with respect to which he does not qualify for the regular annuity.

The supplemental annuity would be subject to the same provisions of subsection (d) of section 2 of the Railroad Retirement Act as is the individual's regular annuity under such section 2. These provisions relate to the loss of annuity payments for months because of work during such months for an employer or the last person (even though not an employer) by whom the individual was employed before his regular annuity began to accrue. An individual's supplemental annuity will not be taken into account in determining any other benefits under the Railroad Retirement Act of 1937 (such as a spouse's annuity, an annuity under the social security guaranty provision in section 3(e) of the act, and the residual lump-sum benefit under section 5(f)(2) of the act), except that the 7-percent increase of regular annuity amounts would, with an exception, not be applicable to an individual's regular annuity for months with respect to which he is entitled to a supplemental annuity. The exception is that where a supplemental annuity is payable but because of a reduction by reason of entitlement to a supplemental pension to an amount less than the 7-percent increase in the regular annuity, the regular annuity would be increased to the extent required to make the regular annuity plus the supplemental annuity equal to the amount of the regular annuity which would have been payable had there been no entitlement to a supplemental annuity.

Paragraph (2) of the new subsection (j) of section 3 of the Railroad Retirement Act would require reduction of the supplemental annuity

of an employee (other than an employee of a railway-labor-organization employer) with respect to any month by the amount of the supplemental pension which is attributable to the employer's contribution that such employee is entitled to receive for that month under any other supplemental pension plan of an employer (other than a railway-labor-organization employer). When made, however, the reduction would be limited where such pension is reduced by reason of the supplemental annuity to which such individual is entitled under the provisions of this subsection. The limitation would be to the amount of the supplemental annuity minus the amount by which the supplemental pension is so reduced. For example, where an individual's pension from an employer is reduced for a month from $100 to $80 by reason of his rights to a supplemental annuity, the amount of his supplemental annuity of, say, $70 before the reduction, would be reduced by $50 ($70—$20) to $20 ($70—$50). This would in effect restore the loss in his supplemental pension.

The reduction could in no case exceed for a month the amount of the supplemental pension an individual is entitled to receive for that month which is attributable to the employer's contribution. For example, take the case of an individual who, without regard to the supplemental annuity program, is entitled to a supplemental pension of $100 a month, one-half of which (or $50) is attributable to the employer's contribution; because of his rights to a supplemental annuity, the employer has reduced the amount of the pension attributable to the employer's contribution by $40 to $10, and he is paid $60 as a supplemental pension; his supplemental annuity (based on his 30 or more years of service) would be reduced by only $10 or from $70 to $60 since he is being paid only $10 as a pension based on the employer's contribution; hence he would receive $60 as a pension and $60 as a supplemental annuity, a total of $120. However, if the entire $100 pension is attributable to the employer's contribution and such pension is reduced by $40 to $60 by reason of the individual's entitlement to a supplemental annuity, the proviso in paragraph (2) would apply. In such a case the supplemental annuity would be reduced by $70 minus $40, or by $30 to $40. The individual would then receive $60 as a pension and $40 as a supplemental annuity, or a total of $100.

The amount of the reduction from the supplemental annuity by reason of the individual's entitlement to a supplemental pension of an employee would in all cases be determined by the Railroad Retirement Board on the basis of the contributions made by such employer to such supplemental pension plan at all times during which contributions to such plan were made either by such employer or such employer's predecessor. Any such employer or predecessor will not be deemed to have contributed toward an increase in the pension of such employer's (or its predecessor's) pension plan if such increase was offset by a decrease in wages.

(The employer (other than a railway-labor-organization employer whose employees will have no reductions in their supplemental annuities by reason of their entitlement to supplemental pensions from such employers) would receive as a credit against the tax imposed for the supplemental annuity program an amount equal in the aggrerate to such monthly reductions. If the credit exceeds the tax liability for a month, the excess credit could be carried forward to future months but the total of the credits could never exceed the tax liability (see explanation as to this of sec. 301(e) of the bill).)

For the purpose of all requirements as to the reduction of a supplemental annuity by reason of the individual's entitlement to a supplemental pension under an employer's plan, the Board would have full access to all records and documents of the employer relating to such pension plan.

Paragraph (3) of the new subsection (j) of section 3 of the Railroad Retirement Act would require the termination of supplemental annuities with such annuities accruing for the 60th month following enactment of the subsection.

Paragraph (4) of the new subsection (j) of section 3 of the Railroad Retirement Act provides that section 12 of the act will not operate to exclude supplemental annuities from income which is taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954.

Section 2.—Subsection (a) of this section of the bill provides for the establishment of a new account in the Treasury of the United States to be known as the railroad retirement supplemental account through the addition of a new subsection to be designated as subsection "(b)" of section 15 of the Railroad Retirement Act of 1937. An amount equal to the taxes imposed by the bill on employers of 2 cents for each man-hour with respect to which compensation is paid would be automatically appropriated to the account for each year. The funds of the account would be available for the payment of supplemental annuities and administrative expenses required by the Board for the administration of the supplemental annuity program. The amount required for the administrative expenses would have to be appropriated to the Board from the account for each year.

The Board would be required at the end of 48 months following the enactment of the bill to survey the progress of the account and make a determination as to whether the balance in the account and the anticipated income for the remaining 12 months would be sufficient to pay the annuities for such 12-month period. In the event that the determination is that such balance plus anticipated income is insufficient, the amount of the supplemental annuities for the succeeding 12 months would be adjusted by the Board proportionately.

Subsection (b) provides that the present subsections "(b)", "(c)" and "(d)" of section 15 of the Railroad Retirement Act be redesignated as "(c)", "(d)" and "(e)", respectively. The funds in the account which are not currently needed for the payment of supplemental annuities would be invested in the same way and under the same conditions as funds in the railroad retirement account. The provisions such as those for actuarial review applicable to the railroad retirement account would also be applicable to the supplemental account.

Section 3.—Subsection (a) of this section of the bill would provide for the payment of supplemental annuities only to individuals whose annuities under section 2 of the Railroad Retirement Act are first awarded on or after July 1, 1966, but payments would first be made for the month after the month in which the bill is enacted. The reference to a first award would prevent an individual whose annuity was awarded before July of 1966 from withdrawing his application for an annuity in order to obtain another award and thus qualify for a supplemental annuity. There is an exception in a case where a disability annuity was awarded before July 1966 and was terminated before such date upon the recovery of the individual. In such a case the award of a later annuity after June 1966 would be deemed to be

the first award provided the individual had before July 1966 returned to the service of an employer after his earlier annuity had terminated, and he had a current connection with the railroad industry at the time the later annuity began to accrue. For this purpose he must have a current connection without regard to his entitlement to the earlier annuity.

Subsection (b) of this section would authorize the Board to borrow such funds from the railroad retirment account as the Board estimates would be necessary for the payment of supplemental annuities for the 6 months next following the enactment of the bill and for administrative expenses necessary for the administration of the program until such time as an appropriation for such expenses is made under section 15(b) of the Railroad Retirement Act as amended by this bill. The administrative expenses for this period are expressly authorized. The amounts borrowed pursuant to this authority would have to be repaid before the expiration of 1 year following the enactment of the bill. These amounts would bear interest at a rate approximately equal to the average rate borne by all special obligations held by the railroad retirment account on the last day of the fiscal year ending June 30, 1966.

TITLE II

Section 201.—Paragraph (1) of subsection (a) of this section would provide for the computation of a spouse's annuity without regard to the adjustment of the 7-percent increase in the employee's annuity (on which such spouse's annuity is based) by virtue of the employee's entitlement to social security benefits; and without regard to the adjustment or loss of the 7-percent increase in the employee's annuity because of his entitlement to a supplemental annuity.

Paragraph (2) of this subsection would require an adjustment in a spouse's annuity, as increased by the bill, by an amount generally equal to the increase in any social security benefits to which she is entitled, derived from an average monthly wage of $400 or less, by reason of the Social Security Amendments of 1965. The adjustment would, in no case, cause a spouse's annuity to be lower than it would have been without the enactment of the bill.

Subsection (b) of this section would amend section 3(a) of the Railroad Retirement Act to increase by 7 percent the factors in the formula for calculating an annuity. The increase in such factors would be limited to the factors applicable to an average monthly compensation of $450 a month or less. The factor applicable to average monthly compensation in excess of $450 would be the same as that now applied to the portion of the average monthly compensation over $150. There are now three percentage factors in the formula for calculating regular annuity amounts. The factors applicable to average compensation under $150 would be increased by 7 percent. The factor now applicable to average monthly compensation over $150 would also be increased by 7 percent as to average monthly compensation over $150 and up to $450. The same factor now applicable to the highest portion of the maximum average monthly compensation would apply to over $450 and up to an amount equal to one-twelfth of the current maximum annual taxable wages as defined in section 3121 of the Internal Revenue Code of 1954. (This section provides for the maximum annual taxable wage base for social security tax purposes to be $6,600. This results in the maximum monthly taxable

compensation base under the Railroad Retirement Tax Act now being $550 (one-twelfth of $6,600). The maximum creditable monthly compensation was, of course, increased by legislation enacted in 1965 from $450 to $550 by virtue of the provision fixing the maximum monthly creditable and taxable compensation base in effect at an amount equal to one-twelfth of the current annual taxable wage base for social security purposes.) Thus, this last factor would become the fourth factor. This conforms to the pattern for increasing benefit amounts by 7 percent under the Social Security Act in 1965 which increases were limited to benefits produced by the maximum average monthly wage possible before the 1965 changes ($400).

Many individuals who receive annuities under the Railroad Retirement Act also draw social security benefits. The 7-percent increase in annuities this bill would provide would be reduced in such cases, generally, by the amount of the increase in the individual's social security benefits effected through the 1965 legislation. The amount of the increase in social security benefits effected by the 1965 legislation to be taken into account in this respect would be limited to the increase in social security benefits derived from an average monthly wage of $400 or less. The social security wage base was increased from $4,800 a year to $6,600 a year by the 1965 legislation. This permits in the future an average monthly wage of up to $550 as compared with a maximum of $400 under the law before the 1965 amendments. As a consequence, an average monthly wage of over $400 and up to $550 can be the basis for the determination of benefit amounts in the future. The social security primary insurance amounts on the basis of an average monthly wage of up to $400 were increased in 1965, generally, by 7 percent (in the lower amounts the increase was larger), but in fixing the primary insurance amount table, the factor applicable to the highest portion of the average monthly wage before the 1965 increase was made applicable to an average monthly wage in excess of $400. The adjustment in the benefit by reason of the individual's entitlement to social security benefits would specifically not cause the annuity to be less than it would have been had this bill not been enacted.

In order to facilitate administration, the amount of the increase in social security benefits to be taken into account for the reduction requirement would be determined by taking 6.55 percent of the social security benefits currently payable to the individual derived from an average monthly wage of $400 or less. This would never cause a reduction by more than the increases effected in social security benefits in 1965 and, based on such an average monthly wage, in some cases involving low social security benefits, would result in a reduction by a smaller amount than the amount of the increase actually effected in the social security benefits.

No increase in social security benefit amounts that may be effected by legislation enacted after the Social Security Amendments of 1965 would be taken into account in making the reduction. After a deduction is applied because of entitlement to social security benefits no recomputation of the social security benefit amount, except for correction of errors, would be taken into account. The deduction would be applied only where the individual has applied for and is entitled to receive social security benefits. The deduction would, however, apply for months with respect to which social security benefits are not payable because of work deductions.

Paragraph (2) of section 3(a) of the Railroad Retirement Act as amended by this subsection would provide that the 7-percent increase not be applicable as to the annuity of an individual for months with respect to which he is entitled to a supplemental annuity with an exception. The exception would be that where a supplemental annuity of an individual is reduced (by reason of rights to a supplemental pension) to zero or to an amount lower than the amount of the 7-percent increase, the regular annuity would be increased to an amount which, when added to the amount of his supplemental annuity, would be as much as the regular annuity would have been had he not been entitled to the supplemental annuity.

Subsection (c) of this section amends section 3(e) of the Railroad Retirement Act to increase by 7 percent a minimum annuity as determined under the regular railroad retirement minimum formula (as distinguished from the social security minimum provision). The increase in the annuity payable under this minimum provision would be subject to an adjustment because of the annuitant's entitlement to social security benefits in the same way as would the increase in an annuity calculated under the regular formula provided in section 3(a).

Subsection (d) of this section amends section 5(b) of the Railroad Retirement Act to increase by 7 percent the maximum and minimum annuity totals of survivor benefits. The share of any individual in such a total amount would be reduced by reason of his concurrent entitlement to social security benefits as in the case of a reduction in a retirement annuity.

Subsection (e) of this section would amend section 5(1)(10) of the Railroad Retirement Act to increase by 7 percent the formula for determining the basic amount (used in calculating regular survivor annuity amounts and the insurance lump-sum benefit under section 5(f)(1) of the Railroad Retirement Act).

Subsection (f) of this section would add a new subsection (m) to section 5 of the Railroad Retirement Act to provide for the adjustment of the increase in survivor annuity amounts by reason of entitlement to social security benefits the same as the adjustment provided for retirement annuity amounts.

Subsection (g) of this section increases by 7 percent 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 following the month of enactment of this act, all widows' and widowers' insurance annuities which began to accrue before the second month following the month of enactment of this act and which are payable on the basis of the spouse's guarantee provision contained in subsections (a) and (b) of section 5 of the Railroad Retirement Act of 1937 and all annuities under the Railroad Retirement Act of 1935. Those of such widows' and widowers' annuities which are based on a spouse's annuity which was payable in the maximum amount would not be increased. The increase in widows' and widowers' annuities now on the rolls which are based on a spouse's annuity of less than $74.80 per month would not be increased above that amount. A widow's or widower's annuity now on the rolls based on a spouse's annuity payable in the maximum amount possible under the 1965 amendments to the Social Security Act cannot be above $74.80. These annuities would not be increased and consequently those annuities which are based on

a spouse's annuity of less than $74.80 would not be increased above that amount.

For example, a widow's annuity of $74 based on the spouse's guarantee provision would, if increased by 7 percent, exceed $74.80, but because of this restrictive provision such an annuity would be increased only to $74.80. The increase in the annuities under this subsection would be limited to the amount by which the increase otherwise applicable exceeds the amount of the raise in the social security benefits (derived from an average monthly wage of $400 or less) to which the individual is concurrently entitled effected by the Social Security Amendments of 1965. For example, a widow's annuity in the amount of $65, based on the spouse's maximum provision, would be increased by 7 percent to $69.55 (without regard to rounding), except for the fact that she is also entitled to a primary old-age benefit under the Social Security Act which was increased from $40 to $44, or by $4, by reason of the Social Security Act Amendments of 1965; as a consequence, the increase in her widow's annuity would be restricted to $0.55 (derived by subtracting $4 from $4.55).

Section 202.—The increases in annuity and pension amounts provided by this title would, by subsection (a), be made effective with respect to annuities and pensions payable for the month following enactment of the bill. The increases as to lump sum benefits under section 5(f)(1) of the Railroad Retirement Act would be effective as to deaths occurring on or after enactment of this bill.

Subsection (b) of this section would require the Board to make all recertifications of annuity amounts needed to give effect to the amendments by this title without reapplication therefor by the annuitant.

TITLE III

Section 301.—Subsection (a) would amend section 3201 of the Internal Revenue Code of 1954 to increase the schedule of basic tax rates on employees under the Railroad Retirement Tax Act by ¼ percent. As a result the basic tax rate would be 7 percent instead of 6¾ percent with respect to compensation paid for services rendered after December 31, 1966, 7¼ percent instead of 7 percent with respect to compensation paid for services rendered after December 31, 1967, and 7½ percent instead of 7¼ percent with respect to compensation paid for services rendered after December 31, 1968.

(The basic tax rate is automatically increased, under existing law, by the difference between 2¾ percent and the current social security tax rate, and this automatic increase produces the full tax rate. For example, the basic tax rate for 1966 is 6.50 percent; the social security tax rate for 1966 is 3.850 percent plus 0.35 for medicare, making the total social security current tax 4.200 percent. The difference between 2¾ percent and 4.200 percent is 1.450 percent, which when added to 6.50 percent makes the full tax rate for the railroad retirement system 7.950 percent for 1966. The full tax rate will rise in stages until it reaches 10.4 percent for 1987 and later years. This includes the one-fourth of 1 percent increase in the basic tax rate provided for in the bill.)

Subsection (b) would amend section 3211 of such code to increase the basic tax rate on employee representatives by one-half of 1 percent for the same periods.

Subsection (c) would amend section 3221(a) of such code to increase the schedule of basic tax rates on employers in the same way that the rates for employees would be increased by subsection (a).

The increases in the basic tax rates are designed to provide income to the railroad retirement system needed in connection with the 7-percent increase in benefits in amounts which would be effected by title II of this bill.

Subsection (d) would amend section 3211 of such code by designating the present provisions as subsection (a) and adding a new subsection (b). The new subsection (b) would impose a tax on the income of each employee representative equal to 2 cents for each man-hour for which compensation is paid to him for services rendered to him as such.

Subsection (e) would add a new subsection (c) to section 3221 of such code. This new subsection would impose on each employer under the Railroad Retirement Tax Act an excise tax with respect to having individuals in his employ, equal to 2 cents for each man-hour for which compensation is paid. In addition, this new subsection would provide that each employer of employees whose supplemental annuities are reduced pursuant to section 3(j)(2) of the Railroad Retirement Act of 1937 (this subsection would be added by this bill) be allowed as a credit against the tax imposed by the subsection an amount equivalent each month to the aggregate amount of reductions accruing in such month to employees. No credit would be given for a reduction in an individual's annuity for any month with respect to which a supplemental annuity is not payable to him by reason of the fact that he worked in such month for an employer under the Railroad Retrirement Act of 1937, or for the last person by whom he was employed before his regular annuity under section 2 of the act began to accrue. If the tax credits for the particular month exceeds the liability for that month, the credits would be carried forward for application in later months. However, the credits would in no case exceed the tax liabilities. The Railroad Retirement Board would be required to certify to the Secretary of the Treasury with respect to each employer the amount of credit accruing to him under this provision during a quarter and also to notify each employer as to the amount so certified.

Subsection (f) would make the provisions for taxes as to man-hours for which compensation is paid effective with respect to man-hours, for 60 months beginning with the first month following enactment of this bill, for which compensation is paid.

AGENCY REPORTS

UNITED STATES OF AMERICA
RAILROAD RETIREMENT BOARD,
Chicago, Ill.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is a report on the bill H.R. 17285, which was introduced in the House of Representatives on August 25, 1966, by Mr. Macdonald, and referred to your committee for consideration.

The purpose of the bill is to provide supplemental annuities under the Railroad Retirement Act for qualified individuals, and a 7-percent

increase in regular benefit amounts under the act subject to certain limitations.

The supplemental annuities would be payable to individuals who have attained age 65, have at least 25 years of creditable service, are entitled to a regular annuity as an employee under the provisions of that act, and have a current connection with the railroad industry at the time their annuity began to accrue. The supplemental annuity would be in an amount equal to $45 plus $5 for each year of creditable service over 25 and up to 30 that the recipient has. Thus, the supplemental annuity would be limited to $70 even though the individual has in excess of 30 years of creditable service under the act. For the purpose of supplemental annuities no month would be included in the computation of an individual's years of service on the basis of his service as an employee of a railway labor organization employer during which he was not predominantly engaged in work involving the representation of employees covered by the Railroad Retirement Act. The costs of these supplemental annuities would be financed by an excise tax on employers and employee representatives under the act of 2 cents for each man-hour of employment for which the employer paid compensation to begin with the month following the month of enactment of the bill and to continue for the 60-month period beginning with the month after enactment. There would be no taxes on employees for the purpose of the supplemental annuities. The supplemental annuities would have no effect in determining the amount of other annuities or benefits under the act except that the 7-percent increase in regular annuity amounts the bill would provide (described hereinafter) would not be included in annuity amounts after an individual becomes entitled to a supplemental annuity. The supplemental annuities would be subject to the same provisions requiring loss of annuities because of work as the regular annuities. They would be payable for a period of 60 months following the month in which the bill is enacted; but would be payable only in cases where the award of a regular annuity is first made on or after July 1, 1966. The reference to the first award would prevent an individual from qualifying by withdrawing his application for an annuity and having a later award.

In the case of an individual entitled to a supplemental pension payment under another plan the supplemental annuity which would otherwise be payable would be reduced with respect to any month by the amount of the supplemental pension for the month attributable to the employer's contribution; except that the reduction would not be applicable if such pension is reduced by reason of the supplemental annuity to which the individual would be entitled. The amounts by which supplemental annuities are reduced by reason of pension payments by an employer would be credited against taxes on man-hours imposed on such employer (the taxes on man-hours, which the bill would provide, with respect to which compensation is paid are described hereinafter).

The supplemental annuity program would be administered by the Board and would be financed separately from the regular railroad retirement program. There would be an excise tax imposed by the Railroad Retirement Tax Act on each employer equal to 2 cents for each man-hour with respect to which compensation is paid. A separate account would be established in the Treasury for the program. Em-

ployees would not pay taxes for the supplemental program. The taxes would be payable only for the 60-month period with respect to which supplemental annuities are payable. Funds needed for the first 6 months of the program could be borrowed from the railroad retirement account, but would have to be repaid with interest within a year after the start of the program. The Board is satisfied that the amounts borrowed would be repaid well before the end of the year. Thereafter, the regular railroad retirement account would not be called upon to contribute to the new account in any way.

The Board is also satisfied that the provisions for supplemental annuities are adequately financed. However, as a precaution, the bill provides, as stated below, that if, as the result of the survey to be made by the Railroad Retirement Board after 48 months have elapsed from the beginning of the supplemental annuity program, it should appear that the balance in the railroad retirement supplemental account together with the anticipated income to such account would be insufficient to pay the supplemental annuities in full for the remaining 12 months of the program, the Board is authorized to adjust the supplemental annuity amounts proportionately.

The Federal Government has no obligation whatsoever to contribute any funds for the supplemental annuity program during the 5-year period provided for in the bill and has no obligation to provide funds for a continuation of the program after such period. The supplemental annuities will not be excluded from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954.

The bill would also provide for a 7-percent increase in ordinary benefits payable under the Railroad Retirement Act, except for those annuities which are payable under the so-called social security guarantee provision in section 3(e) of the Railroad Retirement Act, and spouses' annuities which are payable in the maximum amount. The annuities payable under the special guarantee provision were increased as a result of the raises in social security benefits, generally, by 7 percent effected by the enactment of the Social Security Amendments of 1965. The amount of the maximum spouse's annuity was also increased through such raises in social security benefits. In cases where an annuitant under the Railroad Retirement Act is also receiving benefits under the Social Security Act, the increase in his railroad retirement annuity would be limited, generally, to the amount by which the increase otherwise applicable exceeds the increase the annuitant received in his social security benefits through the 1965 legislation. The increase in the social security benefits to be taken into account would be confined to the additional benefits that would be payable on the basis of an average monthly wage up to $400. Increases in social security benefits attributable solely to that part of the average monthly wage which is in excess of $400 would not be taken into account. The increase in the creditable wage base under the Social Security Act from $4,800 a year to $6,600 a year by the 1965 legislation permits, for the first time, an average monthly wage in excess of $400 for benefit computation purposes.

In order to facilitate administration, the increase otherwise applicable would be adjusted by 6.55 percent of the amount of the social security benefit, after the 1965 increase, to be taken into account (any increases in social security benefit amounts effected by legisla-

tion enacted after 1965 would not be taken into account in the reduction). This would produce approximately the 1965 increase in social security benefits, except in cases where the social security benefit was increased by more than 7 percent (in cases of minimum or low benefits), the amount of the adjustment would be less than the 1965 increase in such social security benefit amounts.

The bill is divided into three titles. Section 1 of title I would add a new subsection (j) at the end of section 3 of the Railroad Retirement Act to provide for the supplemental annuities.

Section 2 of this title would establish in the Treasury of the United States by an amendment of section 15 of the act a new account to be known as the railroad retirement supplemental account. The supplemental annuities would be paid from this account. There would be a provision for an automatic annual appropriation to this account of the amounts paid under the relevant provisions of the Railroad Retirement Tax Act. The interest rates applicable as to the funds in the new account would be determined in the same way as interest rates for the funds in the railroad retirement account.

At the end of 48 months, following enactment of the bill, the Board would be required to make a survey to determine whether the balance in the account plus anticipated income for the next succeeding 12 months would be sufficient to provide for the payment of supplemental annuities for that period. If the determination is that the funds of the account will not be sufficient to provide for the supplemental annuities in the amount specified for the next succeeding 12 months the Board would be required to adjust the amounts of all supplemental annuities proportionately so that the available funds will be sufficient to pay all supplemental annuities, as so readjusted, for the next succeeding 12 months.

In order to make certain that sufficient funds would be available for the payment of supplemental annuities (and administrative expenses) in the early stages of the supplemental program (for 6 months following the month in which the bill is enacted), authority would be provided for loans to the railroad retirement supplemental account from the railroad retirement account. These loans would be required to be repaid with interest within 1 year after enactment of the bill. The interest rate would be approximately equal to the rate borne by other obligations of the railroad retirement account.

Title II of the bill would increase benefit amounts under the existing provisions of the Railroad Retirement Act by 7 percent but only as to that portion of benefit amounts which are derived from an average monthly compensation of $450 or less. The amount that the average monthly compensation in excess of $450 adds to the annuity would still be obtained by applying the same percentage factor that is now applied to that portion of the average monthly compensation over $150. There are now three percentage factors in the formula for determining regular annuity amounts. The factor now applicable to average monthly compensation over $150 would be increased by 7 percent as to average monthly compensation over $150 and up to $450. The factor applicable to average compensation under $150 would also be increased by 7 percent. The same factor now applicable to the highest portion of the maximum average monthly compensation would apply to over $450 and up to $550. Thus, this would become the fourth factor. (The maximum creditable monthly compensation

was, of course, increased by legislation enacted in 1965 from $450 to $550.) This conforms to the pattern for increasing benefit amounts by 7 percent under the Social Security Act in 1965 which increases were limited to benefits produced by the maximum average monthly wage possible before the 1965 changes ($400). The provisions for the regular minimum annuity would be changed to provide an increase of 7 percent.

The formula for computing the basic amount (used in determining survivor benefit amounts, including the lump-sum benefit under sec. 5(f)(1)) would also be revised to effect a 7-percent increase. The increase would be effected by increasing only the percentage factors applicable as to average monthly remuneration up to $450, as it would be done in respect to the formula for employee annuity amounts.

However, as stated before, the annuities payable under the so-called social security guaranty provision would not be increased. Annuities payable under this guaranty provision were increased as a result of the raise in social security benefits in 1965. The guaranty provision, in effect, assures that an annuity, or the total of annuities, under the Railroad Retirement Act for a month shall be no less than 110 percent of the amount, or the additional amount, which would be payable to all persons under the Social Security Act for the month if the railroad service from which the annuity or annuities are derived had been employment subject to the Social Security Act.

The spouse's annuity under the Railroad Retirement Act is in an amount equal to one-half of her husband's annuity, except that it is limited in amount to 110 percent of the highest amount which could be currently paid to anyone as a wife's benefit under the Social Security Act. Accordingly, this maximum amount of the spouses was increased through the raise in social security benefits effected in 1965, and the maximum amount would not be further increased by this bill.

Many individuals who receive annuities under the Railroad Retirement Act also draw social security benefits. The increase in annuities this bill would provide would be reduced in such cases, generally, by the amount of the increase in the individual's social security benefits effected through the 1965 legislation. The amount of the increase in social security benefits effected by the 1965 legislation to be taken into account in this respect would be limited to the increase in social security benefits derived from an average monthly wage of $400 or less. The social security wage base was increased from $4,800 a year to $6,600 a year by the 1965 legislation. This permits in the future an average monthly wage of up to $550 as compared with a maximum of $400 under the law before the 1965 amendments. As a consequence, an average monthly wage of over $400 and up to $550 can be the basis for the determination of benefit amounts in the future. The social security primary insurance amounts on the basis of an average monthly wage of up to $400 were increased in 1965, generally, by 7 percent (in the lower amounts the increase was larger), but in determining the primary insurance amount the factor applicable to the highest portion of the average monthly wage before the 1965 increase was made applicable to the average monthly wage in excess of $400.

Pensions under section 6 of the Railroad Retirement Act of 1937 and annuities payable under the Railroad Retirement Act of 1935 would similarly be increased, as would annuities payable on a joint and

survivor basis, but these increases would also be subject to reduction because of any 1965 raise in social security benefits on an average monthly wage of up to $400 for which the individual is concurrently entitled. The widow's annuity payable on the basis of the guarantee that it shall be no less than her spouse's annuity, which is based on a spouse's annuity payable for months before the month following enactment of the bill, would be similarly increased subject to a reduction because of entitlement to social security benefits.

The 7-percent increase would be effective as to annuities accruing for months after the month in which the bill is enacted and with respect to pensions due in calendar months after the month next following the month in which the bill is enacted. The increase with respect to lump-sum benefits under section 5(f)(1) of the Railroad Retirement Act would be effective with respect to deaths occurring on and after the date of enactment.

Title III of the bill would amend the Railroad Retirement Tax Act to increase the basic tax rate on employers and employees for years after 1966 by one-quarter percent. The tax rate on employee representatives for years after 1966 would be increased by one-half per centum. These higher tax rates are designed to cover the 7-percent increases in the benefits payable under the regular provisions of the Railroad Retirement Act.

Subsection (d) of section 301 of this title would amend the Railroad Retirement Tax Act to provide an excise tax on employers, with respect to having individuals in their employ, equal to 2 cents per each man-hour on which compensation is paid. This tax would also be applicable to employee representatives. The tax would not apply to hours included in any month of service of an individual as an employee rendered to a railway labor organization employer, during which month the individual to whom such compensation was paid was not engaged predominantly in work involving representation of employees covered by the Railroad Retirement Act. This new tax would be applicable to man-hours for which compensation is paid for 60 months following the month in which the bill is enacted.

The amount for each month by which supplemental annuities of employees of an employer are reduced, because of supplemental pension payments by such employer, would be allowed as a credit for such employer against the tax imposed on the basis of man-hours for which compensation is paid. If the amount of the reduction because of supplemental pension payments exceeds in any month the tax liability on man-hours for such month, the excess could be carried forward but the total credits could never exceed the total tax liability. The Board would be required to certify at the end of each calendar quarter to the Secretary of the Treasury with respect to each such employer the amount of credit accruing to such employer and to notify the employer as to the amount certified.

COST ESTIMATES

Because the supplemental annuity program is treated in the bill as a separate financial entity, it is proper to consider the actuarial implications of the proposed amendments in two parts. This, however, should not be construed to mean that the supplemental annuity program and the selective 7-percent increase in regular Railroad Retirement Act benefits are truly independent of each other. The

areas of interdependence between these two sets of amendments are as follows:

(1) The 7-percent increase would not be available to recipients of the supplemental annuity, thus reducing the cost effects of the 7-percent increase.

(2) The availability of a substantial additional retirement benefit would in all likelihood accelerate retirement on the part of qualified employees and thus increase the cost of retirement annuities under the regular railroad retirement program.

For the supplemental annuity program, the actuarial analysis is limited to the 5-year period specified in the bill. However, for the 7-percent increase, it is necessary to consider the long-range cost implications because this is made a permanent feature of the railroad retirement program. Thus, an important consideration is whether the supplemental annuity program will be extended beyond the 5-year period or not. For purposes of either set of amendments, it was assumed that the provisions of the bill will become effective on October 1, 1966.

1. *Supplemental annuity account.*—The progress of this account will depend mainly on the retirement rates which will prevail during the period of its existence. Since the strong possibility of an acceleration in retirement could not be ignored, the estimates are based on retirement rates moderately higher than the rates used in the Board's latest actuarial valuation (the ninth, made as of December 31, 1962). The income figure of $34.8 million a year is based on the assumption that over the next 5 years railroad employment will average 725,000 full-time jobs and that the number of paid hours associated with each job will be 200 per month.

The estimated annual income, outgo, and balance figures are shown in the table at the top of the next page.

Our general conclusion is that the financing would be adequate to carry the program for 5 years without any significant fund left at the end of that period. There is, of course, the possibility of a deficit emerging before the specified termination date of the program but for this to happen, the acceleration in retirement would have to be much greater than we have reason to expect.

[Dollar figures in millions]

Benefit year [1]	Income [2]	Benefit payments [2]	Fund at end of year
1966–67	$34.8	$13.1	$22.1
1967–68	34.8	25.3	32.7
1968–69	34.8	35.9	32.9
1969–70	34.8	46.5	22.3
1970–71	34.8	56.3	1.3

[1] Begins Oct. 1 and ends Sept. 30, next.
[2] Computed without regard to the offsets on account of pensions under private plans. These offsets would balance each other so that the progress of the account would not be affected by them.

As for the borrowing from the regular railroad retirement account, we believe that the amounts borrowed would be repaid well before the period specified in the bill. Thereafter, the regular account would not be called upon to contribute to the new account in any way. However, as stated before, the new benefit program could have an indirect adverse effect on the regular account by causing a significant acceleration in retirement.

2. *Regular railroad retirement account.*—The income of this account would be augmented by a new tax of one-half percent of payroll shared equally by employees and employers. This additional income is intended to finance the selective 7-percent increase in regular railroad retirement benefits on a level basis.

The adequacy of this financing depends primarily on two factors: (1) the duration of the supplemental annuity program and (2) the extent by which retirement rates would be accelerated as a result of the availability of a supplemental annuity. Should there be no extension of the supplemental annuity program beyond the first 5 years, the cost might be as high as 0.85 percent of payroll. This is because the great majority of retirees with long service would then become eligible for a 7-percent increase in their regular annuities. On the other hand, if the supplemental plan is continued on a permanent basis, the cost of the 7-percent increase would be 0.52 percent of payroll before adjustment for acceleration in retirement and about 0.60 percent after such an adjustment.

Because of the fairly large difference between the cost figures for a continuing and terminating supplemental annuity program, respectively, it is practically impossible to make at this time an unqualified judgment on the adequacy of the one-half percent tax over the long range. However, since this tax could be nearly sufficient under certain circumstances, the Board is inclined to consider the financial arrangements for this part of the bill as satisfactory for the time being. As more information becomes available on the issues involved, this cost area will be reexamined with the view of determining whether any adjustments in financing are needed.

IMMEDIATE EFFECTS

The immediate effects of the proposed legislation will also be discussed in two parts. The first part will deal with the expected experience in the first year of the supplemental annuity program while the second part will describe the estimated effects of the selective 7-percent increase on beneficiaries who were on the rolls at the end of June 1966.

1. *Supplemental annuity program.*—Assuming an effective date of October 1, 1966, the program would start with a backlog of qualified employees who were awarded annuities in July–September 1966. We estimate that the number of such individuals will be about 4,000 and that their average supplemental annuity will be $68.

As for new retirements during the period October 1, 1966–September 30, 1967, the number could range from 15,000 if retirement rates continue at the previous levels to 45,000 if all qualified employees age 65 or over decide to retire immediately. For purposes of the cost estimates discussed earlier, it was assumed that the new retirements in the first year of the plan will number about 21,000.

The great majority (90 percent) of the first-year beneficiaries will be eligible for the maximum supplemental benefit of $70. For the remainder, the average benefit will be of the order of $55 a month. Incidentally, the average regular annuity for employees eligible for supplemental annuities will be about $185 per month. In most cases, the qualified wives of these retirees will be eligible for maximum spouses' annuities; that is, $74.80 during the remainder of 1966 and $83.60 during 1967.

2. *Selective 7-percent increase.*—A detailed breakdown of the effects of this set of amendments on present beneficiaries is presented in the table appearing on the next page. This table tells, among other things, how many individuals in each beneficiary group would receive an increase and how large the increase would be on the average. As can be seen from the table, the increase provisions would benefit approximately 461,000 individuals (disregarding the inconsequential duplicate counting of widows receiving annuities under the old joint and survivor provisions) presently on the Board's benefit rolls. This group consists of 294,000 nondual beneficiaries (roughly one-third of the total) who would receive a full increase and 167,000 dual beneficiaries (or certain special overall minimum cases) who would receive but a partial increase.

Immediate effects of the selective 7-percent increase in RRA benefits provided for in H.R. 17285 (estimate for beneficiaries on the rolls on June 30, 1966)

Class of beneficiary	Number of beneficiaries				Average annuity for beneficiaries		Average increase for eligible beneficiaries
	Total	No increase	Full increase	Partial increase	With no increase	With increase [1]	
All beneficiaries	[2] 922,200	460,600	[2] 294,400	167,200			
Retired employees, total	429,500	72,900	254,400	102,200	$117	$145	$8
Age annuitants	328,000	49,600	191,300	87,100	112	149	8
Disability annuitants	101,300	23,300	62,900	15,100	128	133	9
Pensioners	200		200			78	5
Spouses, total	197,000	145,000	17,000	35,000	66	57	3
Survivors, total	[2] 295,700	242,700	[2] 23,000	30,000			
Aged widows	249,000	198,300	20,700	30,000	84	60	2
Widowed mothers	9,400	9,300	100		114	76	5
Children	34,900	34,400	500		77	40	3
Parents	700	700			80		
Option cases	1,700		1,700			56	4

[1] Before increase.
[2] Slightly overstates numbers of different individuals because most widows receiving annuities under the old joint and survivor options are also receiving regular widows' annuities and are therefore counted twice.

The group which would benefit most is the one consisting of retired employees with annuities in the higher brackets. The remaining groups of beneficiaries would be affected to a much lesser extent for the following reasons:

(*a*) Retired employees with annuities in the lower brackets are the ones for whom the frequency of entitlement to a simultaneous social security benefit is fairly large. Because of the social security offset, these annuitants would receive either no increase at all (if their social security benefit is larger than the Railroad Retirement Act annuity) or an increase smaller than 7 percent of their Railroad Retirement Act annuity. It should also be remembered that retired employees paid under the 110 percent social security minimum provision (O. & M.) would generally not be eligible for an increase in the Railroad Retirement Act annuity.

(*b*) The majority of wives on the benefit rolls is being paid the maximum benefit and would therefore not be eligible for an increase. Among those not receiving the maximum, there are

many O. & M. cases and dual beneficiaries whose own social security benefit is higher than the Railroad Retirement Act spouse annuity. These women would also not receive an increase. Thus, the group eligible for an increase is relatively small.

(*c*) Survivors other than aged widows are practically always paid under the O. & M. formula. This accounts for the finding that very few beneficiaries in this category would benefit from the 7 percent increase.

(*d*) Aged widows fall into two categories: (1) those paid under the O. & M.—roughly two-thirds, and (2) those paid under the regular or "basic amount" formula—about one-third. Except for certain marginal cases, the first group will not be eligible for any increase. The second group consists mostly of dual beneficiaries (ordinarily the social security benefit is the reason why the O. & M. formula does not apply) and would thus be subject to the social security offset. This offset may either nullify the increase in the Railroad Retirement Act benefit or make it smaller than 7 percent.

The representatives of railroad labor and of railroad management have, as the Board understands, reached an agreement as to the provisions of this bill for supplemental annuities and for an increase in regular annuity amounts, as provided in the bill. The Board is in accord with the views of these representatives and also believes the bill to be meritorious. Therefore, the Board recommends enactment of the bill.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program to the submission of this report.

Sincerely yours,

HOWARD W. HABERMEYER,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., September 26, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of August 29, 1966, for the views of the Bureau of the Budget with respect to H.R. 17285, a bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, and for other purposes.

The bill has two purposes: to provide supplemental annuities to certain beneficiaries entitled to a regular annuity under the Railroad Retirement Act, and to increase benefit amounts under the existing provisions of the Railroad Retirement Act by 7 percent, subject to certain limitations. The 7-percent increase conforms, generally to the pattern for increasing benefit amounts under Public Law 89–97—the Social Security Amendments of 1965—and, accordingly, the Bureau of the Budget sees no objection to that portion of the bill.

The portion of the bill having to do with supplemental pensions calls for more careful consideration. Although it is proposed as an amendment to the basic Railroad Retirement Act, the supplemental pension

plan is in reality a private pension plan arrived at through collective bargaining and similar in general form to many such plans within American industry except that the Federal Government will (*a*) administer the plan through a Federal agency; (*b*) collect its revenue through the Federal taxing power; (*c*) require compulsory participation of the entire industry; and (*d*) exempt employer contributions as well as employee benefits from Federal taxes.

We wish to call attention to two issues which the plan raises:

First, employee benefits, as in other noncontributory private plans, should be taxable. Employer contributions are tax free only if the plan meets certain requirements set forth in the Internal Revenue Code. It appears that this plan would meet such requirements as a private plan and, therefore, employers might deduct their contributions from Federal taxes in either case. However, we see no basis for the special tax treatment afforded to employee benefits. In this matter, we agree with the recommendation of the Treasury Department, in the report it is submitting to your committee, and urge that this exemption be deleted from the plan.

Secondly, we think provision should be made for adequate long-term financing. The plan is limited to a 5-year term for both contributions and benefits and no provision is made for its extension beyond that period. It is adequately financed only for this period. If the plan were extended beyond this period—as it is expected to be—the contribution level would have to be at least doubled simply to continue benefits at the same level for another 5 years. Negotiations to extend the term of the plan at that time might involve concessions by the employees in order to continue or improve the terms of the plan. If employees are then called upon to share some of the costs, it would limit their capacity to finance future improvements in the basic railroad retirement system. We would strongly object to any possible interpretation of this legislation that financial support on the part of the Federal Government might be proposed in order to extend the term of the plan beyond its present termination. We, therefore, endorse the statement to this effect in the report of the Railroad Retirement Board that enactment of this legislation does not presuppose any financial obligation by the Federal Government. This point could be made clear by adding a provision to the bill which directs the Railroad Retirement Board, before the end of the 5-year period, to determine the costs of adequately financing the plan on a permanent basis and to present this to representatives of railroad labor and railroad management in order to assist them in negotiating a continuation of the plan.

The lack of provision for early vesting and the severe length of service requirements do not recommend themselves as models of a publicly enacted supplemental pension program. If this measure should become effective pending the development of Federal policy on these issues, we think any extension of it should be subject to review in the light of subsequent legislation.

If the bill were modified to remove the income tax exemption for employee benefits, the Bureau of the Budget would have no objection to enactment of H.R. 17285.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

TREASURY DEPARTMENT,
Washington, D.C., September 29, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This report sets forth the views of the Treasury Department on H.R. 17285, a bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, and for other purposes. The Treasury Department is opposed to one aspect of this bill.

The bill would make two distinctly different types of changes in the existing railroad retirement program. Title I of the bill would create an entirely new and different kind of retirement program which would supplement the basic public program in much the same way that private pension plans in other industries supplement the basic benefits provided under the social security system. More specifically, these provisions of the bill would provide for the payment of supplemental annuities (ranging from $45 to $70 per month) to a specified class of employees for a 5-year period. The supplemental annuities are to be financed by a new and separate tax on employers and employee representatives (but not on employees) and would be payable only to employees retiring after July 1, 1966, who have attained the age of 65, and have completed at least 25 years of service. Title II of the bill would increase and otherwise adjust the benefits that are currently paid under the basic retirement program covering the railroad industry. Title III provides for an increase in the basic tax to finance the increased basic benefits and a new tax based on man-hours of employment to finance the supplemental annuities.

The Treasury Department has no objection to the provisions of H.R. 17285 except to the extent that it extends the tax exemption presently accorded benefits paid under the basic railroad retirment program to the supplemental annuity program created by title I.

The basic retirement benefits provided under the two public retirement systems, the Federal old-age survivors and disability insurance system and the railroad retirement system, are exempt from Federal income tax. On the other hand, employer-financed benefits received under private retirement programs are subject to tax in the same manner as other forms of retirement income. By creating and implementing the system of supplemental annuities as an amendment to the Railroad Retirement Act and specifically by defining the annuities as those covered by section 12 of the Railroad Retirement Act of 1937, the bill would automatically extend to these annuities the tax exemption previously reserved for the broad based public programs. The Treasury Department does not believe that such a tax benefit is appropriate since, except for the fact that they are to be publicly administered, the supplemental annuities provided for by the bill have none of the hallmarks of a public program. Rather, they are payable only to a narrow group of long service employees who retire during a specified 5-year period. In these circumstances the Treasury Department can see little justification for favoring the supplemental retirement program of the railroad industry at the expense of all other Federal taxpayers. To do so would grant this particular industry favored tax status for its pension benefits that is not available to any other industry with respect to its private retirement programs. Rather, the Treasury Department is of the opinion that the supple-

mental annuity program provided for by the act should be subject to the tax rules that are applicable to qualified private pension plans generally. We understand that appropriate language to accomplish this has been submitted to your committee by the Railroad Retirement Board.

The Treasury Department also wishes to point out that study is presently being given to a Cabinet committee report which, through amendments to the Internal Revenue Code, would add additional requirements for the qualification of private pension plans. If any such requirements are added in the future, we would think it would be appropriate to amend the supplemental annuity program to bring it up to the new standards if the program is to be extended beyond the initial period.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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 reported, 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

PART I

* * * * * * *

ANNUITIES

SEC. 2. (a) * * *

* * * * * * *

(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 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 the spouse's annuity provided for herein and in subsection (h) of this section shall be computed without regard to the reduction in the individual's annuity under the first two provisos in section 3(a)(1) of this Act and without regard to the effect of section 3(a)(2) on the annuity of the individual from whom such spouse's annuity derives.*

(f) * * *

(g) * * *

(h) * * *

(i) The spouse's annuity provided under subsections (e) and (h) of this section shall (before any reduction on account of age) be reduced in accordance with the first two provisos in section 3(a)(1) of this Act except that the spouse's annuity shall not be less than it would be had this Act not been amended in 1966.

* * * * * * *

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": 3.35 per centum of the first $50; 2.51 per centum of the next $100; and 1.67 per centum of the remainder up to a total of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater.]

SEC. 3. (a)(1) The annuity shall be computed by multiplying an individual's "years of service" by the following percentages of his "monthly compensation": 3.58 per centum of the first $50; 2.69 per centum of the next $100; 1.79 per centum of the next $300; and 1.67 per centum of the remainder up to an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954: Provided, however, That in cases where an individual is entitled to a benefit under title II of the Social Security Act, the amount so computed shall be reduced by 6.55 per centum of the amount of such social security benefit (disregarding any increases in such benefit based on recomputations other than for the correction of errors after such reduction is first applied and any increases derived from changes in the primary insurance amount through legislation enacted after the Social Security Amendments of 1965): Provided further, That in determining social security benefit amounts for the purpose of this subsection, if such individual's average monthly wage is in excess of $400, only an average monthly wage of $400 shall be used: And provided further, That the amount of an annuity as computed under this subsection shall not be less than it would be had this Act not been amended in 1966.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, and of subsection (e) of this section, the annuity of an individual for a month with respect to which a supplemental annuity under subsection (j) of this section accrues to him shall be computed or recomputed under the provisions of this subsection, or of subsection (e) of this section, as in effect before their amendment in 1966: Provided, however, That if the application of the preceding provision of this paragraph would result in the amount of the annuity, plus the amount of a supplemental annuity (after adjustment under subsection (j)(2) of this section) payable to an individual for a month being lower than the amount which would be payable as an annuity except for such preceding provision, the annuity shall

be in an amount which together with the amount of the supplemental annuity would be no less than the amount that would be payable as an annuity but for such preceding provision.

(b) * * *

MONTHLY COMPENSATION

(c) * * *

(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) $5.00 multiplied by the number of his years of service; or (2) $83.50; or (3) 110 per centum of his monthly compensation:]

*(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) $5.35 multiplied by the number of his years of service; or (2) $89.35; or (3) 118 per centum of his monthly compensation except that the minimum annuity so determined shall be reduced in accordance with the first two provisos in subsection (a)(1) of this section, but shall not be less than it would be had this Act not been amended in 1966: * * **

* * * * * * *

SUPPLEMENTAL ANNUITIES.

(j)(1) An individual who is entitled to the payment of an annuity under section 2 of this Act (other than subsection (e) or (h) thereof) and had a current connection with the railroad industry at the time such annuity began to accrue, shall be entitled to have a supplemental annuity accrue to him for each month beginning with the month in which he has (i) attained the age of sixty-five and (ii) completed twenty-five or more years of service. The amount of the supplemental annuity shall be $45 plus an additional amount of $5 for each year of service that the individual has in excess of 25 years, but in no case shall the supplemental annuity exceed $70: Provided, however, That in cases where an individual's annuity under section 2 of this Act begins to accrue on other than the first day of the month, the amount of any supplemental annuity to which he is entitled for that month shall be reduced by one-thirtieth for each day with respect to which he is not entitled to an annuity under section 2. The supplemental annuity provided by this subsection shall, with respect to any month, be subject to the same provisions of subsection (d) of section 2 of this Act as the individual's annuity under such section 2. Except as provided in subsection (a)(2) of this section, the supplemental annuity provided by this subsection shall not be taken into consideration in determining or computing any other annuity or benefit under this Act.

(2) The supplemental annuity provided by this subsection for an individual shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan: Provided, however, That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.

(3) The supplemental annuity provided by this subsection shall terminate with such annuity accruing for the sixtieth month following enactment of this subsection.

(4) The provisions of section 12 of this Act shall not operate to exclude the supplemental annuities herein provided for from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954.

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ANNUITIES AND LUMP SUMS FOR SURVIVORS

SEC. 5. (a) * * *

* * * * * * *

[(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 $36.30 and exceeds either (a) $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 $36.30, whichever is greater. Whenever such total of annuities is less than $16.95, such total shall, prior to any deductions under subsection (i), be increased to $16.95.]

(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 $38.84 and exceeds either (a) $207.15, 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 $38.84, whichever is greater. Whenever such total of annuities is less than $18.14, such total shall, prior to any deductions under subsection (i), be increased to $18.14: Provided, however, That the share of any individual in an amount so determined shall be reduced in accordance with the first two provisos in section 3(a)(1) of this Act except that the share of such individual shall not be less than it would be had this Act not been amended in 1966.

* * * * * * *

(1) DEFINITIONS.—For the purpose of this section the term "employee" includes an individual who will have been an "employee," and—

(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) 49 per centum of his average monthly remuneration, up to and including $75; plus (B) 12 per centum of such average monthly remuneration exceeding $75 and up to and including (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, 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 $16.95 it shall be increased to $16.95;]

(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) 52.4 per centum of his average monthly remuneration, up to and including $75; plus (B) 12.8 per centum of such average monthly remuneration exceeding $75 and up to and including $450; plus (C) 12 per centum of such average monthly remuneration exceeding $450 and up to and including an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in Section 3121 of the Internal Revenue Code of 1954, plus (D) 1 per centum of the sum of (A) plus (B) plus (C) 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 $18.14, it shall be increased to $18.14;

(ii) for an employee who will have been completely insured solely by virtue of paragraph (7)(iii): the sum of [49] *52.4* 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, [49] *52.4* per centum of the average monthly earnings on which such pension was computed, up to and including $75, plus [12] *12.8* 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 [$40.33] *$43.15*, except that if the pension payable to him was less than [$30.25] *$32.37*, such amount shall be four-thirds of the amount of the pension or [$16.13] *$17.26*, 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).

(m) An annuity payable under this section to an individual, without regard to subsection (h) of this section or the proviso in the first paragraph of section 3(e) of this Act, shall be reduced in accordance with the first two provisos in section 3(a)(1) of this Act except that the amount of the annuity shall not be less than it would be had this Act not been amended in 1966.

* * * * * * *

RAILROAD RETIREMENT ACCOUNT

SEC. 15. (a) * * *

RAILROAD RETIREMENT SUPPLEMENTAL ACCOUNT

(b) There is hereby created an account in the Treasury of the United States to be known as the Railroad Retirement Supplemental Account. There is hereby appropriated to the Railroad Retirement Supplemental Account, for the fiscal year ending June 30, 1967, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, to provide for the payment of supplemental annuities in accordance with the provisions of section 3(j) of this Act, and for expenses necessary for the Board in the administration of such section 3(j) as may be specifically authorized annually in Appropriation Acts, for crediting to such Supplemental Account, an amount equal to amounts covered into the Treasury (minus refunds) during the fiscal year ending June 30, 1967, and during each fiscal year thereafter, under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act.

At the end of forty-eight months following the enactment of the Act establishing the Railroad Retirement Supplemental Account the Railroad Retirement Board, having surveyed the progress of such Account, shall make a determination of whether the balance in such Account together with the anticipated income to the Account for the next succeeding twelve months will be sufficient to provide for the payment of the supplemental annuities provided for in section 3(j)(1) of this Act. In the event that such determination is that such balance and such anticipated income will not be sufficient to provide for the payment of all such supplemental annuities in the amounts specified, the Railroad Retirement Board is hereby authorized and directed to readjust the amounts of all such supplemental annuities, proportionately, so that such balance and anticipated income will be sufficient to provide for payment of all the supplemental annuities as so readjusted for the next succeeding twelve months.

[(b)] *c* At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the [Account] *Railroad Retirement Account and the Railroad Retirement Supplemental Account (hereinafter jointly referred to as "Accounts" on "Railroad Retirement Accounts")* as, in the judgment of the Board, is not immediately required for the payment of annuities, pensions, and death benefits. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price; or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended, to authorize the issuance at par of special obligations exclusively to the [Account] *Accounts*. Such obligations issued for purchase by the [Account] *Accounts* shall have maturities fixed with due regard for the needs of the [Account] *Accounts*, and shall bear interest at a rate equal to the average market

yield, computed as of the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt that are not due or callable until after the expiration of three years from the end of such calendar month, except that where such rate is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 percentum nearest such rate: *Provided*, That the rate of interest on such obligations shall in no case be less than 3 per centum per annum. The Secretary of the Treasury may purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price only if he determines that such purchases are in the public interest, provided that the investment yield of such obligations shall not be less than the interest rate determined in accordance with the preceding sentence. If it is in the interest of the [Account] *Accounts* so to do, the Secretary of the Treasury may sell and dispose of obligations in the [Account] *Accounts* and he may sell obligations acquired by the [Account] *Accounts* (other than special obligations issued exclusively to the [Account] *Accounts*) at the market price. Special obligations issued exclusively to the [Account] *Accounts* shall, at the request of the Board, be redeemed at par plus accrued interest. All amounts credited to the [Account] *Accounts* shall be available for all purposes of the [Account] *Accounts*.

[(c)] (*d*) The Board is hereby authorized and directed to select two actuaries, one from recommendations made by representatives of employees and the other from recommendations made by representatives of carriers. These actuaries, along with a third who shall be designated by the Secretary of the Treasury, shall be known as the Actuarial Advisory Committee with respect to the Railroad Retirement [Account] *Accounts*. The committee shall examine the actuarial reports and estimates made by the Railroad Retirement Board and shall have authority to recommend to the Board such changes in actuarial methods as they may deem necessary. The compensation of the members of the committee of actuaries, exclusive of the member designated by the Secretary, shall be fixed by the Board on a per-diem basis.

[(d)] (*e*) The Board shall include in its annual report a statement of the status and the operations of the Railroad Retirement [Account] *Accounts*. At intervals not longer than three years the Board shall make an estimate of the liabilities created by this Act and the Railroad Retirement Act of 1935 and shall include such estimate in its annual report. Such report shall also contain an estimate of the reduction in liabilities under title II of the Social Security Act arising as a result of the maintenance of this Act and the Railroad Retirement Act of 1935.

* * * * * * *

THE RAILROAD RETIREMENT TAX ACT

INTERNAL REVENUE CODE OF 1954

Chapter 22—Subchapter A

TAX ON EMPLOYEES

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) * * *

(2) * * *

(3) [6¾] *7* percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1966,

(4) [7] *7¼* percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1967, and

(5) [7¼] *7½* percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1968, * * *

* * * * * * *

Subchapter B

TAX ON EMPLOYEE REPRESENTATIVES

SEC. 3211. RATE OF TAX

(a) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to—

(1) * * *

(2) * * *

(3) [13½] *14* percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1966,

(4) [14] *14½* percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1967, and

(5) [14½] *15* percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1968, * * *

(b) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to two cents for each man-hour for which compensation is paid to him for services rendered as an employee representative.

Subchapter C

TAX ON EMPLOYERS

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—

(1) * * *

(2) * * *

(3) [6¾] *7* percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1966,

(4) [7] *7¼* percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1967, and

(5) [7¼] *7½* percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1968, * * *

(b) * * *

(c) 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 two cents for each man-hour, for which compensation is paid. With respect to daily, weekly, or monthly rates of compensation such tax shall apply to the number of hours comprehended in the rate together with the number of overtime hours for which compensation in addition to the daily, weekly, or monthly rate is paid. With respect to compensation paid on a mileage or piecework basis such tax shall apply to the number of hours constituting the hourly equivalent of the compensation paid.

Each employer of employees whose supplemental annuities are reduced pursuant to section 3(j)(2) of the Railroad Retirement Act of 1937 shall be allowed as a credit against the tax imposed by this subsection an amount equivalent in each month to the aggregate amount of reductions in supplemental annuities accruing in such month to employees of such employer. If the credit so allowed to such an employer for any month exceeds the tax liability of such employer accruing under this subsection in such month the excess may be carried forward for credit against such taxes accruing in subsequent months but the total credit allowed by this paragraph to an employer shall not exceed the total of the taxes on such employer imposed by this subsection. At the end of each calendar quarter the Railroad Retirement Board shall certify to the Secretary of the Treasury with respect to each such employer the amount of credit accruing to such employer under this paragraph during such quarter and shall notify such employer as to the amount so certified.

O

Union Calendar No. 953

89TH CONGRESS
2D SESSION

H. R. 17285

[Report No. 2169]

IN THE HOUSE OF REPRESENTATIVES

AUGUST 25, 1966

Mr. MACDONALD introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

OCTOBER 1, 1966

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

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

A BILL

To amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937 TO PROVIDE SUPPLEMENTAL ANNUITIES

SECTION 1. Section 3 of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new subsection:

"SUPPLEMENTAL ANNUITIES

"(j) (1) An individual who is entitled to the payment of an annuity under section 2 of this Act (other than subsection (e) or (h) thereof) and had a current connection with the railroad industry at the time such annuity began to accrue, shall be entitled to have a supplemental annuity accrue to him for each month beginning with the month in which he has (i) attained the age of sixty-five and (ii) completed twenty-five or more years of service. The amount of the supplemental annuity shall be $45 plus an additional amount of $5 for each year of service that the individual has in excess of 25 years, but in no case shall the supplemental annuity exceed $70: *Provided, however, That in cases where an individual's annuity under section 2 of this Act begins to accrue on other than the first day of the month, the amount of any supplemental annuity to which he is entitled for that month shall be reduced by one-thirtieth for each day with respect to which he is not entitled to an annuity under section 2.* ~~For the purposes of this subsection, there shall~~

~~not be included in the computation of the years of service any month on the basis of the individual's service as an employee of a railway labor organization employer during which he was not engaged predominantly in work involving representation of employees within the definition of 'employee' in this Act.~~ The supplemental annuity provided by this subsection shall, with respect to any month, be subject to the same provisions of subsection (d) of section 2 of this Act as the individual's annuity under such section 2. Except as provided in subsection (a) (2) of this section, the supplemental annuity provided by this subsection shall not be taken into consideration in determining or computing any other annuity or benefit under this Act.

"(2) The supplemental annuity provided by this subsection for an individual shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan ~~if such pension is not reduced by reason of the supplemental annuity to which such individual is entitled under the provisions of this subsection.~~ *: Provided, however, That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.*

"(3) The supplemental annuity provided by this subsection shall terminate with such annuity accruing for the sixtieth month following enactment of this ~~Act~~ *subsection.*"

"(4) The provisions of section 12 of this Act shall not operate to exclude the supplemental annuities herein provided for from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954."

SEC. 2. (a) Section 15 of the Railroad Retirement Act of 1937 is amended by inserting after subsection (a) the following:

"RAILROAD RETIREMENT SUPPLEMENTAL ACCOUNT

"(b) There is hereby created an account in the Treasury of the United States to be known as the Railroad Retirement Supplemental Account. There is hereby appropriated to the Railroad Retirement Supplemental Account, for the fiscal year ending June 30, 1967, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, to provide for the payment of supplemental annuities in accordance with the provisions of section 3 (j) of this Act, and for expenses necessary for the Board in the administration of such section 3 (j) as may be specifically authorized annually in Appropriation Acts, for crediting to such Supplemental Account, an amount equal to amounts covered into the Treasury (minus refunds) during the fiscal year ending June 30, 1967, and during each fiscal year there-

after, under sections 3211 (b) and 3221 (c) of the Railroad Retirement Tax Act.

"At the end of forty-eight months following the enactment of the Act establishing the Railroad Retirement Supplemental Account the Railroad Retirement Board, having surveyed the progress of such Account, shall make a determination of whether the balance in such Account together with the anticipated income to the Account for the next succeeding twelve months will be sufficient to provide for the payment of the supplemental annuities provided for in section 3 (j) (1) of this Act. In the event that such determination is that such balance and such anticipated income will not be sufficient to provide for the payment of all such supplemental annuities in the amounts specified, the Railroad Retirement Board is hereby authorized and directed to readjust the amounts of all such supplemental annuities, proportionately, so that such balance and anticipated income will be sufficient to provide for payment of all the supplemental annuities as so readjusted for the next succeeding twelve months."

(b) Section 15 of such Act is further amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; by striking out the word "Account" where it first appears in subsection (c) as redesignated and inserting in lieu thereof "Railroad Retirement Account and the Railroad Retirement Supplemental Account

(hereinafter jointly referred to as 'Accounts' or 'Railroad Retirement Accounts')"; by striking out "Account" each time it appears elsewhere in such redesignated subsections and inserting in lieu thereof "Accounts".

SEC. 3. (a) The amendment made by section 1 of this title shall be effective with respect to individuals whose annuities under section 2 of the Railroad Retirement Act of 1937 are first awarded on or after July 1, 1966, provided that no supplemental annuity shall accrue for months before the calendar month following the month in which this Act is enacted: *Provided, however, That if before July 1, 1966, an annuity was awarded to an individual under section 2(a) 4 or 5 of the Railroad Retirement Act of 1937, and such individual had recovered from disability and returned to the service of an employer before July 1, 1966, following which he was awarded an annuity after June 30, 1966, the annuity last awarded him shall be deemed to be an annuity first awarded within the meaning of this subsection but only if he would have a current connection with the railroad industry at the time the annuity last awarded begins to accrue, disregarding his earlier entitlement to an annuity.*

(b) The Railroad Retirement Board is authorized to request the Secretary of the Treasury to transfer from the

Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of the Supplemental annuities, provided for in section 3 (j) of the Railroad Retirement Act of 1937, for the six months next following enactment of this Act, and for administrative expenses necessary in the administration of such section 3 (j) (which expenses are hereby authorized) until such time as an appropriation for such expenses is made pursuant to section 15 (b) of such Act, and the Secretary shall make such transfer. The Railroad Retirement Board shall request the Secretary of the Treasury at any time before the expiration of one year following the enactment of this Act, to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account the amount transferred to the Railroad Retirement Supplemental Account pursuant to the next preceding sentence, plus interest at a rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the fiscal year ending on June 30, 1966, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer.

TITLE II—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937 TO PROVIDE AN INCREASE IN CERTAIN ANNUITIES UNDER THE ACT

SEC. 201. (a) (1) Section 2 (e) of the Railroad Retirement Act of 1937 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": *And provided further,* That the spouse's annuity provided for herein and in subsection (h) of this section shall be computed without regard to the reduction in the individual's annuity under the first two provisos in section 3 (a) (1) of this Act and without regard to the effect of section 3 (a) (2) on the annuity of the individual from whom such spouse's annuity derives.".

(2) Section 2 of such Act is further amended by adding a new subsection at the end thereof as follows:

"(i) The spouse's annuity provided under subsections (e) and (h) of this section shall (before any reduction on account of age) be reduced in accordance with the first two provisos in section 3 (a) (1) of this Act except that the spouse's annuity shall not be less than it would be had this Act not been amended in 1966."

(b) Section 3 (a) of such Act is amended by striking

out all that appears therein and inserting in lieu thereof the following:

"SEC. 3. (a) (1) The annuity shall be computed by multiplying an individual's 'years of service' by the following percentages of his 'monthly compensation': 3.58 per centum of the first $50; 2.69 per centum of the next $100; 1.79 per centum of the next $300; and 1.67 per centum of ~~the next $100~~ *the remainder up to an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954*: *Provided, however,* That in cases where an individual is entitled to a benefit under title II of the Social Security Act, the amount so computed shall be reduced by 6.55 per centum of the amount of such social security benefit (disregarding any increases in such benefit based on ~~work recomputations~~ *recomputations other than for the correction of errors* after such reduction is first applied and any increases derived from changes in the primary insurance amount through legislation enacted after the Social Security Amendments of 1965): *Provided further,* That in determining social security benefit amounts for the purpose of this subsection, if such individual's average monthly wage is in excess

of $400, only an average monthly wage of $400 shall be used: *And provided further*, That the amount of an annuity as computed under this subsection shall not be less than it would be had this Act not been amended in 1966.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, *and of subsection (e) of this section*, the annuity of an individual for a month with respect to which a supplemental annuity under subsection (j) of this section accrues to him shall be computed or recomputed under the provisions of this subsection, *or of subsection (e) of this section*, as in effect before ~~its~~ *their* amendment in 1966*: Provided, however, That if the application of the preceding provision of this paragraph would result in the amount of the annuity, plus the amount of a supplemental annuity (after adjustment under subsection (j)(2) of this section) payable to an individual for a month being lower than the amount which would be payable as an annuity except for such preceding provision, the annuity shall be in an amount which together with the amount of the supplemental annuity would be no less than the amount that would be payable as an annuity but for such preceding provision.*

(c) Section 3(e) of such Act is amended by striking out all that precedes the first proviso and inserting in lieu thereof the following: "In the case of an individual having a current connection with the railroad industry, the mini-

mum annuity payable shall, before any reduction pursuant to section 2 (a) 3, be whichever of the following is the least: (1) $5.35 multiplied by the number of his years of service; or (2) $89.35; or (3) 118 per centum of his monthly compensation except that the minimum annuity so determined shall be reduced in accordance with the first two provisos in subsection (a) (1) of this section, but shall not be less than it would be had this Act not been amended in 1966:".

(d) Section 5 (h) of such Act is amended by striking out all that appears therein and substituting in lieu thereof the following:

"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 annuities is more than $38.84 and exceeds either (a) $207.15, 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 $38.84, whichever is greater. Whenever such total of annuities is less than $18.14, such total shall, prior to any deductions under subsection (i), be increased to $18.14: *Provided, however,* That the share of any individual in an amount so deter-

mined shall be reduced in accordance with the first two provisions in section 3(a)(1) of this Act except that the share of such individual shall not be less than it would be had this Act not been amended in 1966."

(e) Section 5(1)(10) of such Act is amended—

(1) by striking out all that appears in subdivision (i) and inserting in lieu thereof the following: "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) 52.4 per centum of his average monthly remuneration, up to and including $75; plus (B) 12.8 per centum of such average monthly remuneration exceeding $75 and up to and including $450; plus (C) 12 per centum of such average monthly remuneration exceeding $450 and up to and including ~~($550)~~ *an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954*, plus (D) 1 per centum of the sum of (A) plus (B) plus (C) 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 $18.14, it shall be increased to $18.14;" and

(2) by striking out in subdivision (ii) thereof "49"

wherever it appears and inserting in lieu thereof "52.4", by striking out in such subdivision "12" and inserting in lieu thereof "12.8", by striking out in such subdivision "$40.33" and inserting "$43.15", by striking out in such subdivision "$30.25" and inserting in lieu thereof "32.37", and by striking out in such subdivision "$16.13" and inserting in lieu thereof "$17.26".

(f) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(m) An annuity payable under this section to an individual, without regard to subsection (h) of this section or the proviso in the first paragraph of section 3 (e) of this Act, shall be reduced in accordance with the first two provisos in section 3 (a) (1) of this Act except that the amount of the annuity shall not be less than it would be had this Act not been amended in 1966."

(g) All pensions under section 6 (~~for~~) *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 following the month of enactment of this Act, all widows' and widowers' insurance annuities which began to accrue before the second month following the month of enactment of this Act, 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 a spouse's annuity to which the widow or widower was entitled (except those of such insurance annuities which are based on a spouse's annuity which was payable in the maximum amount as determined in accordance with the provisions of the Social Security Act as amended by the Social Security Amendments of 1965), and all annuities under the Railroad Retirement Act of 1935 are increased by 7 per centum, *but such a widow's or widower's annuity in an amount formerly received as a spouse's annuity shall not be increased to an amount above $74.80*: *Provided, however,* That in cases where an individual is entitled to a benefit under title II of the Social Security Act, the additional amount payable because of this subsection shall be reduced by 6.55 per centum of the amount of such social security benefit (disregarding any increases in such benefit based on ~~work recomputations~~ *recomputations other than for the correction of errors* after such reduction is first applied and any increases derived from changes in the primary insurance amount through legislation enacted after the Social Security Amendments of 1965): *Provided further,* That in determining social security benefit amounts for the purpose of this subsection, if such individual's average monthly wage is in excess of $400, only the average monthly wage of $400 shall be used.

SEC. 202. (a) The amendments made by section 201

of this title shall be effective with respect to annuities accruing for months after the month in which this Act is enacted, and with respect to pensions due in calendar months after the month next following the month in which this Act is enacted. The amendments made by subsection (e) of section 201 of this title shall be effective as to lump-sum benefits under section 5 (f) (1) of the Railroad Retirement Act of 1937 with respect to deaths occurring on or after the date of enactment of this Act.

(b) All recertifications required by reason of the amendments made by this title shall be made by the Railroad Retirement Board without application therefor.

TITLE III—AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

CHANGES IN TAX RATES

SEC. 301. (a) Section 3201 of the Internal Revenue Code of 1954 (relating to rate of tax on employees under the Railroad Retirement Tax Act) is amended by striking out "6¾ percent" from subdivision "(3)" and inserting in lieu thereof "7 percent"; by striking out "7 percent" from subdivision "(4)" and inserting in lieu thereof "7¼ percent"; and by striking out "7¼ percent" from subdivision "(5)" and inserting in lieu thereof "7½ percent".

(b) Section 3211 of such Code (relating to rate of tax on employee representatives under the Railroad Retire-

ment Tax Act) is amended by striking out "13½ percent" from subdivision "(3)" and inserting in lieu thereof "14 percent"; by striking out "14 percent" from subdivision "(4)" and inserting in lieu thereof "14½ percent"; and by striking out "14½ percent" from subdivision "(5)" and inserting in lieu thereof "15 percent".

(c) Section 3221 (a) of such Code (relating to rate of tax on employers under the Railroad Retirement Tax Act) is amended by striking out "6¾ percent" from subdivision "(3)" and inserting in lieu thereof "7 percent"; by striking out "7 percent" from subdivision "(4)" and inserting in lieu thereof "7¼ percent"; and by striking out "7¼ percent" from subdivision "(5)" and inserting in lieu thereof "7½ percent".

SUPPLEMENTAL TAXES

(d) Section 3211 of such Code is further amended by inserting "(a)" after "SEC. 3211" and by adding at the end thereof the following new subsection:

"(b) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 2 cents for each man-hour for which compensation is paid to him for services rendered as an employee representative."

(e) Section 3221 of such Code is further amended by adding at the end thereof the following new subsection:

"(c) 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 2 cents for each man-hour, for which compensation is paid. With respect to daily, weekly, or monthly rates of compensation such tax shall apply to the number of hours comprehended in the rate together with the number of overtime hours for which compensation in addition to the daily, weekly, or monthly rate is paid. With respect to compensation paid on a mileage or piecework basis such tax shall apply to the number of hours constituting the hourly equivalent of the compensation paid. ~~The tax imposed by this subsection shall not apply to hours included in any month of service as an employee rendered to a railway labor organization employer during which month the individual to whom such compensation is paid was not engaged predominantly in work involving representation of employees within the definition of 'employee' in this Act.~~

"Each employer of employees whose supplemental annuities are reduced pursuant to section 3 (j) (2) of the Railroad Retirement Act of 1937 shall be allowed as a credit

against the tax imposed by this subsection an amount equivalent in each month to the aggregate amount of reductions in supplemental annuities accruing in such month to employees of such employer. If the credit so allowed to such an employer for any month exceeds the tax liability of such employer accruing under this subsection in such month, the excess may be carried forward for credit against such taxes accruing in subsequent months but the total credit allowed by this paragraph to an employer shall not exceed the total of the taxes on such employer imposed by this subsection. At the end of each calendar quarter the Railroad Retirement Board shall certify to the Secretary of the Treasury with respect to each such employer the amount of credit accruing to such employer under this paragraph during such quarter and shall notify such employer as to the amount so certified."

(f) The amendments made by subsections (d) and (e) of this section shall be effective with respect to man-hours, for sixty months beginning with the first month following enactment of this Act, for which compensation is paid.

Union Calendar No. 953

89TH CONGRESS
2D SESSION

H. R. 17285

[Report No. 2169]

A BILL

To amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, and for other purposes.

By Mr. MACDONALD

AUGUST 25, 1966

Referred to the Committee on Interstate and Foreign Commerce

OCTOBER 1, 1966

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

AMENDING THE RAILROAD RETIREMENT ACT OF 1937

Mr. STAGGERS. Mr. Speaker, I move to suspend the rule and pass the bill (H.R. 17285) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 17285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937 TO PROVIDE SUPPLEMENTAL ANNUITIES

SECTION 1. Section 3 of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new subsection:

"Supplemental annuities

"(j)(1) An individual who is entitled to the payment of an annuity under section 2 of this Act (other than subsection (e) or (h) thereof) and had a current connection with the railroad industry at the time such annuity began to accrue, shall be entitled to have a supplemental annuity accrue to him for each month beginning with the month in which he has (i) attained the age of sixty-five and (ii) completed twenty-five or more years of service. The amount of the supplemental annuity shall be $45 plus an additional amount of $5 for each year of service that the individual has in excess of twenty-five years, but in no case shall the supplemental annuity exceed $70: *Provided, however,* That in cases where an individual's annuity under section 2 of this Act begins to accrue on other than the first day of the month, the amount of any supplemental annuity to which he is entitled for that month shall be reduced by one-thirtieth for each day with respect to which he is not entitled to an annuity under section 2. The supplemental annuity provided by this subsection shall, with respect to any month, be subject to the same provisions of subsection (d) of section 2 of this Act as the individual's annuity under such section 2. Except as provided in subsection (a)(2) of this section, the supplemental annuity provided by this subsection shall not be taken into consideration in determining or computing any other annuity or benefit under this Act.

"(2) The supplemental annuity provided by this subsection for an individual shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan: *Provided, however,* That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.

"(3) The supplemental annuity provided by this subsection shall terminate with such annuity accruing for the sixtieth month following enactment of this subsection.

"(4) The provisions of section 12 of this Act shall not operate to exclude the supplemental annuities herein provided for from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954."

SEC. 2. Section 15 of the Railroad Retirement Act of 1937 is amended by inserting after subsection (a) the following:

"Railroad retirement supplemental account

"(b) There is hereby created an account in the Treasury of the United States to be known as the Railroad Retirement Supplemental Account. There is hereby appropriated to the Railroad Retirement Supplemental Account, for the fiscal year ending June 30, 1967, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, to provide for the payment of supplemental annuities in accordance with the provisions of section 3(j) of this Act, and for expenses necessary for the Board in the administration of such section 3(j) as may be specifically authorized annually in appropriation Acts, for crediting to such Supplemental Account, an amount equal to amounts covered into the Treasury (minus refunds) during the fiscal year ending June 30, 1967, and during each fiscal year thereafter, under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act.

"At the end of forty-eight months following the enactment of the Act establishing the Railroad Retirement Supplemental Account the Railroad Retirement Board, having surveyed the progress of such Account, shall make a determination of whether the balance in such Account together with the anticipated income to the Account for the next succeeding twelve months will be sufficient to provide for the payment of the supplemental annuities provided for in section 3(j)(1) of this Act. In the event that such determination is that such balance and such anticipated income will not be sufficient to provide for the payment of all such supplemental annuities in the amounts specified, the Railroad Retirement Board is hereby authorized and directed to readjust the amounts of all such supplemental annuities, proportionately, so that such balance and anticipated income will be sufficient to provide for payment of all the supplemental annuities as so readjusted for the next succeeding twelve months."

(b) Section 15 of such Act is further amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; by striking out the word "Account" where it first appears in subsection (c) as redesignated and inserting in lieu thereof "Railroad Retirement Account and the Railroad Retirement Supplemental Account (hereinafter jointly referred to as 'Accounts' or 'Railroad Retirement Accounts')"; by striking out "Account" each time it appears elsewhere in such redesignated subsections and inserting in lieu thereof "Accounts".

SEC. 3. (a) The amendment made by section 1 of this title shall be effective with respect to individuals whose annuities under section 2 of the Railroad Retirement Act of 1937 are first awarded on or after July 1, 1966, provided that no supplemental annuity shall accrue for months before the calendar month following the month in which this Act is enacted: *Provided, however,* That if before July 1, 1966, an annuity was awarded to an individual under section 2(a) 4 or 5 of the Railroad Retirement Act of 1937, and such individual had recovered from disability and returned to the service of an employer before July 1, 1966, following which he was awarded an annuity after June 30, 1966, the annuity last awarded him shall be deemed to be an annuity first awarded within the meaning of this subsection but only if he would have a current connection with the railroad industry at the time the annuity last awarded begins to accrue, disregarding his earlier entitlement to an annuity.

(b) The Railroad Retirement Board is authorized to request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of the Supplemental annuities, provided for in section 3(j) of the Railroad Retirement Act of 1937, for the six months next following enactment of this Act, and for administrative expenses necessary in the administration of such section 3(j) (which expenses are hereby authorized) until such time as an appropriation for such expenses is made pursuant to section 15(b) of such Act, and the Secretary shall make such transfer. The Railroad Retirement Board shall request the Secretary of the Treasury at any time before the expiration of one year following the enactment of this Act, to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account the amount transferred to the Railroad Retirement Supplemental Account pursuant to the next preceding sentence, plus interest at a rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the fiscal year ending on June 30, 1966, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer.

TITLE II—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937 TO PROVIDE AN INCREASE IN CERTAIN ANNUITIES UNDER THE ACT

SEC. 201. (a)(1) Section 2(e) of the Railroad Retirement Act of 1937 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": *And provided further,* That the spouse's annuity provided for herein and in subsection (h) of this section shall be computed without regard to the reduction in the individual's annuity under the first two provisos in section 3(a)(1) of this Act and without regard to the effect of section 3(a)(2) on the annuity of the individual from whom such spouse's annuity derives.".

(2) Section 2 of such Act is further amended by adding a new subsection at the end thereof as follows:

"(i) The spouse's annuity provided under subsections (e) and (h) of this section shall (before any reduction on account of age) be reduced in accordance with the first two provisos in section 3(a)(1) of this Act except

that the spouse's annuity shall not be less than it would be had this Act not been amended in 1966."

(b) Section 3(a) of such Act is amended by striking out all that appears therein and inserting in lieu thereof the following:

"SEC. 3. (a)(1) The annuity shall be computed by multiplying an individual's 'years of service' by the following percentages of his 'monthly compensation': 3.58 per centum of the first $50; 2.69 per centum of the next $100; 1.79 per centum of the next $300; and 1.67 per centum of the remainder up to an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954: *Provided, however*, That in cases where an individual is entitled to a benefit under title II of the Social Security Act, the amount so computed shall be reduced by 6.55 per centum of the amount of such social security benefit (disregarding any increases in such benefit based on recomputations other than for the correction of errors after such reduction is first applied and any increases derived from changes in the primary insurance amount through legislation enacted after the Social Security Amendments of 1965): *Provided further*, That in determining social security benefit amounts for the purpose of this subsection, if such individual's average monthly wage is in excess of $400, only an average monthly wage of $400 shall be used: *And provided further*, That the amount of an annuity as computed under this subsection shall not be less than it would be had this Act not been amended in 1966.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, and of subsection (e) of this section, the annuity of an individual for a month with respect to which a supplemental annuity under subsection (j) of this section accrues to him shall be computed or recomputed under the provisions of this subsection, or of subsection (e) of this section, as in effect before their amendment in 1966: *Provided, however*, That if the application of the preceding provision of this paragraph would result in the amount of the annuity, plus the amount of a supplemental annuity (after adjustment under subsection (j)(2) of this section) payable to an individual for a month being lower than the amount which would be payable as an annuity except for such preceding provision, the annuity shall be in an amount which together with the amount of the supplemental annuity would be no less than the amount that would be payable as an annuity but for such preceding provision.

(c) Section 3(e) of such Act is amended by striking out all that precedes the first proviso and inserting in lieu thereof the following: "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) $5.35 multiplied by the number of his years of service; or (2) $89.35; or (3) 118 per centum of his monthly compensation except that the minimum annuity so determined shall be reduced in accordance with the first two provisos in subsection (a)(1) of this section, but shall not be less than it would be had this Act not been amended in 1966:".

(d) Section 5(h) of such Act is amended by striking out all that appears therein and substituting in lieu thereof the following:

"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 annuities is more than $38.84 and exceeds either (a) $207.15, 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 $38.84, whichever is greater. Whenever such total of annuities is less than $18.14, such total shall, prior to any deductions under subsection (i), be increased to $18.14: *Provided, however*, That the share of any individual in an amount so determined shall be reduced in accordance with the first two provisions in section 3(a)(1) of this Act except that the share of such individual shall not be less than it would be had this Act not been amended in 1966."

(e) Section 5(1)(10) of such Act is amended—

(1) by striking out all that appears in subdivision (i) and inserting in lieu thereof the following: "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) 52.4 per centum of his average monthly remuneration, up to and including $75; plus (B) 12.8 per centum of such average monthly remuneration exceeding $75 and up to and including $450; plus (C) 12 per centum of such average monthly remuneration exceeding $450 and up to and including an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, plus (D) 1 per centum of the sum of (A) plus (B) plus (C) 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 $18.14, it shall be increased to $18.14;" and

(2) by striking out in subdivision (ii) thereof "49" wherever it appears and inserting in lieu thereof "52.4", by striking out in such subdivision "12" and inserting in lieu thereof "12.8", by striking out in such subdivision "$40.33" and inserting "$43.15", by striking out in such subdivision "$30.25" and inserting in lieu thereof "32.37", and by striking out in such subdivision $16.13 and inserting in lieu thereof "$17.26".

(f) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(m) An annuity payable under this section to an individual, without regard to subsection (h) of this section or the proviso in the first paragraph of section 3(e) of this Act, shall be reduced in accordance with the first two provisos in section 3(a)(1) of this Act except that the amount of the annuity shall not be less than it would be had this Act not been amended in 1966."

(g) 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 following the month of enactment of this Act, all widows' and widowers' insurance annuities which began to accrue before the second month following the month of enactment of this Act, 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 a spouse's annuity to which the widow or widower was entitled (except those of such insurance annuities which are based on a spouse's annuity which was payable in the maximum amount as determined in accordance with the provisions of the Social Security Act as amended by the Social Security Amendments of 1965), and all annuities under the Railroad Retirement Act of 1935 are increased by 7 per centum, but such a widow's or widower's annuity in an amount formerly received as a spouse's annuity shall not be increased to an amount above $74.80: *Provided, however*, That in cases where an individual is entitled to a benefit under title II of the Social Security Act, the additional amount payable because of this subsection shall be reduced by 6.55 per centum of the amount of such social security benefit (disregarding any increases in such benefit based on recomputations other than for the correction or errors after such reduction is first applied and any increases derived from changes in the primary insurance amount through legislation enacted after the Social Security Amendments of 1965): *Provided further*, That in determining social security benefit amounts for the purpose of this subsection, if such individual's average monthly wage is in excess of $400, only the average monthly wage of $400 shall be used.

SEC. 202. (a) The amendments made by section 201 of this title shall be effective with respect to annuities accruing for months after the month in which this Act is enacted, and with respect to pensions due in calendar months after the month next following the month in which this Act is enacted. The amendments made by subsection (e) of section 201 of this title shall be effective as to lump-sum benefits under section 5(f)(1) of the Railroad Retirement Act of 1937 with respect to deaths occurring on or after the date of enactment of this Act.

(b) All recertifications required by reason of the amendments made by this title shall be made by the Railroad Retirement Board without application therefor.

TITLE III—AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

Changes in Tax Rates

SEC. 301. (a) Section 3201 of the Internal Revenue Code of 1954 (relating to rate of tax on employees under the Railroad Retirement Tax Act) is amended by striking out "6¾ percent" from subdivision "(3)" and inserting in lieu thereof "7 percent"; by striking out "7 percent" from subdivision "(4)" and inserting in lieu thereof "7¼ percent"; and by striking out "7¼ percent" from subdivision "(5)" and inserting in lieu thereof "7½ percent".

(b) Section 3211 of such Code (relating to rate of tax on employee representatives under the Railroad Retirement Tax Act) is amended by striking out "13½ percent" from subdivision "(3)" and inserting in lieu thereof "14 percent"; by striking out "14 percent" from subdivision "(4)" and inserting in lieu thereof "14½ percent"; and by striking out "14½ percent" from subdivision "(5)" and inserting in lieu thereof "15 percent".

(c) Section 3221 (a) of such Code (relating to rate of tax on employers under the Railroad Retirement Tax Act) is amended by striking out "6¾ percent" from subdivision "(3)" and inserting in lieu thereof "7 percent"; by striking out "7 percent" from subdivision "(4)" and inserting in lieu thereof "7¼ percent"; and by striking out "7¼ percent" from subdivision "(5)" and inserting in lieu thereof "7½ percent".

Supplemental Taxes

(d) Section 3211 of such Code is further amended by inserting "(a)" after "SEC. 3211" and by adding at the end thereof the following new subsection:

"(b) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 2 cents for each man-hour for which compensation is paid to him for services rendered as an employee representative."

(e) Section 3221 of such Code is further amended by adding at the end thereof the following new subsection:

"(c) 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 2 cents for each man-hour, for which compensation is paid. With respect to daily, weekly, or monthly rates of compensation such tax shall apply to the number of hours comprehended in the rate together with the number of overtime hours

for which compensation in addition to the daily, weekly, or monthly rate is paid. With respect to compensation paid on a mileage or piecework basis such tax shall apply to the number of hours constituting the hourly equivalent of the compensation paid.

"Each employer of employees whose supplemental annuities are reduced pursuant to section 3(j)(2) of the Railroad Retirement Act of 1937 shall be allowed as a credit against the tax imposed by this subsection an amount equivalent in each month to the aggregate amount of reductions in supplemental annuities accruing in such month to employees of such employer. If the credit so allowed to such an employer for any month exceeds the tax liability of such employer accruing under this subsection in such month, the excess may be carried forward for credit against such taxes accruing in subsequent months but the total credit allowed by this paragraph to an employer shall not exceed the total of the taxes on such employer imposed by this subsection. At the end of each calendar quarter the Railroad Retirement Board shall certify to the Secretary of the Treasury with respect to each such employer the amount of credit accruing to such employer under this paragraph during such quarter and shall notify such employer as to the amount so certified."

(f) The amendments made by subsections (d) and (e) of this section shall be effective with respect to man-hours, for sixty months beginning with the first month following enactment of this Act, for which compensation is paid.

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, this bill was reported out of the subcommittee unanimously and was reported unanimously from the full Committee on Interstate and Foreign Commerce.

Mr. Speaker, this is a good bill. After years of negotiations between the railroads and the brotherhood, they have come to an agreement and have come to the Congress and asked that that agreement be formalized into law.

Mr. Speaker, I will call on the gentleman from Massachusetts [Mr. MACDONALD], chairman of the subcommittee, to give a brief explanation of the contents of the bill.

Mr. MACDONALD. Mr. Speaker, the bill presently under consideration is a bill agreed upon by railway labor and railway management, which is endorsed by the Railroad Retirement Board and the executive branch of the Government and was approved by our committee unanimously.

The bill establishes a new system of supplementary pensions for railroad employees whose annuities are initially awarded on or after July 1, 1966, if the employee has 25 or more years of railroad service and at the time of retirement has a current connection with the railroad industry when the employee attains the age of 65.

The bill also provides that all persons presently on the rolls of the Railroad Retirement Board, and all persons who retire hereafter and are not eligible for the supplemental pension, will receive a 7-percent increase in his railroad retirement benefits, reduced, however, by the total of benefit increases which the individual affected receives as a result of the enactment of amendments to the Social Security Act of 1965.

The problem of supplemental pensions is a very difficult one and I know that each member of the House is receiving many letters just as I have received from individuals who will not be covered by the supplemental pension program, protesting the fact that the program is not expanded to cover them.

It is certainly unfortunate that the program is, as it must be, limited to employees retiring on or after July 1, 1966; however, this matter was explored by our subcommittee and the reason is simple. There is only a certain amount of money available for establishment of a supplemental pension program, and the amount available, which is in the neighborhood of $30 to $35 million annually, is not adequate to cover all persons currently on the railroad retirement rolls.

Several years ago many of the standard railway labor organizations served notice under section 6 of the Railway Labor Act on the railroads proposing to change collective bargaining agreements to provide for the establishment of supplemental pension programs on these railroads. It was agreed by representatives of the railroads and of employee organizations that these matters should be negotiated on a national level with all of the brotherhoods and all of the railroads participating jointly. Negotiations on this proposed program continued for several years, and finally an agreement was worked out and signed August 24, this year. As part of the agreement, the railroads agreed that the supplemental pension program would be financed entirely by payments made by them. The amount that was finally agreed to was 2 cents per man-hour of employment. This payment by each of the railroads in the United States will bring in an estimated $35 million a year.

The next question facing the negotiators was how this $35 million was to be distributed, and they determined that the group of persons who should be eligible to receive supplemental annuities should be limited to those which I have already referred to.

There are two reasons why it is necessary for this provision to be enacted by the Congress.

First. It is much more efficient to have the Railroad Retirement Board administer this program than to have each railroad set up its own system, or set up a national system for administration of the program.

Second. In order to insure that the 2 cents per man-hour is actually paid in each case, the Federal taxing power is the most efficient machinery to accomplish this purpose. This means, then, that greater benefits are available to be paid to employees since the cost of administration of the new program will be much less. Therefore, the agreement entered into between the brotherhoods and the representatives of the carriers provides that both sides will support legisolation to establish this supplemental program. In other words, the determination of eligibility for the supplemental pension was arrived at through collective bargaining, and the Congress is ratifying and establishing by law machinery for carrying out that collective bargaining agreement.

Also, of great interest to many is that part of this agreement was that the railroads and the brotherhoods would jointly recommend to the Congress legislation which is included in this bill providing a 7-percent increase in railroad retirement benefits for all persons covered by the Railroad Retirement Act to the extent that they are not covered by the supplemental pension program, and also to the extent that they did not receive increases by reason of the Social Security Amendments of 1965. This increase in benefits is made possible by an increase in taxes to be paid by current employees, and taxes to be paid by the carriers concerned, equal to an additional one-fourth of 1 percent of their taxable compensation. This increase in taxes will be sufficient to finance the increased costs of the 7-percent benefits increase. Unfortunately, the railroad retirement fund will still be operating at a deficit after the enactment of this bill, but it is the opinion of the committee that this deficit is manageable at present.

I urge the approval of the bill.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. MACDONALD. I yield to the gentleman.

(Mr. HARSHA asked and was given permission to revise and extend his remarks.)

Mr. HARSHA. As the gentleman knows, I introduced identical legislation, and was a cosponsor of this bill, H.R. 17285, and I rise in support of the legislation, and certainly urge my colleagues to adopt it. It is a very worthwhile and justified measure, and I hope, because of the rising increase in the cost of living, that the other body will act quickly to enact this measure into law.

Mr. Speaker, I rise in support of H.R. 17285. As a cosponsor of this legislation I am happy to support it but I have mixed emotions about the bill. It does not do near enough to help our retired railroad workers combat the ever increasing cost of living. Earlier this year, I introduced legislation which would grant an across-the-board increase of 10 percent to all retired railroad employees. It was little enough when one realizes that they have not received an increase since 1959. In view of the tremendous rise in the cost of living it becomes imperative that this Congress act immediately to grant this minimum relief to those workers who are compelled to exist on the meager allotments they receive. Daily, the cost of the very necessities of life continues to rise, and time is of the essence to help these Americans eke out an existence at today's present level of living costs.

I regret also, Mr. Speaker, that no provision was made to change the law in regard to the widow of a retired railroad worker. As it now stands she receives no assistance until she reaches 60 years

of age, regardless of her health. What happens to her if her husband dies and she is only 53 or 55 years of age? What if she is unable to work? This is a great inequity in the act and I had hoped that it would be corrected to allow the widow receipt of at least a percentage of the deceased retirees pension. I have introduced legislation to this effect; to wit: H.R. 18080 but, unfortunately, it appears that this relief will not be granted at this time. In spite of these shortcomings in the legislation, I think it is a step in the right direction and I am happy to support it.

The establishment of supplemental pension payments will, to a certain degree, furnish career railroad employees with a retirement future that would favorably compare with those already in effect for several years in the steel, coal, auto, and trucking industries. The proposed authorization of a 7-percent increase in annuities to those not eligible for supplemental pension payments is also very satisfying, although I sincerely believe that they are entitled to far more.

I am happy to have had a part in bringing this worthwhile legislation before the House of Representatives and strongly recommend to my colleagues that they support it, and further urge that this bill will have swift progress through the Congress so that it will become law before adjournment of this session.

There is another feature which I feel should be pointed out, Mr. Speaker, and that is that this statutory supplemental plan that we are setting up here will affect those who are now under private supplemental pension plans. That is to say that such a supplemental annuity would be subject to a reduction to the extent of the amount attributable to the employer's contribution to such a pension plan. This is one of the reasons I say I have mixed emotions about this bill but it is the best we could obtain under the circumstances and was agreed to by all the representatives of the various brotherhoods. This feature would not result in a net loss to the employee of his private pension annuity but might affect the amount to which he is eligible under this new statutory supplemental annuity.

Mr. Speaker, I commend the distinguished chairman of the subcommittee [Mr. MACDONALD] for bringing this legislation before the House of Representatives and urge its adoption.

Mr. MACDONALD. I thank the gentleman for his contribution.

I would also like to correct an omission in the printing of our committee's hearing. The gentleman presented a statement to our subcommittee but unfortunately it was not printed in the record. We appreciated having the benefit of your views on the bill before our committee. I thank the gentleman.

Mr. SPRINGER. Mr. Speaker, I yield myself such time as I may consume.

The bill, H.R. 17285, merely implements an agreement which has already been negotiated between the unions and management. The Railroad Retirement Board, however, will administer this plan. The railroads themselves, the management, will pay the entire cost of the new program.

This agreement applies for 5 years, and then if it continues it must ge renegotiated between management and labor.

The employees who receive the supplemental are those retiring on or after July 1, 1966, who are 65 years old and have 25 years of service and also have a current connection with the industry.

The amount of the annuity is $45 a month plus $5 for each year over 25 years with a maximum of $70 per month.

Mr. Speaker, there are some other increases here of a minor nature, but none of these will affect the fund. It is self-paying. It has been negotiated between labor and management.

There are no objections that I know of by anyone to the legislation, but in order to be effective, it did have to receive legislative approval and have to be signed by the President.

Mr. Speaker, I recommend this legislation to all of my colleagues.

(Mr. POFF asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. POFF. Mr. Speaker, I have mixed emotions about H.R. 17285. Perhaps it is better to say that I have some reservations about it.

However, since the parliamentary situation will not permit any amendments to be offered and we will be required to vote the bill up or down as a single package, I will vote for the bill but only because I am convinced that the total good outweighs the defects and because this is the only opportunity the railroad workers will have to obtain some increase in their annuities to compensate for the loss in purchasing power which inflation has caused in recent times.

Generally speaking, the 7-percent increase in annuities will go to those not eligible for the new statutory supplemental annuity. However, the increase will be reduced by whatever amount of increase an annuitant received either in his railroad retirement benefits or his social security benefits on account of the amendments Congress made to the Social Security Act in 1965.

Railroaders who received no such increase will, if otherwise eligible, receive the full amount of the 7-percent increase. Those who receive less than a 7-percent increase feel that they have been discriminated against.

The supplemental annuity, ranging from $45 a month up to $70 a month, will be available to workers 65 or older who retired on or after July 1, 1966, with a current railroad connection and at least 25 years' creditable service.

However, workers on some railroads are already enrolled in private supplemental retirement plans. Under this bill, the amount of the statutory supplemental pension will be reduced by the amount of the private supplemental pension that is based on employer contributions. Workers who find themselves in this category and who have been participating in the private supplemental program over a period of many years, feel that they have been discriminated against by this legislation.

There are other omissions and defects in the bill which will not be dramatized until the law has been in operation for some time. Nevertheless, to repeat what I first said, since the parliamentary situation will not permit floor amendments, I will be constrained to vote for the legislation with the hope that defects can be cured later.

Mr. BUCHANAN. Mr. Speaker, I rise in support of H.R. 17285, the railroad and supplemental pensions bill now before the House which will increase a spouse's annuities and provide supplemental annuities to our railroad employees.

With our constantly increasing living costs, it is extremely difficult for those on railroad retirement, as well as others on fixed incomes to make ends meet.

I believe the increased benefits under railroad retirement are justified, and will give some measure of relief to those who will benefit under the bill.

I sincerely urge passage of this bill.

Mr. BOLAND. Mr. Speaker, I rise in favor of H.R. 17285 amending the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, to provide for supplemental annuities and to increase benefit amounts.

This bill establishes a supplemental pension system for employees covered by the Railroad Retirement Act of 1937 who are awarded annuities on or after July 1, 1966, with 25 or more years' service and who have a current connection with the railroad industry upon retirement. The supplemental pension is $45 minimum to $70 maximum monthly, is not payable until the employee reaches the age of 65, and is payable only for months after the month of enactment of the bill.

For all persons not covered by the supplemental pension, the legislation provides a general increase of 7 percent in benefits under the Railroad Retirement Acts, reduced by the total of benefit increases under either the Social Security Act or the Railroad Retirement Act of 1937, received by the individual concerned, as a result of amendments to the Social Security Act made in 1965.

Mr. Speaker, the representatives of both railway labor and railroad management have agreed on the need for these two provisions of the bill. Supplemental pensions are provided for most employees in other major industries. About one third of the annuitants on the rolls of the Railroad Retirement Board did not receive an annuity increase last year. The other two-thirds of the Railroad Retirement Board annuitants did benefit from the 7-percent increase in the social security annuity benefits approved by Congress in 1965, because they are entitled to social security and railroad benefits. This legislation will correct an inequity for those annuitants who had the longest careers in the railroad industry and who are in need of a 7-percent annuity increase to help keep pace with the increase in the cost of living.

The SPEAKER pro tempore (Mr. HOLIFIELD). The question is, Shall the House suspend the rules and pass the bill, H.R. 17285, with amendments?

The question was taken; and (two-thirds having voted in favor thereof) the

rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Calendar No. 1687

89TH CONGRESS
2d Session

SENATE

REPORT
No. 1718

AMENDING THE RAILROAD RETIREMENT ACT OF 1937 AND THE RAILROAD RETIREMENT TAX ACT

OCTOBER 13, 1966.—Ordered to be printed

Mr. PELL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

together with

INDIVIDUAL VIEWS

[To accompany H.R. 17285]

The Committee on Labor and Public Welfare, to which was referred the bill (H.R. 17285) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, to provide for supplemental annuities and to increase benefit amounts and for other purposes, having considered the same, reports favorably thereon without amendment, and recommends that the bill do pass.

NEED FOR LEGISLATION

SUPPLEMENTAL ANNUITIES

The railroad unions had served notices on many of the railroads, under section 6 of the Railway Labor Act, requesting supplemental annuities for employees in the railroad industry. This request was predicated on their contention that supplemental pensions are provided for most employees in other major industries. Representatives of railway labor and railroad management have been negotiating for several years on this issue. As a result of these negotiations they have reached an agreement jointly to request the Congress to enact provisions for supplemental annuities as provided for in this bill. This agreement provides, among other things, that such supplemental annuities would be payable for a period of 5 years and until about the end of this period the issues raised by such section 6 notices would be

put to rest; and that then the representatives of the two groups will discuss this issue further.

The committee believes that this was an appropriate way of settling the issue and disposing of the problem for a substantial period.

THE 7-PERCENT INCREASE IN CERTAIN ANNUITIES

By legislation enacted in 1965 (Public Law 89-97), the Congress provided for an increase in benefits under the Social Security Act by 7 percent. By reason of certain provisions in the Railroad Retirement Act coordinating the benefits under the Railroad Retirement Act of 1937 and the Social Security Act, about two-thirds of the annuitants on the rolls of the Railroad Retirement Board have received such an increase for this reason or because they are also entitled to social security benefits which were increased. The increase in railroad retirement benefits was applicable mostly to spouses' annuities payable in the maximum amount, to survivor annuities, and to retirement annuities based on such relatively short service on the railroads as to be computed under the minimum provision guaranteeing benefits equal to 110 percent of what the service would have produced under the Social Security Act. Thus, there was discrimination against the one-third of the annuitants who did not receive an increase, and this group, generally, is the group which has had the longest careers in the railroad industry. In recognition of this fact, the railroads and the unions also agreed on the inclusion of title II in the bill. Title II of the bill would provide a general increase of 7 percent for this one-third of such annuitants and thereby remove this inequity. Further, by agreement between the railroads and the unions, there is included in title III of the bill provision for an increase in railroad retirement tax rates of one-quarter percent each on employers and employees to finance this 7-percent increase in benefits.

The committee, therefore, recommends the enactment of the bill.

PURPOSE OF THE BILL

TITLE I. SUPPLEMENTAL ANNUITIES

The bill would, by amending the Railroad Retirement Act of 1937, establish a program, to be administered by the Railroad Retirement Board, for the payment of supplemental annuities for career railroad employees which supplemental annuities, as the name implies, would be in addition to the regular annuities payable under existing law. The program would be financed separately from, and independently of, the regular railroad retirement program. An excise tax under the Railroad Retirement Tax Act on railroad employers of 2 cents for each man-hour of employment would be imposed to provide the required funds. There would be no tax imposed on employees for the program. The program would be for the duration of 5 years.

Supplemental annuities would be provided for individuals who are entitled to a regular annuity as an employee under the provisions of the Railroad Retirement Act of 1937, who have attained age 65, have at least 25 years of creditable service, and have a current connection with the railroad industry at the time their regular annuity begins

to accrue. The supplemental annuity would be in a monthly amount of $45 plus $5 for each year of service over 25 and up to 30 credited to the individual, but in no case would the supplemental annuity be more than $70.

The supplemental annuity would accrue to qualified individuals beginning with the month following the month of enactment of the bill and the taxing provisions would become effective in that month. As stated, supplemental annuity accruals would terminate with the 60th month following enactment of the bill and the taxing provisions would not be in effect after such 60th month. The entitlement to a supplemental annuity would be limited to cases where an annuity was first awarded after June of 1966, except in cases where an individual who was awarded an annuity on the basis of disability before July 1966 recovered from his disability and returned to the service of an employer before July 1966, and was awarded another annuity after June of 1966. In such a case, however, the individual would need to have a current connection with the railroad industry at the time he was last awarded an annuity, without regard to his entitlement to the annuity which was awarded to him earlier, in order to qualify for the supplemental annuity. An individual would not qualify for a supplemental annuity by withdrawing his application on which an award was made before July 1966 in order to have an award made after that time. The reference in section 3(a) of the bill to annuity "first awarded" prevents an individual from qualifying by taking such a course.

The supplemental annuity of an individual for a month would be subject to a reduction because of his rights for that month to payments under an employer's private pension plan to the extent of the amount attributable to the employer's contribution to such pension plan. The amount by which the supplemental annuity would be reduced would be determined by the Railroad Retirement Board on the basis of the employer's contributions to the supplemental pension plan of such employer in all periods during which the employer made such contributions. Any increase in the monthly pension under an employer's supplemental pension plan which was offset by a decrease in wages, would not be a contribution by the employer to such plan as to such increase.

The aggregate amount of the monthly reductions in supplemental annuities by reason of the individual's entitlement to a supplemental pension under a supplemental pension plan to which his employer made contributions would be credited to such employer as an offset against his tax liability of 2 cents for each man-hour of employment. No such credit would be given with respect to any months for which the individual was not paid the supplemental annuity by reason of his working in such months for an employer, or for the last person by whom he was employed before his regular annuity began to accrue, but such credit would be given if the supplemental annuity was not paid because it was reduced to zero as the result of its reduction by the amount of the supplemental pension. Employees of railway-labor-organization employers would not have their supplemental annuities reduced by reason of entitlement to a supplemental pension provided for by such employers because it was the intention of the sponsors of the legislation (as evidenced from their testimony during the hearings on the bill) not to consider any program for supplemen-

tal payments by such employers as a supplemental pension plan of an employer within the meaning of section 3(j)(2), hence such employers would receive no tax credits.

A new account would be established in the Treasury to be known as the Railroad Retirement Supplemental Account. The tax amounts derived from the excise tax of 2 cents on man-hours for which compensation is paid would be automatically appropriated to this account. The supplemental annuities and the administrative expenses required for the program would be paid from this account. Funds needed for the first 6 months of the program could be borrowed from the regular Railroad Retirement Account, but would have to be repaid with interest within a year after the start of the program.

If a survey, to be made by the Board after the program has been in effect for 48 months, reveals that funds in the supplemental account plus the anticipated income thereto would not be sufficient to pay supplemental annuities in full for the last year of the program, a proportionate adjustment in the amount of such annuities would be made by the Board.

Under section 12 of the Railroad Retirement Act of 1937, annuities under the act are excluded from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954; but supplemental annuities would not be so excluded.

TITLE II. THE 7-PERCENT INCREASE IN CERTAIN REGULAR ANNUITIES AND THE INSURANCE LUMP-SUM BENEFIT

The bill would increase regular benefit amounts under the Railroad Retirement Act by 7 percent with certain execptions. There is a provision of the Railroad Retirement Act known as the social security guarantee provision which, in effect, assures that an annuity, or the total of annuities for a month, shall be no less than 110 percent of the amount, or the additional amount, which would be payable to all persons for the month under the Social Security Act if the railroad service which is the basis for the annuity (or annuities) had been employment under that act. Annuities which are payable under this guarantee provision were increased by virtue of the raise in social security benefits effected by the Social Security Amendments of 1965. The bill would not increase annuities payable under this guarantee provision.

The spouse's annuity is in an amount equal to one-half of her husband's annuity, but it is limited to 110 percent of the highest amount that could currently be paid to anyone as a wife's benefit under the Social Security Act. The spouse's annunity payable in the maximum amount was also increased as a result of the raise in benefits under the Social Security Act effected by the legislation enacted in 1965. The maximum spouse's annuity would, therefore, not be increased by the bill.

In cases where an individual receives benefits under the Social Security Act concurrently with an annuity under the Railroad Retirement act, the increase provided by the bill would be limited to the amount by which the increase otherwise applicable exceeds the raise in the social security benefits, derived from an average monthly wage of $400 or less, brought about by the 1965 legislation.

Where an individual is entitled to a supplemental annuity as provided by the bill for a month, the 7-percent increase would not be included in his regular annuity under the act for that month; except in some cases where reduction of the supplemental annuity by reason of rights under an employer's pension plan lowers the supplemental annuity to an amount less than the amount the 7-percent increase would provide; in such cases there would be an increase in the regular annuity but the addition would be lowered by the amount of the supplemental annuity payable.

The lump-sum benefit under section 5(f)(1) of the Railroad Retirement Act of 1937 would also be increased by 7 percent.

The basic tax rates on employers and employees would be increased by one-fourth percent, and the basic tax rates on employee representatives would be increased by one-half percent, in order to finance the increase in regular benefit amounts.

FINANCING OF THE SUPPLEMENTAL ANNUITY PROGRAM

The progress of the supplemental annuity account will depend mainly on the retirement rates which will prevail during the period of its existence. Since the strong possibility of an acceleration in retirement could not be ignored, the estimates are based on retirement rates moderately higher than the rates used in the Board's latest actuarial valuation (the ninth, made as of December 31, 1962). The income figure, estimated in the report of the Railroad Retirement Board on the bill, of $34.8 million a year, is based on the assumption that over the next 5 years railroad employment will average 725,000 full-time jobs and that the number of paid hours associated with each job will be 200 per month.

The committee's conclusion is that the financing would be adequate to carry the program for 5 years without any significant fund left at the end of that period. There is, of course, the possibility of a deficit emerging before the specified termination date of the program, but for this to happen, the acceleration in retirement would have to be much greater than there is reason to expect. However, as a precaution against such a possibility, the bill provides that if, as the result of the survey to be made by the Railroad Retirement Board after 48 months have elapsed from the beginning of the supplemental annuity program, it should appear that the balance in the Railroad Retirement Supplemental Account together with the anticipated income to such account would be insufficient to pay the supplemental annuities in full for the remaining 12 months of the program, the Board is authorized to adjust the supplemental annuity amounts proportionately.

The Federal Government has no obligation whatsoever to contribute any funds for the supplemental annuity program during the 5-year period provided for in the bill and has no obligation to provide funds for a continuation of the program after such period.

The estimated annual income, outgo, and balance figures for the railroad retirement supplemental account are shown in the table below.

[Dollar figures in millions]

Benefit year [1]	Income [2]	Benefit payment [2]	Fund at end of year
1966-67	$34.8	$13.1	$22.1
1967-68	34.8	25.3	32.7
1968-69	34.8	35.9	32.9
1969-70	34.8	46.5	22.3
1970-71	34.8	56.3	1.3

[1] Begins Oct. 1 and ends Sept. 30, next.
[2] Computed without regard to tax credits and deductions from supplemental annuities on account of pensions under private plans. These credits and deductions would balance each other so that the progress of the account would not be affected by them.

As for the borrowing from the regular Railroad Retirement Account, the committee believes that the amounts borrowed would be repaid well before the period specified in the bill. Thereafter, the regular account would not be called upon to contribute to the new account in any way.

FINANCING OF THE 7-PERCENT INCREASE IN REGULAR BENEFIT AMOUNTS

The income to the Railroad Retirement Account would be augmented by a new tax of one-half percent of payroll shared equally by employees and employers, and by one-half percent of payroll on employee representatives. This additional income is intended to fianace the selective 7-percent increase in regular railroad retirement benefits on a level basis. The committee believes that the financial arrangements for this part of the bill are satisfactory.

Agency Reports

Reports on the bill were filed by the Railroad Retirement Board, the Bureau of the Budget, and the Treasury Department.

The Board's report discusses the bill in detail and recommends its enactment. The Bureau's report shows concern about the possible assumption by the Government of some financial responsibility for supplemental annuities after the 5-year period. As shown by the bill, as well as the testimony of the witnesses and the report of the Railroad Retirement Board, the Government assumes no financial responsibility for the supplemental annuities during the 5-year period or thereafter. The Bureau's report also shows concern (as does the report from the Treasury Department) with the exemption by the bill of the supplemental annuities from the Federal income tax provisions. The bill was, however, amended by the House committee to provide against the exclusion of the supplemental annuities from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954. The report of the Bureau of the Budget concludes with the statement that if the bill were so amended it would not oppose the bill.

All three reports are printed below.

History of the Legislation

The bill, H.R. 17285, was introduced by the chairman of the Subcommittee on Finance of the House Committee on Interstate and Foreign Commerce on August 25, 1966. The companion bill, S. 3777, was introduced on August 26, 1966, by the chairman of the Subcommittee on Railroad Retirement, of the Senate Committee on Labor and Public Welfare.

Hearings on the House bill were held by the House subcommittee in the morning of September 27, 1966; and hearings on the Senate bill were held by the Senate subcommittee in the evening of the same day. At both hearings the same amendments were offered to each bill. The measures and offered amendments were supported by witnesses for the Railroad Retirement Board, representatives of railroad labor and railroad management and other interested parties. There was no testimony against the bill.

The chairman of the Subcommittee on Railroad Retirement of the Senate Committee on Labor and Public Welfare noted that placing the administration of the supplemental annuity plan with the Railroad Retirement Board would further increase the differences between that Board and the social security system. This new administrative function could work against the eventual amalgamation of the two systems, which, the chairman believes, should be given consideration.

The House Committee on Interstate and Foreign Commerce reported favorably on the bill, with the amendments, and the House passed H.R. 17285, as reported, on October 3, 1966.

The Senate Subcommittee on Railroad Retirement considered and adopted the offered amendments to the Senate bill and reported it favorably with amendments to the Senate Committee on Labor and Public Welfare on October 5, 1966. As so reported, S. 3777 is identical with H.R. 17285 as passed by the House. The committee is therefore reporting H.R. 17285 as it was passed by the House.

Explanation of the Bill by Sections

TITLE I

Section 1. This section of the bill would add a new subsection (j) at the end of section 3 of the Railroad Retirement Act to provide for the supplemental annuities. These annuities would be payable to those individuals who (i) are entitled to an annuity under section 2 of the Railroad Retirement Act of 1937 (except a spouse's annuity), (ii) have a current connection with the railroad industry at the time the annuity under such section 2 begins to accrue, (iii) have attained the age of 65, and (iv) have completed 25 or more years of service. In determining the years of service an ultimate portion of a year of 6 or more months would count as a year just as in the case of determinations with respect to regular annuities.

The supplemental annuity would be in the amount of $45 a month plus an additional amount of $5 for each year of service credited to the individual in excess of 25 years but the amount would be limited to $70 even though the individual has more than 30 years of creditable service. If the individual becomes entitled to a regular annuity on other than the first day of a month and a supplemental annuity for the same

month, the supplemental annuity would not begin to accrue earlier than the day on which his regular annuity began to accrue, and the amount of the supplemental annuity for that month would be reduced by one-thirtieth of the amount otherwise payable as a supplemental annuity for each day of such month with respect to which he does not qualify for the regular annuity.

The supplemental annuity would be subject to the same provisions of subsection (d) of section 2 of the Railroad Retirement Act as is the individual's regular annuity under such section 2. These provisions relate to the loss of annuity payments for months because of work during such months for an employer or the last person (even though not an employer) by whom the individual was employed before his regular annuity began to accrue. An individual's supplemental annuity will not be taken into account in determining any other benefits under the Railroad Retirement Act of 1937 (such as a spouse's annuity, an annuity under the social security guaranty provision in section 3(e) of the act, and the residual lump-sum benefit under section 5(f)(2) of the act), except that the 7-percent increase of regular annuity amounts would, with an exception, not be applicable to an individual's regular annuity for months with respect to which he is entitled to a supplemental annuity. The exception is that where a supplemental annuity is payable but because of a reduction by reason of entitlement to a supplemental pension to an amount less than the 7-percent increase in the regular annuity, the regular annuity would be increased to the extent required to make the regular annuity plus the supplemental annuity equal to the amount of the regular annuity which would have been payable had there been no entitlement to a supplemental annuity.

Paragraph (2) of the new subsection (j) of section 3 of the Railroad Retirement Act would require reduction of the supplemental annuity of an employee (other than an employee of a railway-labor-organization employer) with respect to any month by the amount of the supplemental pension which is attributable to the employer's contribution that such employee is entitled to receive for that month under any other supplemental pension plan of an employer (other than a railway-labor-organization employer). When made, however, the reduction would be limited where such pension is reduced by reason of the supplemental annuity to which such individual is entitled under the provisions of this subsection. The limitation would be to the amount of the supplemental annuity minus the amount by which the supplemental pension is so reduced. For example, where an individual's pension from an employer is reduced for a month from $100 to $80 by reason of his rights to a supplemental annuity, the amount of his supplemental annuity of, say, $70 before the reduction, would be reduced by $50 ($70–$20) to $20 ($70–$50). This would in effect restore the loss in his supplemental pension.

The reduction could in no case exceed for a month the amount of the supplemental pension an individual is entitled to receive for that month which is attributable to the employer's contribution. For example, take the case of an individual who, without regard to the supplemental annuity program, is entitled to a supplemental pension of $100 a month, one-half of which (or $50) is attributable to the employer's contribution; because of his rights to a supplemental annuity, the employer has reduced the amount of the pension attributable to the em-

ployer's contribution by $40 to $10, and he is paid $60 as a supplemental pension; his supplemental annuity (based on his 30 or more years of service) would be reduced by only $10 or from $70 to $60 since he is being paid only $10 as a pension based on the employer's contribution; hence he would receive $60 as a pension and $60 as a supplemental annuity, a total of $120. However, if the entire $100 pension is attributable to the employer's contribution and such pension is reduced by $40 to $60 by reason of the individual's entitlement to a supplemental annuity, the proviso in paragraph (2) would apply. In such a case the supplemental annuity would be reduced by $70–$40, or by $30 to $40. The individual would then receive $60 as a pension and $40 as a supplemental annuity, or a total of $100.

The amount of the reduction from the supplemental annuity by reason of the individual's entitlement to a supplemental pension of an employer would in all cases be determined by the Railroad Retirement Board on the basis of the contributions made by such employer to such supplemental pension plan at all times during which contributions to such plan were made either by such employer or such employer's predecessor. Any such employer or predecessor will not be deemed to have contributed toward an increase in the pension of such employer's (or its predecessor's) pension plan if such increase was offset by a decrease in wages.

(The employer (other than a railway-labor-organization employer whose employees will have no reductions in their supplemental annuities by reason of their entitlement to supplemental pensions from such employers) would receive as a credit against the tax imposed for the supplemental annuity program an amount equal in the aggregate to such monthly reductions. If the credit exceeds the tax liability for a month, the excess credit could be carried forward to future months but the total of the credits could never exceed the tax liability (see explanation as to this of sec. 301(e) of the bill).)

For the purpose of all requirements as to the reduction of a supplemental annuity by reason of the individual's enetitlement to a supplemental pension under an employer's plan, the Board would have full access to all records and documents of the employer relating to such pension plan.

Paragraph (3) of the new subsection (j) of section 3 of the Railroad Retirement Act would require the termination of supplemental annuities with such annuities accruing for the 60th month following enactment of the subsection.

Paragraph (4) of the new subsection (j) of section 3 of the Railroad Retirement Act provides that section 12 of the act will not operate to exclude supplemental annuities from income which is taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954.

Section 2. Subsection (a) of this section of the bill provides for the establishment of a new account in the Treasury of the United States to be known as the railroad retirement supplemental account through the addition of a new subsection to be designated as subsection "(b)" of section 15 of the Railroad Retirement Act of 1937. An amount equal to the taxes imposed by the bill on employers of 2 cents for each man-hour with respect to which compensation is paid would be automatically appropriated to the account for each year. The funds of the

account would be available for the payment of supplemental annuities and administrative expenses required by the Board for the administration of the supplemental annuity program. The amount required for the administrative expenses would have to be appropriated to the Board from the account for each year.

The Board would be required at the end of 48 months following the enactment of the bill to survey the progress of the account and make a determination as to whether the balance in the account and the anticipated income for the remaining 12 months would be sufficient to pay the annuities for such 12-month period. In the event that the determination is that such balance plus anticipated income is insufficient, the amount of the supplemental annuities for the succeeding 12 months would be adjusted by the Board proportionately.

Subsection (b) provides that the present subsections "(b)", "(c)", and "(d)" of section 15 of the Railroad Retirement Act be redesignated as "(c)", "(d)", and "(e)", respectively. The funds in the account which are not currently needed for the payment of supplemental annuities would be invested in the same way and under the same conditions as funds in the railroad retirement account. The provisions such as those for actuarial review applicable to the railroad retirement account would also be applicable to the supplemental account.

Section 3. Subsection (a) of this section of the bill would provide for the payment of supplemental annuities only to individuals whose annuities under section 2 of the Railroad Retirement Act are first awarded on or after July 1, 1966, but payments would first be made for the month after the month in which the bill is enacted. The reference to a first award would prevent an individual whose annuity was awarded before July of 1966 from withdrawing his application for an annuity in order to obtain another award and thus qualify for a supplemental annuity. There is an exception in a case where a disability annuity was awarded before July 1966 and was terminated before such date upon the recovery of the individual. In such a case the award of a later annuity after June 1966 would be deemed to be the first award provided the individual had before July 1966 returned to the service of an employer after his earlier annuity had terminated, and he had a current connection with the railroad industry at the time the later annuity began to accrue. For this purpose he must have a current connection without regard to his entitlement to the earlier annuity.

Subsection (b) of this section would authorize the Board to borrow such funds from the railroad retirement account as the Board estimates would be necessary for the payment of supplemental annuities for the 6 months next following the enactment of the bill and for administrative expenses necessary for the administration of the program until such time as an appropriation for such expenses is made under section 15(b) of the Railroad Retirement Act as amended by this bill. The administrative expenses for this period are expressly authorized. The amounts borrowed pursuant to this authority would have to be repaid before the expiration of 1 year following the enactment of the bill. These amounts would bear interest at a rate approximately equal to the average rate borne by all special obligations held by the railroad retirement account on the last day of the fiscal year ending June 30, 1966.

TITLE II

Section 201. Paragraph (1) of subsection (a) of this section would provide for the computation of a spouse's annuity without regard to the adjustment of the 7-percent increase in the employee's annuity (on which such spouse's annuity is based) by virtue of the employee's entitlement to social security benefits; and without regard to the adjustment or loss of the 7-percent increase in the employee's annuity because of his entitlement to a supplemental annuity.

Paragraph (2) of this subsection would require an adjustment in a spouse's annuity, as increased by the bill, by an amount generally equal to the increase in any social security benefits to which she is entitled, derive from an average monthly wage of $400 or less, by reason of the Social Security Amendments of 1965. The adjustment would, in no case, cause a spouse's annuity to be lower than it would have been without the enactment of the bill.

Subsection (b) of this section would amend section 3(a) of the Railroad Retirement Act to increase by 7 percent the factors in the formula for calculating an annuity. The increase in such factors would be limited to the factors applicable to an average monthly compensation of $450 a month or less. The factor applicable to average monthly compensation in excess of $450 would be the same as that now applied to the portion of the average monthly compensation over $150. There are now three percentage factors in the formula for calculating regular annuity amounts. The factors applicable to average compensation under $150 would be increased by 7 percent. The factor now applicable to average monthly compensation over $150 would also be increased by 7 percent as to average monthly compensation over $150 and up to $450. The same factor now applicable to the highest portion of the maximum average monthly compensation would apply to over $450 and up to an amount equal to one-twelfth of the current maximum annual taxable wages as defined in section 3121 of the Internal Revenue Code of 1954. (This section provides for the maximum annual taxable wage base for social security tax purposes to be $6,600. This results in the maximum monthly taxable compensation base under the Railroad Retirement Tax Act now being $550 (one-twelfth of $6,600). The maximum creditable monthly compensation was, of course, increased by legislation enacted in 1965 from $450 to $550 by virtue of the provision fixing the maximum monthly creditable and taxable compensation base in effect at an amount equal to one-twelfth of the current annual taxable wage base for social security purposes.) Thus, this last factor would become the fourth factor. This conforms to the pattern for increasing benefit amounts by 7 percent under the Social Security Act in 1965, which increases were limited to benefits produced by the maximum average monthly wage possible before the 1965 changes ($400).

Many individuals who receive annuities under the Railroad Retirement Act also draw social security benefits. The 7-percent increase in annuities this bill would provide would be reduced in such cases, generally, by the amount of the increase in the individual's social security benefits effected through the 1965 legislation. The amount of the increase in social security benefits effected by the 1965 legislation to be taken into account in this respect would be limited to the increase in

social security benefits derived from an average monthly wage of $400 or less. The social security wage base was increased from $4,800 a year to $6,600 a year by the 1965 legislation. This permits in the future an average monthly wage of up to $550 as compared with a maximum of $400 under the law before the 1965 amendments. As a consequence, an average monthly wage of over $400 and up to $550 can be the basis for the determination of benefit amounts in the future. The social security primary insurance amounts on the basis of an average monthly wage of up to $400 were increased in 1965, generally, by 7 percent (in the lower amounts the increase was larger), but in fixing the primary insurance amount table, the factor applicable to the highest portion of the average monthly wage before the 1965 increase was made applicable to an average monthly wage in excess of $400. The adjustment in the benefit by reason of the individual's entitlement to social security benefits would specifically not cause the annuity to be less than it would have been had this bill not been enacted.

In order to facilitate administration, the amount of the increase in social security benefits to be taken into account for the reduction requirement, would be determined by taking 6.55 percent of the social security benefits currently payable to the individual derived from an average monthly wage of $400 or less. This would never cause a reduction by more than the increases effected in social security benefits in 1965 and, based on such an average monthly wage, in some cases involving low social security benefits, would result in a reduction by a smaller amount that the amount of the increase actually effected in the social security benefits.

No increase in social security benefit amounts that may be effected by legislation enacted after the Social Security Amendments of 1965 would be taken into account in making the reduction. After a deduction is applied because of entitlement to social security benefits no recomputation of the social security benefit amount, except for correction of errors, would be taken into account. The deduction would be applied only where the individual has applied for and is entitled to receive social security benefits. The deduction would, however, apply for months with respect to which social security benefits are not payable because of work deductions.

Paragraph (2) of section 3(a) of the Railroad Retirement Act as amended by this subsection would provide that the 7-percent increase not be applicable as to the annuity of an individual for months with respect to which he is entitled to a supplemental annuity with an exception. The exception would be that where a supplemental annuity of an individual is reduced (by reason of rights to a supplemental pension) to zero or to an amount lower than the amount of the 7-percent increase, the regular annuity would be increased to an amount which, when added to the amount of his supplemental annuity, would be as much as the regular annuity would have been had he not been entitled to the supplemental annuity.

Subsection (c) of this section amends section 3(e) of the Railroad Retirement Act to increase by 7 percent a minimum annuity as determined under the regular railroad retirement minimum formula (as distinguished from the social security minimum provision). The increase in the annuity payable under this minimum provision would be subject to an adjustment because of the annuitant's entitlement to

social security benefits in the same way as would the increase in an annuity calculated under the regular formula provided in section 3(a).

Subsection (d) of this section amends section 5(b) of the Railroad Retirement Act to increase by 7 percent the maximum and minimum annuity totals of survivor benefits. The share of any individual in such a total amount would be reduced by reason of his concurrent entitlement to social security benefits as in the case of a reduction in a retirement annuity.

Subsection (e) of this section would amend section 5(1)(10) of the Railroad Retirement Act to increase by 7 percent the formula for determining the basic amount (used in calculating regular survivor annuity amounts and the insurance lump-sum benefit under sec. 5(f)(1) of the Railroad Retirement Act).

Subsection (f) of this section would add a new subsection (m) to section 5 of the Railroad Retirement Act to provide for the adjustment of the increase in survivor annuity amounts by reason of entitlement to social security benefits the same as the adjustment provided for retirement annuity amounts.

Subsection (g) of this section increases by 7 percent 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 following the month of enactment of this act, all widows' and widowers' insurance annuities which began to accrue before the second month following the month of enactment of this act and which are payable on the basis of the spouse's guarantee provision contained in subsections (a) and (b) of section 5 of the Railroad Retirement Act of 1937 and all annuities under the Railroad Retirement Act of 1935. Those of such widows' and widowers' annuities which are based on a spouse's annuity which was payable in the maximum amount would not be increased. The increase in widows' and widowers' annuities now on the rolls which are based on a spouse's annuity of less than $74.80 per month would not be increased above that amount. A widow's or widower's annuity now on the rolls based on a spouse's annuity payable in the maximum amount possible under the 1965 amendments to the Social Security Act cannot be above $74.80. These annuities would not be increased and consequently those annuities which are based on a spouse's annuity of less than $74.80 would not be increased above that amount. For example: A widow's annuity of $74 based on the spouse's guarantee provision would, if increased by 7 percent, exceed $74.80, but because of this restrictive provision such an annuity would be increased only to $74.80. The increase in the annuities under this subsection would be limited to the amount by which the increase otherwise applicable exceeds the amount of the raise in the social security benefits (derived from an average monthly wage of $400 or less) to which the individual is concurrently entitled effected by the Social Security Amendments of 1965. For example, a widow's annuity in the amount of $65, based on the spouse's maximum provision, would be increased by 7 percent to $69.55 (without regard to rounding), except for the fact that she is also entitled to a primary old-age benefit under the Social Security Act which was increased from $40 to $44, or by $4, by reason of the Social Security Act Amend-

ments of 1965; as a consequence the increase in her widow's annuity would be restricted to $0.55 (derived by subtracting $4 from $4.55).

Section 202. The increases in annuity and pension amounts provided by this title would, by subsection (a), be made effective with respect to annuities and pensions payable for the month following enactment of the bill. The increases as to lump-sum benefits under section 5(f)(1) of the Railroad Retirement Act would be effective as to deaths occurring on or after enactment of this bill.

Subsection (b) of this section would require the Board to make all recertifications of annuity amounts needed to give effect to the amendments by this title without reapplication therefor by the annuitant.

TITLE III

Section 301. Subsection (a) would amend section 3201 of the Internal Revenue Code of 1954 to increase the schedule of basic tax rates on employees under the Railroad Retirement Tax Act by one-fourth percent. As a result the basic tax rate would be 7 percent instead of 6¾ percent with respect to compensation paid for services rendered after December 31, 1966, 7¼ percent instead of 7 percent with respect to compensation paid for services rendered after December 31, 1967, and 7½ percent instead of 7¼ percent with respect to compensation paid for services rendered after December 31, 1968.

(The basic tax rate is automatically increased, under existing law, by the difference between 2¾ percent and the current social security tax rate, and this automatic increase produces the full tax rate. For example: The basic tax rate for 1966 is 6.50 percent; the social security tax rate for 1966 is 3.850 percent plus .35 for medicare, making the total social security current tax 4.200 percent. The difference between 2¾ percent and 4.200 percent is 1.450 percent, which when added to 6.50 percent makes the full tax rate for the railroad retirement system system 7.950 percent for 1966. The full tax rate will rise in stages until it reaches 10.4 percent for 1987 and later years. This includes the one-fourth percent increase in the basic tax rate provided for in the bill.)

Subsection (b) would amend section 3211 of such code to increase the basic tax rate on employee representatives by one-half percent for the same periods.

Subsection (c) would amend section 3221(a) of such code to increase the schedule of basic tax rates on employers in the same way that the rates for employees would be increased by subsection (a).

The increases in the basic tax rates are designed to provide income to the railroad retirement system needed in connection with the 7-percent increase in benefits in amounts which would be effected by title II of this bill.

Subsection (d) would amend section 3211 of such code by designating the present provisions as subsection (a) and adding a new subsection (b). The new subsection (b) would impose a tax on the income of each employee representative equal to 2 cents for each manhour for which compensation is paid to him for services rendered to him as such.

Subsection (e) would add a new subsection (c) to section 3221 of such code. This new subsection would impose on each employer under

the Railroad Retirement Tax Act an excise tax with respect to having individuals in his employ, equal to 2 cents for each man-hour for which compensation is paid. In addition, this new subsection would provide that each employer of employees whose supplemental annuities are reduced pursuant to section 3(j)(2) of the Railroad Retirement Act of 1937 (this subsection would be added by this bill) be allowed as a credit against the tax imposed by the subsection an amount equivalent each month to the aggregate amount of reductions accruing in such month to employees. No credit would be given for a reduction in an individual's annuity for any month with respect to which a supplemental annuity is not payable to him by reason of the fact that he worked in such month for an employer under the Railroad Retirement Act of 1937, or for the last person by whom he was employed before his regular annuity under section 2 of the act began to accrue. If the tax credits for the particular month exceeds the liability for that month, the credits would be carried forward for application in later months. However, the credits would in no case exceed the tax liabilities. The Railroad Retirement Board would be required to certify to the Secretary of the Treasury with respect to each employer the amount of credit accruing to him under this provision during a quarter and also to notify each employer as to the amount so certified.

Subsection (f) would make the provisions for taxes as to man-hours for which compensation is paid effective with respect to man-hours, for 60 months beginning with the first month following enactment of this bill, for which compensation is paid.

AGENCY REPORTS

RAILROAD RETIREMENT BOARD,
Chicago, Ill., September 23, 1966.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is a report on the bill S. 3777, which was introduced in the Senate on August 26, 1966, by Mr. Pell, and referred to your committee for consideration.

The purpose of the bill is to provide supplemental annuities under the Railroad Retirement Act for qualified individuals, and a 7-percent increase in regular benefit amounts under the act subject to certain limitations.

The supplemental annuities would be payable to individuals who have attained age 65, have at least 25 years of creditable service, are entitled to a regular annuity as an employee under the provisions of that act, and have a current connection with the railroad industry at the time their annuity began to accrue. The supplemental annuity would be in an amount equal to $45 plus $5 for each year of creditable service over 25 and up to 30 that the recipient has. Thus, the supplemental annuity would be limited would be limited to $70 even though the individual has in excess of 30 years of creditable service under the act. For the purpose of supplemental annuities no month would be included in the computation of an individual's years of service on the basis of his service as an employee of a railway-labor-organization

employer during which he was not predominantly engaged in work involving the representation of employees covered by the Railroad Retirement Act. The costs of these supplemental annuities would be financed by an excise tax on employers and employee representatives under the act of 2 cents for each man-hour of employment for which the employer paid compensation to begin with the month following the month of enactment of the bill and to continue for the 60-month period beginning with the month after enactment. There would be no taxes on employees for the purpose of the supplemental annuities. The supplemental annuities would have no effect in determining the amount of other annuities or benefits under the act except that the 7-percent increase in regular annuity amounts the bill would provide (described hereinafter) would not be included in annuity amounts after an individual becomes entitled to a supplemental annuity. The supplemental annuities would be subject to the same provisions requiring loss of annuities because of work as the regular annuities. They would be payable for a period of 60 months following the month in which the bill is enacted; but would be payable only in cases where the award of a regular annuity is first made on or after July 1, 1966. The reference to the first award would prevent an individual from qualifying by withdrawing his application for an annuity and having a later award.

In the case of an individual entitled to a supplemental pension payment under another plan the supplement annuity which would otherwise be payable would be reduced with respect to any month by the amount of the supplemental pension for the month attributable to the employer's contribution; except that the reduction would not be applicable if such pension is reduced by reason of the supplemental annuity to which the individual would be entitled. The amounts by which supplemental annuities are reduced by reason of pension payments by an employer would be credited against taxes on man-hours imposed on such employer (the taxes on man-hours, which the bill would provide, with respect to which compensation is paid are described hereinafter).

The supplemental annuity program would be administered by the Board and would be financed separately from the regular railroad retirement program. There would be an excise tax imposed by the Railroad Retirement Tax Act on each employer equal to 2 cents for each man-hour with respect to which compensation is paid. A separate account would be established in the Treasury for the program. Employees would not pay taxes for the supplemental program. The taxes would be payable only for the 60-month period with respect to which supplemental annuities are payable. Funds needed for the first 6 months of the program could be borrowed from the Railroad Retirement Account, but would have to be repaid with interest within a year after the start of the program. The Board is satisfied that the amounts borrowed would be repaid well before the end of the year. Thereafter, the regular Railroad Retirement Account would would not be called upon to contribute to the new account in any way.

The Board is also satisfied that the provisions for supplemental annuities are adequately financed. However, as a precaution, the bill provides, as stated below, that if, as the result of the survey to be made by the Railroad Retirement Board after 48 months have elapsed from

the beginning of the supplemental annuity program, it should appear that the balance in the railroad retirement supplemental account together with the anticipated income to such account would be insufficient to pay the supplemental annuities in full for the remaining 12 months of the program, the Board is authorized to adjust the supplemental annuity amounts proportionately.

The Federal Government has no obligation whatsoever to contribute any funds for the supplemental annuity program during the 5-year period provided for in the bill and has no obligation to provide funds for a continuation of the program after such period. The supplemental annuities will not be excluded from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954.

The bill would also provide for a 7 percent increase in ordinary benefits payable under the Railroad Retirement Act, except for those annuities which are payable under the so-called social security guarantee provision of section 3(e) of the Railroad Retirement Act, and spouses' annuities which are payable in the maximum amount. The annuities payable under the special guarantee provision were increased as a result of the raises in social security benefits, generally, by 7 percent effected by the enactment of the Social Security Amendments of 1965. The amount of the maximum spouse's annuity was also increased through such raises in social security benefits. In cases where an annuitant under the Railroad Retirement Act is also receiving benefits under the Social Security Act, the increase in his railroad retirement anuuity would be limited, generally, to the amount by which the increase otherwise applicable exceeds the increase the annuitant received in his social security benefits throught the 1965 legislation. The increase in the social security benefits to be taken into account would be confined to the additional benefits that would be payable on the basis of an average monthly wage up to $400. Increases in social security benefits attributable solely to that part of the average monthly wage which is in excess of $400 would not be taken into account. The increase in the creditable wage base under the Social Security Act from $4,800 a year to $6,600 a year by the 1965 legislation permits, for the first time, an average monthly wage in excess of $400 for benefit computation purposes.

In order to facilitate administration, the increase otherwise applicable would be adjusted by 6.55 percent of the amount of the social security benefit, after the 1965 increase, to be taken into account (any increases in social security benefit amounts effected by legislation enacted after 1965 would not be taken into account in the reduction). This would produce approximately the 1965 increase in social security benefits, except in cases where the social security benefit was increased by more than 7 percent (in cases of minimum or low benefits), the amount of the adjustment would be less than the 1965 increase in such social security benefit amounts.

The bill is divided into three titles. Section 1 of title I would add a new subsection (j) at the end of section 3 of the Railroad Retirement Act to provide for the supplemental annuities.

Section 2 of this title would establish in the Treasury of the United States by an amendment of section 15 of the act a new account to be known as the railroad retirement supplemental account. The supple-

mental annuities would be paid from this account. There would be a provision for an automatic annual appropriation to this account of the amounts paid under the relevant provisions of the Railroad Retirement Tax Act. The interest rates applicable as to the funds in the new account would be determined in the same way as interest rates for the funds in the railroad retirement account.

At the end of 48 months following enactment of the bill the Board would be required to make a survey to determine whether the balance in the account plus anticipated income for the next succeeding 12 months would be sufficient to provide for the payment of supplemental annuities for that period. If the determination is that the funds of the account will not be sufficient to provide for the supplemental annuities in the amount specified for the next succeeding 12 months the Board would be required to adjust the amounts of all supplemental annuities proportionately so that the available funds will be sufficient to pay all supplemental annuities, as so readjusted, for the next succeeding 12 months.

In order to make certain that sufficient funds would be available for the payment of supplemental annuities (and administrative expenses) in the early stages of the supplemental program (for 6 months following the month in which the bill is enacted), authority would be provided for loans to the railroad retirement supplemental account from the railroad retirement account. These loans would be required to be repaid with interest within 1 year after enactment of the bill. The interest rate would be approximately equal to the rate borne by other obligations of the railroad retirement account.

Title II of the bill would increase benefit amounts under the existing provisions of the Railroad Retirement Act by 7 percent but only as to that portion of benefit amounts which are derived from an average monthly compensation of $450 or less. The amount that the average monthly compensation in excess of $450 adds to the annuity would still be obtained by applying the same percentage factor that is now applied to that portion of the average monthly compensation over $150. There are now three percentage factors in the formula for determining regular annuity amounts. The factor now applicable to average monthly compensation over $150 would be increased by 7 percent as to average monthly compensation over $150 and up to $450. The factor applicable to average compensation under $150 would also be increased by 7 percent. The same factor now applicable to the highest portion of the maximum average monthly compensation would apply to over $450 and up to $550. Thus, this would become the fourth factor. (The maximum creditable monthly compensation was, of course, increased by legislation enacted in 1965 from $450 to $550.) This conforms to the pattern for increasing benefit amounts by 7 percent under the Social Security Act in 1965 which increases were limited to benefits produced by the maximum average monthly wage possible before the 1965 changes ($400). The provisions for the regular minimum annuity would be changed to provide an increase of 7 percent.

The formula for computing the basic amount (used in determining survivor benefit amounts, including the lump-sum benefit under sec. 5(f)(1)) would also be revised to effect a 7-percent increase. The increase would be effected by increasing only the percentage factors applicable as to average monthly remuneration up to $450, as it would be done in respect to the formula for employee annuity amounts.

However, as stated before, the annuities payable under the so-called social security guarantee provision would not be increased. Annuities payable under this guarantee provision were increased as a result of the raise in social security benefits in 1965. The guarantee provisions, in effect, assures that an annuity, or the total of annuities, under the Railroad Retirement Act for a month shall be no less than 110 percent of the amount, or the additional amount, which would be payable to all persons under the Social Security Act for the month if the railroad service from which the annuity or annuities are derived had been employment subject to the Social Security Act.

The spouse's annuity under the Railroad Retirement Act is in an amount equal to one-half of her husband's annuity, except that it is limited in amount to 110 percent of the highest amount which could be currently paid to anyone as a wife's benefit under the Social Security Act. Accordingly, this maximum amount of the spouse's was increased through the rise in social security benefits effected in 1965, and the maximum amount would not be further increased by this bill.

Many individuals who receive annuities under the Railroad Retirement Act also draw social security benefits. The increase in annuities this bill would provide would be reduced in such cases, generally, by the amount of the increase in the individual's social security benefits effected through the 1965 legislation. The amount of the increase in social security benefits effected by the 1965 legislation to be taken into account in this respect would be limited to the increase in social security benefits derived from an average monthly wage of $400 or less. The social security wage base was increased from $4,800 a year to $6,600 a year by the 1965 legislation. This permits in the future an average monthly wage of up to $550 as compared with a maximum of $400 under the law before the 1965 amendments. As a consequence, an average monthly wage of over $400 and up to $550 can be the basis for the determination of benefit amounts in the future. The social security primary insurance amounts on the basis of an average monthly wage of up to $400 were increased in 1965, generally, by 7 percent (in the lower amounts the increase was larger), but in determining the primary insurance amount the factor applicable to the highest portion of the average monthly wage before the 1965 increase was made applicable to the average monthly wage in excess of $400.

Pensions under section 6 of the Railroad Retirement Act and annuities payable under the Railroad Retirement Act of 1935 would similarly be increased, as would annuities payable on a joint and survivor basis, but these increases would also be subject to reduction because of any 1965 raise in social security benefits on an average monthly wage of up to $400 for which the individual is concurrently entitled. The widow's annuity payable on the basis of the guaranty that it shall be no less than her spouse's annuity, which is based on a spouse's annuity payable for months before the month following enactment of the bill, would be similarly increased subject to a reduction because of entitlement to social security benefits.

The 7-percent increase would be effective as to annuities accruing for months after the month in which the bill is enacted and with respect to pensions due in calendar months after the month next following the month in which the bill is enacted. The increase with respect to lump-sum benefits under section 5(f)(1) of the Railroad Retirement Act

would be effective with respect to deaths occurring on and after the date of enactment.

Title III of the bill would amend the Railroad Retirement Tax Act to increase the basic tax rate on employers and employees for years after 1966 by one-fourth percent. The tax rate on employee representatives for years after 1966 would be increased by one-half per centum. These higher tax rates are designed to cover the 7-percent increases in the benefits payable under the regular provisions of the Railroad Retirement Act.

Subsection (d) of section 301 of this title would amend the Railroad Retirement Tax Act to provide an excise tax on employers, with respect to having individuals in their employ, equal to 2 cents per each man-hour on which compensation is paid. This tax would also be applicable to employee representatives. The tax would not apply to hours included in any month of service of an individual as an employee rendered to a railway-labor-organization employer, during which month the individual to whom such compensation was paid was not engaged predominantly in work involving representation of employees covered by the Railroad Retirement Act. This new tax would be applicable to man-hours for which compensation is paid for 60 months following the month in which the bill is enacted.

The amount for each month by which supplemental annuities of employees of an employer are reduced, because of supplemental pension payments by such employer, would be allowed as a credit for such employer against the tax imposed on the basis of man-hours for which compensation is paid. If the amount of the reduction because of supplemental pension payments exceeds in any month the tax liability on man-hours for such month, the excess could be carried forward but the total credits could never exceed the total tax liability. The Board would be required to certify at the end of each calendar quarter to the Secretary of the Treasury with respect to each such employer the amount of credit accruing to such employer and to notify the employer as to the amount certified.

COST ESTIMATES

Because the supplemental annuity program is treated in the bill as a separate financial entity, it is proper to consider the actuarial implications of the proposed amendments in two parts. This, however, should not be construed to mean that the supplemental annuity program and the selective 7 percent increase in regular Railroad Retirement Act benefits are truly independent of each other. The areas of interdependence between these two sets of amendments are as follows:

(1) The 7-percent increase would not be available to recipients of the supplemental annuity, thus reducing the cost effects of the 7 percent increase,

(2) The availability of a substantial additional retirement benefit would in all likelihood accelerate retirement on the part of qualified employees and thus increase the cost of retirement annuities under the regular railroad retirement program.

For the supplemental annuity program, the actuarial analysis is limited to the 5-year period specified in the bill. However, for the 7 percent increase, it is necessary to consider the long-range cost im-

plications because this is made a permanent feature of the railroad retirement program. Thus, an important consideration is whether the supplemental annuity program will be extended beyond the 5-year period or not. For purposes of either set of amendments, it was assumed that the provisions of the bill will become effective on October 1, 1966.

(1) *Supplemental annuity account.*—The progress of this account will depend mainly on the retirement rates which will prevail during the period of its existence. Since the strong possibility of an acceleration in retirement could not be ignored, the estimates are based on retirement rates moderately higher than the rates used in the Board's latest actuarial valuation (the ninth, made as of December 31, 1962). The income figure of $34.8 million a year is based on the assumption that over the next 5 years railroad employment will average 725,000 full-time jobs and that the number of paid hours associated with each job will be 200 per month.

The estimated annual income, outgo, and balance figures are shown in the table below.

Our general conclusion is that the financing would be adequate to carry the program for 5 years without any significant fund left at the end of that period. There is, of course, the possibility of a deficit emerging before the specified termination date of the program but for this to happen, the acceleration in retirement would have to be much greater than we have reason to expect.

[In millions]

Benefit year[1]	Income[2]	Benefit payments[2]	Fund at end of year
1966–67	$34.8	$13.1	$22.1
1967–68	34.8	25.3	32.7
1968–69	34.8	35.9	32.9
1969–70	34.8	46.5	22.3
1970–71	34.8	56.3	1.3

[1] Begins Oct. 1 and ends Sept. 30, next.
[2] Computed without regard to the offsets on account of pensions under private plans. These offsets would balance each other so that the progress of the account would not be affected by them.

As for the borrowing from the regular railroad retirement account, we believe that the amounts borrowed would be repaid well before the period specified in the bill. Thereafter, the regular account would not be called upon to contribute to the new account in any way. However, as stated before, the new benefit program could have an indirect adverse effect on the regular account by causing a significant acceleration in retirement.

(2) *Regular railroad retirement account.*—The income of this account would be augmented by a new tax of one-half percent of payroll shared equally by employees and employers. This additional income is intended to finance the selective 7-percent increase in regular railroad retirement benefits on a level basis.

The adequacy of this financing depends primarily on two factors: (1) the duration of the supplemental annuity program and (2) the extent by which retirement rates would be accelerated as a result of the availability of a supplemental annuity. Should there be no extension of the supplemental annuity program beyond the first 5 years,

the cost might be as high as 0.85 percent of payroll. This is because the great majority of retirees with long service would then become eligible for a 7-percent increase in their regular annuities. On the other hand, if the supplemental plan is continued on a permanent basis, the cost of the 7-percent increase would be 0.52 percent of payroll before adjustment for acceleration in retirement and about 0.60 percent after such an adjustment.

Because of the fairly large difference between the cost figures for a continuing and terminating supplemental annuity program, respectively, it is practically impossible to make at this time and unqualified judgment on the adequacy of the one-half percent tax over the long range. However, since this tax could be nearly sufficient under certain circumstances, the Board is inclined to consider the financial arrangements for this part of the bill as satisfactory for the time being. As more information becomes available on the issues involved, this cost area will be reexamined with the view of determining whether any adjustments in financing are needed.

IMMEDIATE EFFECTS

The immediate effects of the proposed legislation will also be discussed in two parts. The first part will deal with the expected experience in the first year of the supplemental annuity program while the second part will describe the estimated effects of the selective 7-percent increase on beneficiaries who were on the rolls at the end of June 1966.

(1) *Supplemental annuity program.*—Assuming an effective date of October 1, 1966, the program would start with a backlog of qualified employees who were awarded annuities in July–September 1966. We estimate that the number of such individuals will be about 4,000 and that their average supplemental annuity will be $68.

As for new retirements during the period October 1, 1966–September 30, 1967, the number could range from 15,000 if retirement rates continue at the previous levels to 45,000 if all qualified employees age 65 or over decide to retire immediately. For purposes of the cost estimates discussed earlier, it was assumed that the new retirements in the first year of the plan will number about 21,000.

The great majority (90 percent) of the first-year beneficiaries will be eligible for the maximum supplemental benefit of $70. For the remainder, the average benefit will be of the order of $55 a month. Incidentally, the average regular annuity for employees eligible for supplemental annuities will be about $185 per month. In most cases, the qualified wives of these retirees will be eligible for maximum spouses' annuities; that is, $74.80 during the remainder of 1966 and $83.60 during 1967.

2. *Selective 7-percent increase.*—A detailed breakdown of the effects of this set of amendments on present beneficiaries is presented in the table appearing below. This table tells, among other things, how many individuals in each beneficiary group would receive an increase and how large the increase would be on the average. As can be seen from the table, the increase provisions would benefit approximately 461,000 individuals (disregarding the inconsequential duplicate counting of widows receiving annuities under the old joint and survivor provi-

sions) presently on the Board's benefit rolls. This group consists of 294,000 nondual beneficiaries (roughly one-third of the total) who would receive a full increase and 167,000 dual beneficiaries (or certain special overall minimum cases) who would receive but a partial increase.

Immediate effects of the selective 7-percent increase in RRA benefits provided for in S. 3777 (estimate for beneficiaries on the rolls on June 30, 1966)

Class of beneficiary	Number of beneficiaries				Average annuity for beneficiaries		Average increase for eligible beneficiaries
	Total	No increase	Full increase	Partial increase	With no increase	With increase [2]	
All beneficiaries	[1] 922,200	460,600	[1] 294,400	167,200			
Retired employees, total	429,500	72,900	254,400	102,200	$117	$145	$8
Age annuitants	328,000	49,600	191,300	87,100	112	149	8
Disability annuitants	101,300	23,300	62,900	15,100	128	133	9
Pensioners	200		200			78	5
Spouses, total	197,000	145,000	17,000	35,000	66	57	3
Survivors, total	[1] 295,700	242,700	[1] 23,000	30,000			
Aged widows	249,000	198,300	20,700	30,000	84	60	2
Widowed mothers	9,400	9,300	100		114	76	5
Children	34,900	34,400	500		77	40	3
Parents	700	700			80		
Option cases	1,700		1,700			56	4

[1] Slightly overstates numbers of different individuals because most widows receiving annuities under the old joint and survivor options are also receiving regular widows' annuities and are therefore counted twice
[2] Before increase.

The group which would benefit most is the one consisting of retired employees with annuities in the higher brackets. The remaining groups of beneficiaries would be affected to a much lesser extent for the following reasons:

(*a*) Retired employees with annuities in the lower brackets are the ones for whom the frequency of entitlement to a simultaneous social security benefit is fairly large. Because of the social security offset, these annuitants would receive either no increase at all (if their social security benefit is larger than the Railroad Retirement Act annuity) or an increase smaller than 7 percent of their Railroad Retirement Act annuity. It should also be remembered that retired employees paid under the 110 percent social security minimum provision (O/M) would generally not be eligible for an increase in the Railroad Retirement Act annuity.

(*b*) The majority of wives on the benefit rolls is being paid the maximum benefit and would therefore not be eligible for an increase. Among those not receiving the maximum, there are many O/M cases and dual beneficiaries whose own social security benefit is higher than the Railroad Retirement Act spouse annuity. These women would also not receive an increase. Thus, the group eligible for an increase is relatively small.

(*c*) Survivors other than aged widows are practically always paid under the O/M formula. This accounts for the finding that very few beneficiaries in this category would benefit from the 7-percent increase.

(*d*) Aged widows fall into two categories: (1) those paid under the O/M—roughly two-thirds, and (2) those paid under the regular or "basic amount" formula—about one-third. Except for certain marginal cases, the first group will not be eligible for any increase. The

second group consists mostly of dual beneficiaries (ordinarily the social security benefit is the reason why the O/M formula does not apply) and would thus be subject to the social security offset. This offset may either nullify the increase in the Railroad Retirement Act benefit or make it smaller than 7 percent.

The representatives of railroad labor and of railroad management have, as the Board understands, reached an agreement as to the provisions of this bill for supplemental annuities and for an increase in regular annuity amounts, as provided in the bill. The Board is in accord with the views of these representatives and also believes the bill to be meritorious. Therefore, the Board recommends enactment of the bill.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program to the submission of this report.

Sincerely yours,

HOWARD W. HABERMEYER,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., September 26, 1966.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of August 29, 1966, for the views of the Bureau of the Budget with respect to S. 3777, a bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, and for other purposes.

The bill has two purposes: to provide supplemental annuities to certain beneficiaries entitled to a regular annuity under the Railroad Retirement Act, and to increase benefit amounts under the existing provisions of the Railroad Retirement Act by 7 percent, subject to certain limitations. The 7-percent increase conforms, generally, to the pattern for increasing benefit amounts under Public Law 89-97—the Social Security Amendments of 1965—and, accordingly, the Bureau of the Budget sees no objection to that portion of the bill.

The portion of the bill having to do with supplemental pensions calls for more careful consideration. Although it is proposed as an amendment to the basic Railroad Retirement Act, the supplemental pension plan is in reality a private pension plan arrived at through collective bargaining and similar in general form to many such plans within American industry except that the Federal Government will (a) administer the plan through a Federal agency; (b) collect its revenue through the Federal taxing power; (c) require compulsory participation of the entire industry; and (d) exempt employer contributions as well as employee benefits from Federal taxes.

We wish to call attention to two issues which the plan raises:

First, employee benefits, as in other noncontributory private plans should be taxable. Employer contributions are tax free only if the plan meets certain requirements set forth in the Internal Revenue

Code. It appears that this plan would meet such requirements as a private plan and, therefore, employers might deduct their contributions from Federal taxes in either case. However, we see no basis for the special tax treatment afforded to employee benefits. In this matter, we agree with the recommendation of the Treasury Department, in the report it is submitting to your committee, and urge that this exemption be deleted from the plan.

Secondly, we think provision should be made for adequate long-term financing. The plan is limited to a 5-year term for both contributions and benefits and no provision is made for its extension beyond that period. It is adequately financed only for this period. If the plan were extended beyond this period—as it is expected to be—the contribution level would have to be at least doubled simply to continue benefits at the same level for another 5 years. Negotiations to extend the term of the plan at that time might involve concessions by the employees in order to continue or improve the terms of the plan. If employees are then called upon to share some of the costs, it would limit their capacity to finance future improvements in the basic railroad retirement system. We would strongly object to any possible interpretation of this legislation that financial support on the part of the Federal Government might be proposed in order to extend the term of the plan beyond its present termination. We, therefore, endorse the statement to this effect in the report of the Railroad Retirement Board that enactment of this legislation does not presuppose any financial obligation by the Federal Government. This point could be made clear by adding a provision to the bill which directs the Railroad Retirement Board, before the end of the 5-year period, to determine the costs of adequately financing the plan on a permanent basis and to present this to representatives of railroad labor and railroad management in order to assist them in negotiating a continuation of the plan.

The lack of provision for early vesting and the severe length of service requirements do not recommend themselves as models of a publicly enacted supplemental pension program. If this measure should become effective pending the development of Federal policy on these issues, we think any extension of it should be subject to review in the light of subsequent legislation.

If the bill were modified to remove the income tax exemption for employees benefits, the Bureau of the Budget would have no objection to enactment of S. 3777.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

TREASURY DEPARTMENT,
Washington, D.C., September 29, 1966.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Treasury Department on S. 3777, entitled a bill to amend the

Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, and for other purposes.

The bill would make two distinctly different types of changes in the existing railroad retirement program. Title I of the bill would create an entirely new and different kind of retirement program which would supplement the basic public program in much the same way that private pension plans in other industries supplement the basic benefits provided under the social security system. More specifically, these provisions of the bill would provide for the payment of supplemental annuities (ranging from $45 to $70 per month) to a specified class of employees for a 5-year period. The supplemental annuities are to be financed by a new and separate tax on employers and employee representatives (but not on employees) and would be payable only to employees retiring after July 1, 1966, who have attained the age of 65, and have completed at least 25 years of service. Title II of the bill would increase and otherwise adjust the benefits that are currently paid under the basic retirement program covering the railroad industry. Title III provides for an increase in the basic tax to finance the increased basic benefits and a new tax based on man-hours of employment to finance the supplemental annuities.

The Treasury Department has no objection to the provisions of S. 3777 except to the extent that it extends the tax exemptions presently accorded benefits paid under the basic railroad retirement program to the supplemental annuity program created by title I.

The basic retirement benefits provided under the two public retirement systems, the Federal old-age survivors and disability insurance system and the railroad retirement system, are exempt from Federal income tax. On the other hand, employer-financed benefits received under private retirement program are subject to tax in the same manner as other forms of retirement income. By creating and implementing the system of supplemental annuities as an amendment to the Railroad Retirement Act and specifically by defining the annuities as those covered by section 12 of the Railroad Retirement Act of 1937, the bill would automatically extend to those annuities the tax exemption previously reserved for the broad-based public program. The Treasury Department does not believe that such a tax benefit is appropriate since, except for the fact that they are to be publicly administered, the supplemental annuities provided for by the bill have none of the hallmarks of a public program. Rather, they are payable only to a narrow group of long service employees who retire during a specified 5-year period. In these circumstances the Treasury Department can see little justification for favoring the supplemental retirement program of the railroad industry at the expense of all other Federal taxpayers. To do so would grant this particular industry favored tax status for its pension benefits that is not available to any other industry with respect to its private retirement programs. Rather, the Treasury Department is of the opinion that the supplemental annuity program provided for by the act should be subject to the tax rules that are applicable to qualified private pension plans generally. We understand that appropriate language to accomplish this has been submitted to your committee by the Railroad Retirement Board.

The Treasury Department also wishes to point out that study is presently being given to a Cabinet Committee Report which, through amendments to the Internal Revenue Code, would add additional requirements for the qualification of private pension plans. If any such requirements are added in the future, we would think it would be appropriate to amend the supplemental annuity program to bring it up to the new standards if the program is to be extended beyond the initial period.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY,
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 italic; existing law in which no change is proposed is shown in roman):

THE RAILROAD RETIREMENT ACT OF 1937

PART I

* * * * * * *

ANNUITIES

SEC. 2. (a) * * *

* * * * * * *

(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 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 the spouse's annuity provided for herein and in subsection (h) of this section shall be computed without regard to the reduction in the individual's annuity under the first two provisos in section 3(a)(1) of this Act and without regard to the effect of section 3(a)(2) on the annuity of the individual from whom such spouse's annuity derives.*

(f) * * *

(g) * * *

(h) * * *

(i) The spouse's annuity provided under subsections (e) and (h) of this section shall (before any reduction on account of age) be reduced in accordance with the first two provisos in section 3(a)(1) of this Act except that the spouse's annuity shall not be less than it would be had this Act not been amended in 1966.

* * * * * * *

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": 3.35 per centum of the first $50; 2.51 per centum of the next $100; and 1.67 per centum of the remainder up to a total of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater.]

SEC. *3.* *(a)(1) The annuity shall be computed by multiplying an individual's "years of service" by the following percentages of his "monthly compensation": 3.58 per centum of the first $50; 2.69 per centum of the next $100; 1.79 per centum of the next $300; and 1.67 per centum of the remainder up to an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954: Provided, however, That in cases where an individual is entitled to a benefit under title II of the Social Security Act, the amount so computed shall be reduced by 6.55 per centum of the amount of such social security benefit (disregarding any increases in such benefit based on recomputations other than for the correction of errors after such reduction is first applied and any increases derived from changes in the primary insurance amount through legislation enacted after the Social Security Amendments of 1965): Provided further, That in determining social security benefit amounts for the purpose of this subsection, if such individual's average monthly wage is in excess of $400, only an average monthly wage of $400 shall be used: And provided further, That the amount of an annuity as computed under this subsection shall not be less than it would be had this Act not been amended in 1966.*

(2) Notwithstanding the provisions of paragraph (1) of this subsection, and of subsection (e) of this section, the annuity of an individual for a month with respect to which a supplemental annuity under subsection (j) of this section accrues to him shall be computed or recomputed under the provisions of this subsection, or of subsection (e) of this section, as in effect before their amendment in 1966: Provided, however, That if the application of the preceding provision of this

paragraph would result in the amount of the annuity, plus the amount of a supplemental annuity (after adjustment under subsection (j)(2) of this section) payable to an individual for a month being lower than the amount which would be payable as an annuity except for such preceding provision, the annuity shall be in an amount which together with the amount of the supplemental annuity would be no less than the amount that would be payable as an annuity but for such preceding provision.

(b) * * *

MONTHLY COMPENSATION

(c) * * *

(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) $5.000 multiplied by the number of his years of service; or (2) $83.50; or (3) 110 per centum of his monthly compensation:]

*(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) $5.35 multiplied by the number of his years of service; or (2) $89.35; or (3) 118 per centum of his monthly compensation except that the minimum annuity so determined shall be reduced in accordance with the first two provisos in subsection (a)(1) of this section, but shall not be less than it would be had this Act not been amended in 1966: * * **

* * * * * * *

SUPPLEMENTAL ANNUITIES

(j)(1) An individual who is entitled to the payment of an annuity under section 2 of this Act (other than subsection (e) or (h) thereof) and had a current connection with the railroad industry at the time such annuity began to accrue, shall be entitled to have a supplemental annuity accrue to him for each month beginning with the month in which he has (i) attained the age of sixty-five and (ii) completed twenty-five or more years of service. The amount of the supplemental annuity shall be $45 plus an additional amount of $5 for each year of service that the individual has in excess of 25 years, but in no case shall the supplemental annuity exceed $70: Provided, however, That in cases where an individual's annuity under section 2 of this Act begins to accrue on other than the first day of the month, the amount of any supplemental annuity to which he is entitled for that month shall be reduced by one-thirtieth for each day with respect to which he is not entitled to an annuity under section 2. The supplemental annuity provided by this subsection shall, with respect to any month, be subject to the same provisions of subsection (d) of section 2 of this Act as the individual's annuity under such section 2. Except as provided in subsection (a)(2) of this section, the supplemental annuity provided by this subsection shall not be taken into consideration in determining or computing any other annuity or benefit under this Act.

(2) The supplemental annuity provided by this subsection for an in-

dividual shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan: Provided, however, That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.

(3) The supplemental annuity provided by this subsection shall terminate with such annuity accruing for the sixtieth month following enactment of this subsection.

(4) The provisions of section 12 of this Act shall not operate to exclude the supplemental annuities herein provided for from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954.

* * * * * * *

ANNUITIES AND LUMP SUMS FOR SURVIVORS

SEC. 5. (a) * * *

* * * * * * *

[(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 $36.30 and exceeds either (a) $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 $36.30, whichever is greater. Whenever such total of annuities is less than $16.95, such total shall, prior to any deductions under subsection (i), be increased to $16.95.]

(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 $38.84 and exceeds either (a) $207.15, 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 $38.84, whichever is greater. Whenever such total of annuities is less than $18.14, such total shall, prior to any deductions under subsection (i), be increased to $18.14: Provided, however, That the share of any individual in an amount so determined shall be reduced in accordance with the first two provisos in section 3(a) (1) of this Act except that the share of such individual shall not be less than it would be had this Act not been amended in 1966.

* * * * * * *

(1) DEFINITIONS.—For the purpose of this section the term "employee" includes an individual who will have been an "employee," and—

(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) 49 per centum of his average monthly remuneration, up to and including $75; plus (B) 12 per centum of such average monthly remuneration exceeding $75 and up to and including (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, 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 $16.95 it shall be increased to $16.95;]

(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) 52.4 per centum of his average monthly remuneration, up to and including $75; plus (B) 12.8 per centum of such average monthly remuneration exceeding $75 and up to and including $450; plus (C) 12 per centum of such average monthly remuneration exceeding $450 and up to and including an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in Section 3121 of the Internal Revenue Code of 1954, plus (D) 1 per centum of the sum of (A) plus (B) plus (C) 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 $18.14, it shall be increased to $18.14;

(ii) for an employee who will have been completely insured solely by virtue of paragraph (7) (iii): the sum of [49] *52.4* 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, [49] *52.4* per centum of the average monthly earnings on which such pension was computed, up to and including $75, plus [12] *12.8* 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 [$40.33] *$43.15*, except that if the pension payable to him was less than [$30.25] *$32.37*, such amount shall be four-thirds of the amount of the pension or [$16.13] *$17.26*, 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).

(m) An annuity payable under this section to an individual, without regard to subsection (h) of this section or the proviso in the first paragraph of section 3(e) of this Act, shall be reduced in accordance with

the first two provisos in section 3(a) (1) of this Act except that the amount of the annuity shall not be less than it would be had this Act not been amended in 1966.

* * * * * * *

RAILROAD RETIREMENT ACCOUNT

SEC. 15(a) * * *

RAILROAD RETIREMENT SUPPLEMENTAL ACCOUNT

(b) There is hereby created an account in the Treasury of the United States to be known as the Railroad Retirement Supplemental Account. There is hereby appropriated to the Railroad Retirement Supplemental Account, for the fiscal year ending June 30, 1967, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, to provide for the payment of supplemental annuities in accordance with the provisions of section 3(j) of this Act, and for expenses necessary for the Board in the administration of such section 3(j) as may be specifically authorized annually in Appropriation Acts, for crediting to such Supplemental Account, an amount equal to amounts covered into the Treasury (minus refunds) during the fiscal year ending June 30, 1967, and during each fiscal year thereafter, under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act.

At the end of forty-eight months following the enactment of the Act establishing the Railroad Retirement Supplemental Account the Railroad Retirement Board, having surveyed the progress of such Account, shall make a determination of whether the balance in such Account together with the anticipated income to the Account for the next succeeding twelve months will be sufficient to provide for the payment of the supplemental annuities provided for in section 3(j) (1) of this Act. In the event that such determination is that such balance and such anticipated income will not be sufficient to provide for the payment of all such supplemental annuities in the amounts specified, the Railroad Retirement Board is hereby authorized and directed to readjust the amounts of all such supplemental annuities, proportionately, so that such balance and anticipated income will be sufficient to provide for payment of all the supplemental annuities as so readjusted for the next succeeding twelve months.

[(b)] *c* At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the [Account] *Railroad Retirement Account and the Railroad Retirement Supplemental Account (hereinafter jointly referred to as "Accounts" on "Railroad Retirement Accounts")* as, in the judgment of the Board, is not immediately required for the payment of annuities, pensions, and death benefits. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price; or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as

amended, are hereby extended, to authorize the issuance at par of special obligations exclusively to the [Account] *Accounts*. Such obligations issued for purchase by the [Account] *Accounts* shall have maturities fixed with due regard for the needs of the [Account] *Accounts*, and shall bear interest at a rate equal to the average market yield, computed as of the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt that are not due or callable until after the expiration of three years from the end of such calendar month, except that where such rate is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such rate: *Provided*, That the rate of interest on such obligations shall in no case be less than 3 per centum per annum. The Secretary of the Treasury may purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price only if he determines that such purchases are in the public interest, provided that the investment yield of such obligations shall not be less than the interest rate determined in accordance with the preceding sentence. If it is in the interest of the [Account] *Accounts* so to do, the Secretary of the Treasury may sell and dispose of obligations in the [Account] *Accounts* and he may sell obligations acquired by the [Account] *Accounts* (other than special obligations issued exclusively to the [Account] *Accounts*) at the market price. Special obligations issued exclusively to the [Account] *Accounts* shall, at the request of the Board, be redeemed at par plus accrued interest. All amounts credited to the [Account] *Accounts* shall be available for all purposes of the [Account] *Accounts*.

[(c)] (*d*) The Board is hereby authorized and directed to select two actuaries, one from recommendations made by representatives of employees and the other from recommendations made by representatives of carriers. These actuaries, along with a third who shall be designated by the Secretary of the Treasury, shall be known as the Actuarial Advisory Committee with respect to the Railroad Retirement [Account] *Accounts*. The committee shall examine the actuarial reports and estimates made by the Railroad Retirement Board and shall have authority to recommend to the Board such changes in actuarial methods as they may deem necessary. The compensation of the members of the committee of actuaries, exclusive of the member designated by the Secretary, shall be fixed by the Board on a per-diem basis.

[(d)] (*e*) The Board shall include in its annual report a statement of the status and the operations of the Railroad Retirement [Account] *Accounts*. At intervals not longer than three years the Board shall make an estimate of the liabilities created by this Act and the Railroad Retirement Act of 1935 and shall include such estimate in its annual report. Such report shall also contain an estimate of the reduction in liabilities under title II of the Social Security Act arising as a result of the maintenance of this Act and the Railroad Retirement Act of 1935.

* * * * * * *

THE RAILROAD RETIREMENT TAX ACT

INTERNAL REVENUE CODE OF 1954

Chapter 22—Subchapter A

TAX ON EMPLOYEES

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) * * *
(2) * * *
(3) [6¾] *7* percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1966,
(4) [7] *7¼* percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1967, and
(5) [7¼] *7½* percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1968, * * *

* * * * * * *

Subchapter B

TAX ON EMPLOYEE REPRESENTATIVES

SEC. 3211. RATE OF TAX

(a) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to—

(1) * * *
(2) * * *
(3) [13½] *14* percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1966,
(4) [14] *14½* percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1967, and
(5) [14½] *15* percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1968, * * *

(b) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to two cents for each man-hour for which compensation is paid to him for services rendered as an employee representative.

Subchapter C

TAX ON EMPLOYERS

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—

(1) * * *

(2) * * *

(3) [6¾] *7* percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1966,

(4) [7] *7¼* percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1967, and

(5) [7¼] *7½* percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1968, * * *

(b) * * *

(c) In addition to the other taxes, there is hereby imposed on every employer an exise tax, with respect to having individuals in his employ, equal to two cents for each man-hour, for which compensation is paid. With respect to daily, weekly, or monthly rates of compensation such tax shall apply to the number of hours comprehended in the rate together with the number of overtime hours for which compensation in addition to the daily, weekly, or monthly rate is paid. With respect to compensation paid on a mileage or piecework basis such tax shall apply to the number of hours constituting the hourly equivalent of the compensation paid.

Each employer of employees whose supplemental annuities are reduced pursuant to section 3(j)(2) of the Railroad Retirement Act of 1937 shall be allowed as a credit against the tax imposed by this subsection an amount equivalent in each month to the aggregate amount of reductions in supplemental annuities accruing in such month to employees of such employer. If the credit so allowed to such an employer for any month exceeds the tax liability of such employer accruing under this subsection in such month the excess may be carried forward for credit against such taxes accruing in subsequent months but the total credit allowed by this paragraph to an employer shall not exceed the total of the taxes on such employer imposed by this subsection. At the end of each calendar quarter the Railroad Retirement Board shall certify to the Secretary of the Treasury with respect to each such employer the amount of credit accruing to such employer under this paragraph during such quarter and shall notify such employer as to the amount so certified.

INDIVIDUAL VIEWS OF MR. JAVITS

I support both features of this bill—the 7-percent benefit increase, because it is a needed parallel to previous social security increases, and the supplemental annuity provision, because it is essentially nothing more than congressional ratification of a private pension agreement already reached through the process of collective bargaining.

The precise terms of this private agreement, however, deserve some comment, because the eligibility and funding provisions for this supplemental annuity clearly fail to meet the standards proposed last year by the President's Committee on Corporate Pension Funds—standards which I support and which, in my view, should be translated into law.

The President's Committee concluded that, "as a matter of equity and fair treatment, an employee covered by a pension plan is entitled, after a reasonable period of service, to protection of his future retirement benefit against any termination of employment," and the Committee specifically recommended vesting of one-half of full benefits after 15 years of service, and full benefits after 20 years of service, with no minimum age limits. Yet the supplemental annuity provided by this bill requires 25 years of service and a minimum age of 65, thus violating the recommended standards both as to years of service and age limits.

The President's Committee also concluded that pension plans should be financially solvent in the sense that, in a "stated benefit" plan such as this, the "plan should be required to fund fully all current service liabilities and to amortize fully all accrued liabilities over a period that roughly approximates the average work life of employees but not more than 30 years." In short, the plan should assume that it will continue indefinitely, and should fund itself with a long-term view, so that an employee who will retire 30 years from now is participating in a fund which is set up in such a way that, 30 years from now, there will be money enough in the fund to pay his pension. The supplementary annuity involved in this bill, however, will, by its own terms, expire in 5 years (unless renewed). Concededly, the plan is properly funded if one assumes that 5 years is all that is involved: there will be enough money to pay all eligible employees for 5 years. But at the end of 5 years, the plan will have completely liquidated itself and, unless amended and extended, the plan will not have any assets left. If, on the other hand, the plan is extended at the end of 5 years, then there will be thousands of employees who will have been under the plan for 5 years, who will be 5 years closer to retirement under it, but who will not have assets in the fund which is being held to pay the annuity later on. Yet if the parties decide to terminate the plan after 5 years, the funding will be adequate but there will, no doubt, be a great many disappointed employees—and they will surely be disappointed despite any efforts by labor or management to warn

them in advance that, as the plan now stands, it will die 5 years hence. For the normal expectation is that an employee benefit program, once established, will continue, and it is surely most unlikely that the railroad employees of this Nation will not expect this supplemental annuity to continue also.

Nevertheless, this is the bargain the parties have made, and I am too firmly committed to the processes of free collective bargaining to stand in the way of its implementation, unless we in the Congress are prepared to establish minimum funding and vesting requirements for all pension plans, not just those in the railroad industry.

I intend to introduce legislation in the near future which would establish such minimum requirements, and it is my understanding that the administration is also working on the problem. At the point where these efforts reach fruition, we may well wish to reexamine the supplemental annuity feature of this bill to bring it in line with general overall standards for private pension plans.

○

AMENDMENT OF THE RAILROAD RETIREMENT ACT OF 1937 AND THE RAILROAD RETIREMENT TAX ACT

The bill (H.R. 17285) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act and for other purposes was considered, ordered to a reading, read the third time, and passed.

Public Law 89-699
89th Congress, H. R. 17285
October 30, 1966

An Act

To amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

Railroad Retirement Act of 1937 and Railroad Retirement Tax Act, amendment.

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937 TO PROVIDE SUPPLEMENTAL ANNUITIES

SECTION 1. Section 3 of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new subsection:

50 Stat. 310; 72 Stat. 1779. 45 USC 228c.

"SUPPLEMENTAL ANNUITIES

"(j)(1) An individual who is entitled to the payment of an annuity under section 2 of this Act (other than subsection (e) or (h) thereof) and had a current connection with the railroad industry at the time such annuity began to accrue, shall be entitled to have a supplemental annuity accrue to him for each month beginning with the month in which he has (i) attained the age of sixty-five and (ii) completed twenty-five or more years of service. The amount of the supplemental annuity shall be $45 plus an additional amount of $5 for each year of service that the individual has in excess of 25 years, but in no case shall the supplemental annuity exceed $70: *Provided, however*, That in cases where an individual's annuity under section 2 of this Act begins to accrue on other than the first day of the month, the amount of any supplemental annuity to which he is entitled for that month shall be reduced by one-thirtieth for each day with respect to which he is not entitled to an annuity under section 2. The supplemental annuity provided by this subsection shall, with respect to any month, be subject to the same provisions of subsection (d) of section 2 of this Act as the individual's annuity under such section 2. Except as provided in subsection (a)(2) of this section, the supplemental annuity provided by this subsection shall not be taken into consideration in determining or computing any other annuity or benefit under this Act.

65 Stat. 683; 73 Stat. 26. 45 USC 228b.

Post, p. 1076.

"(2) The supplemental annuity provided by this subsection for an individual shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan: *Provided, however*, That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.

"(3) The supplemental annuity provided by this subsection shall terminate with such annuity accruing for the sixtieth month following enactment of this subsection.

"(4) The provisions of section 12 of this Act shall not operate to exclude the supplemental annuities herein provided for from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954."

45 USC 228l. 80 STAT. 1073

80 STAT. 1074

50 Stat. 316.
45 USC 228o.

SEC. 2. (a) Section 15 of the Railroad Retirement Act of 1937 is amended by inserting after subsection (a) the following:

"RAILROAD RETIREMENT SUPPLEMENTAL ACCOUNT

"(b) There is hereby created an account in the Treasury of the United States to be known as the Railroad Retirement Supplemental Account. There is hereby appropriated to the Railroad Retirement Supplemental Account, for the fiscal year ending June 30, 1967, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, to provide for the payment of supplemental annuities in accordance with the provisions of section 3(j) of this Act, and for expenses necessary for the Board in the administration of such section 3(j) as may be specifically authorized annually in Appropriation Acts, for crediting to such Supplemental Account, an amount equal to amounts covered into the Treasury (minus refunds) during the fiscal year ending June 30, 1967, and during each fiscal year thereafter, under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act.

Ante, p. 1073.

Post, p. 1078.

"At the end of forty-eight months following the enactment of the Act establishing the Railroad Retirement Supplemental Account the Railroad Retirement Board, having surveyed the progress of such Account, shall make a determination of whether the balance in such Account together with the anticipated income to the Account for the next succeeding twelve months will be sufficient to provide for the payment of the supplemental annuities provided for in section 3(j)(1) of this Act. In the event that such determination is that such balance and such anticipated income will not be sufficient to provide for the payment of all such supplemental annuities in the amounts specified, the Railroad Retirement Board is hereby authorized and directed to readjust the amounts of all such supplemental annuities, proportionately, so that such balance and anticipated income will be sufficient to provide for payment of all the supplemental annuities as so readjusted for the next succeeding twelve months."

(b) Section 15 of such Act is further amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; by striking out the word "Account" where it first appears in subsection (c) as redesignated and inserting in lieu thereof "Railroad Retirement Account and the Railroad Retirement Supplemental Account (hereinafter jointly referred to as 'Accounts' or 'Railroad Retirement Accounts')"; by striking out "Account" each time it appears elsewhere in such redesignated subsections and inserting in lieu thereof "Accounts".

77 Stat. 220.

Effective date.

SEC. 3. (a) The amendment made by section 1 of this title shall be effective with respect to individuals whose annuities under section 2 of the Railroad Retirement Act of 1937 are first awarded on or after July 1, 1966, provided that no supplemental annuity shall accrue for months before the calendar month following the month in which this Act is enacted: *Provided, however*, That if before July 1, 1966, an annuity was awarded to an individual under section 2(a) 4 or 5 of the Railroad Retirement Act of 1937, and such individual had recovered from disability and returned to the service of an employer before July 1, 1966, following which he was awarded an annuity after June 30, 1966, the annuity last awarded him shall be deemed to be an annuity first awarded within the meaning of this subsection but only if he would have a current connection with the railroad industry at the time the annuity last awarded begins to accrue, disregarding his earlier entitlement to an annuity.

45 USC 228b.

60 Stat. 727.

(b) The Railroad Retirement Board is authorized to request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of the Supplemental annuities, provided for in section 3(j) of the Railroad Retirement Act of 1937, for the six months next following enactment of this Act, and for administrative expenses necessary in the administration of such section 3(j) (which expenses are hereby authorized) until such time as an appropriation for such expenses is made pursuant to section 15(b) of such Act, and the Secretary shall make such transfer. The Railroad Retirement Board shall request the Secretary of the Treasury at any time before the expiration of one year following the enactment of this Act, to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account the amount transferred to the Railroad Retirement Supplemental Account pursuant to the next preceding sentence, plus interest at a rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the fiscal year ending on June 30, 1966, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer.

Transfer of funds.

Ante, p. 1073.

Ante, p. 1074.

TITLE II—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937 TO PROVIDE AN INCREASE IN CERTAIN ANNUITIES UNDER THE ACT

SEC. 201. (a)(1) Section 2(e) of the Railroad Retirement Act of 1937 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ": *And provided further*, That the spouse's annuity provided for herein and in subsection (h) of this section shall be computed without regard to the reduction in the individual's annuity under the first two provisos in section 3(a)(1) of this Act and without regard to the effect of section 3(a)(2) on the annuity of the individual from whom such spouse's annuity derives.".

(2) Section 2 of such Act is further amended by adding a new subsection at the end thereof as follows:

"(i) The spouse's annuity provided under subsections (e) and (h) of this section shall (before any reduction on account of age) be reduced in accordance with the first two provisos in section 3(a)(1) of this Act except that the spouse's annuity shall not be less than it would be had this Act not been amended in 1966."

Spouse's annuity.

65 Stat. 683; 79 Stat. 858.

45 USC 228b.

73 Stat. 26.

(b) Section 3(a) of such Act is amended by striking out all that appears therein and inserting in lieu thereof the following:

"SEC. 3. (a) (1) The annuity shall be computed by multiplying an individual's 'years of service' by the following percentages of his 'monthly compensation': 3.58 per centum of the first $50; 2.69 per centum of the next $100; 1.79 per centum of the next $300; and 1.67 per centum of the remainder up to an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954: *Provided, however*, That in cases where an individual is entitled to a benefit under title II of the Social Security Act, the amount so computed shall be reduced by 6.55 per centum of the amount of such social security benefit (disregarding any increases in such benefit based on recomputations other than for the correction of errors after such reduction is first applied and any increases derived from changes in the primary insurance amount through legislation enacted after the Social Security Amendments of 1965): *Provided further*, That in determining social security benefit amounts for the purpose of this subsection, if such individual's

Computation of annuities.

50 Stat. 310.

45 USC 228c.

68A Stat. 417.

26 USC 3121.

42 USC 401-427.

Ante, p. 67.

79 Stat. 286.

42 USC 302 note.

average monthly wage is in excess of $400, only an average monthly wage of $400 shall be used: *And provided further*, That the amount of an annuity as computed under this subsection shall not be less than it would be had this Act not been amended in 1966.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, and of subsection (e) of this section, the annuity of an individual for a month with respect to which a supplemental annuity under subsection (j) of this section accrues to him shall be computed or recomputed under the provisions of this subsection, or of subsection (e) of this section, as in effect before their amendment in 1966: *Provided, however*, That if the application of the preceding provision of this paragraph would result in the amount of the annuity, plus the amount of a supplemental annuity (after adjustment under subsection (j)(2) of this section) payable to an individual for a month being lower than the amount which would be payable as an annuity except for such preceding provision, the annuity shall be in an amount which together with the amount of the supplemental annuity would be no less than the amount that would be payable as an annuity but for such preceding provision."

Ante, p. 1073.

70 Stat. 1076.
45 USC 228c.

(c) Section 3(e) of such Act is amended by striking out all that precedes the first proviso and inserting in lieu thereof the following: "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) $5.35 multiplied by the number of his years of service; or (2) $89.35; or (3) 118 per centum of his monthly compensation except that the minimum annuity so determined shall be reduced in accordance with the first two provisos in subsection (a)(1) of this section, but shall not be less than it would be had this Act not been amended in 1966:".

75 Stat. 585.
45 USC 228b.

Ante, p. 1075.

65 Stat. 686.
45 USC 228e.

(d) Section 5(h) of such Act is amended by striking out all that appears therein and substituting in lieu thereof the following:

"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 annuities is more than $38.84 and exceeds either (a) $207.15, 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 $38.84, whichever is greater. Whenever such total of annuities is less than $18.14, such total shall, prior to any deductions under subsection (i), be increased to $18.14: *Provided, however*, That the share of any individual in an amount so determined shall be reduced in accordance with the first two provisions in section 3(a)(1) of this Act except that the share of such individual shall not be less than it would be had this Act not been amended in 1966."

60 Stat. 731.

"Basic amount."

(e) Section 5(1)(10) of such Act is amended—

(1) by striking out all that appears in subdivision (i) and inserting in lieu thereof the following: "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) 52.4 per centum of his average monthly remuneration, up to and including $75; plus (B) 12.8 per centum of such average monthly remuneration exceeding $75 and up to and including $450; plus (C) 12 per centum of such average monthly remuneration exceeding $450 and up to and including an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, plus (D) 1 per

68A Stat. 417.
26 USC 3121.

centum of the sum of (A) plus (B) plus (C) 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 $18.14, it shall be increased to $18.14;" and

(2) by striking out in subdivision (ii) thereof "49" wherever it appears and inserting in lieu thereof "52.4", by striking out in such subdivision "12" and inserting in lieu thereof "12.8", by striking out in such subdivision "$40.33" and inserting "$43.15", by striking out in such subdivision "$30.25" and inserting in lieu thereof "$32.37", and by striking out in such subdivision "$16.13" and inserting in lieu thereof "$17.26". 73 Stat. 27.

(f) Section 5 of such Act is amended by adding at the end thereof the following new subsection: 60 Stat. 729. 45 USC 228e.

"(m) An annuity payable under this section to an individual, without regard to subsection (h) of this section or the proviso in the first paragraph of section 3(e) of this Act, shall be reduced in accordance with the first two provisos in section 3(a)(1) of this Act except that the amount of the annuity shall not be less than it would be had this Act not been amended in 1966." Ante, p. 1076. 65 Stat. 685. 45 USC 228c. Ante, p. 1075.

(g) 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 following the month of enactment of this Act, all widows' and widowers' insurance annuities which began to accrue before the second month following the month of enactment of this Act, 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 a spouse's annuity to which the widow or widower was entitled (except those of such insurance annuities which are based on a spouse's annuity which was payable in the maximum amount as determined in accordance with the provisions of the Social Security Act as amended by the Social Security Amendments of 1965), and all annuities under the Railroad Retirement Act of 1935 are increased by 7 per centum, but such a widow's or widower's annuity in an amount formerly received as a spouse's annuity shall not be increased to an amount above $74.80: *Provided, however*, That in cases where an individual is entitled to a benefit under title II of the Social Security Act, the additional amount payable because of this subsection shall be reduced by 6.55 per centum of the amount of such social security benefit (disregarding any increases in such benefit based on recomputations other than for the correction of errors after such reduction is first applied and any increases derived from changes in the primary insurance amount through legislation enacted after the Social Security Amendments of 1965): *Provided further*, That in determining social security benefit amounts for the purpose of this subsection, if such individual's average monthly wage is in excess of $400, only the average monthly wage of $400 shall be used. 50 Stat. 312. 45 USC 228f. 65 Stat. 685. 79 Stat. 286. 42 USC 302 note. 49 Stat. 967. 45 USC 215-228 notes. 42 USC 401-427. Ante, p. 67.

SEC. 202. (a) The amendments made by section 201 of this title shall be effective with respect to annuities accruing for months after the month in which this Act is enacted, and with respect to pensions due in calendar months after the month next following the month in which this Act is enacted. The amendments made by subsection (e) of section 201 of this title shall be effective as to lump-sum benefits under section 5(f)(1) of the Railroad Retirement Act of 1937 with respect to deaths occurring on or after the date of enactment of this Act. Effective date. 60 Stat. 729.

(b) All recertifications required by reason of the amendments made by this title shall be made by the Railroad Retirement Board without application therefor.

TITLE III—AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

CHANGES IN TAX RATES

79 Stat. 861. 26 USC 3201.

SEC. 301. (a) Section 3201 of the Internal Revenue Code of 1954 (relating to rate of tax on employees under the Railroad Retirement Tax Act) is amended by striking out "6¾ percent" from subdivision "(3)" and inserting in lieu thereof "7 percent"; by striking out "7 percent" from subdivision "(4)" and inserting in lieu thereof "7¼ percent"; and by striking out "7¼ percent" from subdivision "(5)" and inserting in lieu thereof "7½ percent".

26 USC 3211.

(b) Section 3211 of such Code (relating to rate of tax on employee representatives under the Railroad Retirement Tax Act) is amended by striking out "13½ percent" from subdivision "(3)" and inserting in lieu thereof "14 percent"; by striking out "14 percent" from subdivision "(4)" and inserting in lieu thereof "14½ percent"; and by striking out "14½ percent" from subdivision "(5)" and inserting in lieu thereof "15 percent".

79 Stat. 862. 26 USC 3221.

(c) Section 3221(a) of such Code (relating to rate of tax on employers under the Railroad Retirement Tax Act) is amended by striking out "6¾ percent" from subdivision "(3)" and inserting in lieu thereof "7 percent"; by striking out "7 percent" from subdivision "(4)" and inserting in lieu thereof "7¼ percent"; and by striking out "7¼ percent" from subdivision "(5)" and inserting in lieu thereof "7½ percent".

SUPPLEMENTAL TAXES

(d) Section 3211 of such Code is further amended by inserting "(a)" after "SEC. 3211" and by adding at the end thereof the following new subsection:

"(b) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 2 cents for each man-hour for which compensation is paid to him for services rendered as an employee representative."

(e) Section 3221 of such Code is further amended by adding at the end thereof the following new subsection:

"(c) 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 2 cents for each man-hour, for which compensation is paid. With respect to daily, weekly, or monthly rates of compensation such tax shall apply to the number of hours comprehended in the rate together with the number of overtime hours for which compensation in addition to the daily, weekly, or monthly rate is paid. With respect to compensation paid on a mileage or piecework basis such tax shall apply to the number of hours constituting the hourly equivalent of the compensation paid.

"Each employer of employees whose supplemental annuities are reduced pursuant to section 3(j)(2) of the Railroad Retirement Act of 1937 shall be allowed as a credit against the tax imposed by this subsection an amount equivalent in each month to the aggregate amount of reductions in supplemental annuities accruing in such month to employees of such employer. If the credit so allowed to such an employer for any month exceeds the tax liability of such employer accru-

Ante, p. 1073.

ing under this subsection in such month, the excess may be carried forward for credit against such taxes accruing in subsequent months but the total credit allowed by this paragraph to an employer shall not exceed the total of the taxes on such employer imposed by this subsection. At the end of each calendar quarter the Railroad Retirement Board shall certify to the Secretary of the Treasury with respect to each such employer the amount of credit accruing to such employer under this paragraph during such quarter and shall notify such employer as to the amount so certified."

(f) The amendments made by subsections (d) and (e) of this section shall be effective with respect to man-hours, for sixty months beginning with the first month following enactment of this Act, for which compensation is paid. Effective date.

Approved October 30, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 2169 (Comm. on Interstate & Foreign Commerce).
SENATE REPORT No. 1718 (Comm. on Labor & Public Welfare).
CONGRESSIONAL RECORD, Vol. 112 (1966):
Oct. 3: Considered and passed House.
Oct. 14: Considered and passed Senate.

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 51 October 25, 1966

RECENT CONGRESSIONAL ACTIVITY ON SOCIAL SECURITY LEGISLATION

To Administrative, Supervisory, and Technical Employees

During the last several days before its adjournment, last Saturday, the 89th Congress had under consideration a number of changes in the social security program. Most of the proposals were put aside until next year, but the Congress did pass an amendment concerning the reimbursement of proprietary extended care facilities under the hospital insurance program. The following summarizes recent Congressional activity dealing with the most important of the social security changes. Two bills amending the Railroad Retirement Act are also discussed briefly.

President Johnson's Proposals

The Committee on Ways and Means of the House of Representatives considered a bill which was intended to put into effect the basic elements of what President Johnson indicated he would recommend to the Congress next year. Briefly, the bill would have provided the following:

1. A 10 percent across-the-board increase in social security benefits.

2. A special minimum benefit of up to $100--$4 for each year (up to a maximum of 25) for each "year of coverage" the worker had. For years prior to 1951, years of coverage (up to a maximum of 14) would be determined by dividing the worker's total credited earnings prior to 1951 by $900; for years after 1950, a year of coverage would be any year in which the worker earned at least 25 percent of the earnings base maximum in effect during such year.

3. A change in the retirement test under which the annual exempt amount of earnings would be increased from $1,500 to $1,620 and the monthly amount would be increased from $125 to $135; $1 in benefits would

be withheld for each $2 of earnings between $1, 620 and $2, 820 and for each $1 of earnings in excess of $2, 820.

4. An extension of health insurance protection to social security disability beneficiaries.

To finance the changes proposed, the bill would have increased both the earnings base and the social security tax rates. 1/ The Committee felt that public hearings should be held before action was taken on a bill that would increase the amount of social security taxes, and the bill was set aside. The Chairman said that the Committee's first priority when Congress convenes next year would be action on social security legislation.

Reimbursement for Proprietary Extended Care Facilities

On September 22, 1966, the Senate passed, as an amendment to H.R. 6958 (a tax bill dealing with the Internal Revenue Service's automatic data processing system), provisions sponsored by Senator Miller which would amend the definition of "reasonable cost" in Title XVIII as it applies to extended care facilities to include a return on the "fair market value" of such facilities. The return would be sufficient to attract capital investment and greater than that customarily paid to investors in public utilities or risk-free ventures. The amendment would permit proprietary and nonprofit extended care facilities to be reimbursed differently.

On October 17, the conference committee on H. R. 6958 agreed to a modification of the Miller amendment. The amendment, as modified by the conference committee, changes the definition of "reasonable cost" under Title XVIII as it applies to proprietary extended care facilities to include a reasonable return on equity capital, including necessary working capital, invested in such facilities and used to furnish services to medicare beneficiaries. The rate of the return to be paid on such investment will equal 1-1/2 times the average rate earned by current investment of hospital insurance trust fund monies. (This formula yields about 7-1/2 percent return at the present time.)

1/ Recently revised long-range cost estimates for the cash benefits program show the program to have a substantial actuarial surplus. About three-fourths of the cost of the bill could have been met under the financing provisions in present law. Additional information on these new cost estimates will be sent to you soon.

Although the amendment refers only to proprietary extended care facilities, the report of the conference committee on H. R. 6958 indicates that the committee expects comparable treatment to be given to proprietary hospitals under the Social Security Administration's regulations on reimbursement for provider costs under Title XVIII. The conference committee also stated that it expects that, in the case of facilities that receive the return on equity capital under the amendment, the 2 percent allowance in lieu of specific allowance for "other costs" that is available under regulations will be reduced by one-fourth.

The amendment as modified by the conference committee was passed by the Senate on October 19, and by the House of Representatives on October 20.

Proposal to Cover Drugs under Supplementary Medical Insurance

An amendment introduced by Senator Douglas to include prescription drugs as a reimbursable expense under the supplementary medical insurance plan was adopted by the Senate as part of H. R. 13103, a bill primarily relating to treatment of foreign investments in the United States.

In general, under the Douglas proposal, a schedule of allowances would be developed specifying the amount of reimbursement for each covered prescribed drug based upon the cost of the lowest-priced generic equivalent plus a reasonable charge for preparation, handling, and distribution. The drugs which would be covered include those listed in a formulary to be established by a formulary committee consisting of the Surgeon General, the Commissioner of the Food and Drug Administration, and the Director of the National Institutes of Health. Reimbursement for drugs would not be subject to the 20 percent coinsurance applicable to other benefits under Part B. The beneficiary would have to meet the $50 deductible, and the cost of drugs as listed in the allowance schedule could be counted in meeting this deductible. The effective date of the proposal as passed by the Senate was January 1, 1968. The conference committee failed to reach agreement on the drug proposal as passed by the Senate, and the proposal was set aside with the understanding that the question of covering prescription drugs under medicare would receive consideration next year.

Railroad Retirement Bills

Two bills which would make changes in the Railroad Retirement Act were cleared for action by the President. H. R. 14355 provides for the payment of child annuities after age 18 and up to age 22, if the child is a full-time student, and would make several other changes in the beneficiary categories of the railroad retirement program to bring them more closely in

line with those of social security. This bill would make additional minor improvements in the benefit provisions of the Railroad Retirement Act. H. R. 17285 would provide a benefit increase of up to 7 percent for certain annuitants under the railroad retirement program--in general, for those who did not receive an increase, as a result of the 1965 social security amendments, through the operation of the social security minimum provision of the Railroad Retirement Act. H. R. 17285 would also establish a system of employer-financed supplemental annuities for long-service employees which would be in effect for the 60 months following enactment. More detailed information about these two bills will be sent out soon.

Robert M. Ball
Commissioner

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 52 October 31, 1966

NEW ACTUARIAL COST ESTIMATES FOR OASDI

To Administrative, Supervisory,
and Technical Employees

In Commissioner's Bulletin No. 51, I mentioned that the long-range cost estimates for the cash benefits part of the social security program had recently been revised and that additional information on the new estimates would be sent to you shortly. Enclosed is a memorandum from the Chief Actuary, Robert Myers, which discusses the revised estimates.

Robert M. Ball
Commissioner

Enclosure

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Robert M. Ball
Commissioner of Social Security

DATE: October 11, 1966

FROM : Robert J. Myers
Chief Actuary

SUBJECT: New Actuarial Cost Estimates for OASDI

In accordance with our past practice of keeping a continuous watch on the changes in the cost factors affecting the Social Security program, we have completed detailed revisions of the basic actuarial cost estimates which reflect recent changes in these cost factors.

The actuarial cost estimates upon which the 1965 Amendments to the Social Security Act were based were developed in 1963. The new cost estimates for the cash-benefits portion of the Social Security program indicate that it is in very sound financial condition. The financing of the Old-Age, Survivors, and Disability Insurance program is such that there is a favorable actuarial balance, on a long-range basis, of approximately $\frac{3}{4}$ of 1 percent of taxable payroll.

Continuing study is now in progress in regard to the long-range actuarial cost estimates for the Medicare program, but it is not anticipated that any substantial changes therein will be made until more actual operating experience becomes available.

Long-range estimates of the income and disbursements of the Old-Age and Survivors Insurance Trust Fund and of the Disability Insurance Trust Fund are made over the period of the next 75 years. The trust funds are said to be in close actuarial balance when, for this period, the estimated income from contributions and from interest on investments will be sufficient to cover both estimated benefit payments to all present and future beneficiaries and the administrative expenses of the system. For the two trust funds as a whole, the new long-range actuarial cost estimates indicate that the system has an extremely favorable positive actuarial balance--amounting to 0.74% of taxable payroll on a level-cost basis, according to the intermediate-cost estimate.

Although there is a significant positive (or favorable) actuarial balance for the Old-Age, Survivors, and Disability Insurance program as a whole, the actuarial balance for each of the two portions of the program--Old-Age and Survivors Insurance and Disability Insurance--is differently affected. The Old-Age and Survivors Insurance program has, according to the intermediate-cost estimate, a positive actuarial balance of 0.89% of taxable payroll, but the Disability Insurance program shows a negative actuarial balance of 0.15% of taxable payroll.

It would seem appropriate to increase the allocation of future contribution income to the Disability Insurance Trust Fund without, for this reason, changing the overall financing provisions of the program. The increased allocation to the Disability Insurance Trust Fund could restore it to a condition of close actuarial balance, while still leaving a very substantial positive actuarial balance in the Old-Age and Survivors Insurance Trust Fund. Such a reallocation of contribution income between the two trust funds would, of course, not affect the very sizable positive actuarial balance of the Old-Age, Survivors, and Disability Insurance system as a whole, but it would make for a more reasonable subdivision of the income between the two portions of the system.

The very favorable picture for the Old-Age, Survivors, and Disability Insurance system as a whole results from the effects of a number of factors. In the new cost estimates, the earnings assumptions are based on the levels of 1966, rather than 1963. A higher earnings assumption produces a more favorable actuarial balance because under such an assumption--due to the weighted nature of the benefit formula--contribution income increases more rapidly than benefit outgo.

In view of the trends in recent years, the assumption as to the future interest rate earned by the trust funds has been increased from 3½% to 3¾% (which is well below the rate of 5-1/8% that was obtained for new issues in August 1966). Although the financing of the program is not based on full-reserve principles, a higher interest rate results in increased income from this source and thus tends to reduce the required contribution rates.

Recent labor force participation experience has indicated a continually increasing trend of more and more women working in covered employment. This will result in more women obtaining eligibility for retirement and other benefits on the basis of their own earnings credits. Accordingly, there will be some decrease in the relative amount of wife's and widow's benefits paid on the basis of employment of husbands.

The mortality assumptions underlying the cost estimates have been significantly revised. The projected mortality assumptions in the previous cost estimates were based on the experience in the 1940's and early 1950's, when there was an accelerated reduction in mortality. However, as has been shown by the official United States Life Tables for 1959-61, based on the 1960 census, which have just recently become available, mortality has, in the past decade, shown more of a tendency to level off, particularly at the very old ages. The new cost estimates are based on a population projection that assumes some reductions in mortality, but these are much lower than the ones previously projected. Accordingly, the relative cost of the program is reduced, because there will be smaller numbers of retirement beneficiaries than had previously been estimated.

The assumptions as to future birth rates that underlie the cost estimates have also been significantly revised. These assumptions are important in

that they determine--after several decades--the size of the covered labor force that makes contributions under the program. The previous cost estimates assumed that fertility would decrease rapidly and would then level off after about 35 years so that the population would ultimately become stationary. Under the new cost estimates, when consideration is given only to the next 75 years, it is possible to make more realistic fertility assumptions. Under the new population projection, there has been taken into account the higher fertility experience during the late 1950's and early 1960's. Some decrease in fertility is assumed in the future--somewhat more than most demographers now believe likely--but less of a decline than in the previous estimates. As a result, the relative cost of the program is reduced because, during the 75-year period considered, there will be larger numbers of contributors than had previously been estimated.

Under the Disability Insurance program, there continue to be somewhat more beneficiaries on the roll than had been anticipated. This is not primarily the result of the minor liberalization of the definition of disability that was made in the 1965 Amendments (which appears to have a cost that is close to what was estimated). Not only are the beneficiaries remaining longer on the benefit roll than was anticipated under the previous estimates, but also somewhat more persons are qualifying for disability benefits. As a result of these factors, the relative cost of the Disability Insurance program is estimated to be significantly increased.

Many other factors enter into the calculations of the new actuarial cost estimates, such as retirement-rate assumptions and remarriage rates. Some of these factors are relatively small in importance. As for others, the recent experience has indicated that no change in the assumptions seems necessary.

Robert J. Myers

Robert J. Myers

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 53 November 7, 1966

ENACTMENT OF RAILROAD RETIREMENT LEGISLATION

To Administrative, Supervisory,
and Technical Employees

On October 30, 1966, the President signed H. R. 14355 (Public Law 89-700) and H. R. 17285 (Public Law 89-699), the two railroad retirement bills referred to in Commissioner's Bulletin No. 51, dated October 25.

Public Law 89-700 (H. R. 14355)

Public Law 89-700 makes improvements in the benefit provisions of the Railroad Retirement Act and improves the coordination of the benefits of the social security and railroad retirement programs by bringing the beneficiary categories of the railroad retirement program more closely in line with those of social security. A brief description of the more substantive provisions follows:

1. Child's annuities will be payable after age 18 and up to age 22, if the child is a full-time student. This is in line with the provisions added to the Social Security Act in 1965.

2. The residual payment provision of the Railroad Retirement Act is updated to take into account increases in the employee railroad retirement tax rates. Under this provision, if no monthly benefit is immediately payable, a survivor of a deceased railroad worker may receive a lump-sum payment equal to the employee's contributions plus an allowance for interest, less the amount of benefits previously paid.

3. A widow or widower will no longer be required to have been living with the worker at the time of his or her death to qualify for a monthly survivor annuity. The "living-with" requirement of the social security program was removed in 1957.

4. A wife under age 62 may now qualify for a spouse's annuity on the basis of having a minor or disabled child in her care even if the employee annuitant has no current connection with the railroad industry. Formerly a current connection was required.

5. Occasional small losses in total benefits will no longer occur because a railroad annuitant whose annuity was computed under the social security minimum provision later qualifies for a benefit (usually an old-age insurance benefit) under social security.

6. The earnings of a survivor annuitant under the railroad program for months after the survivor ceased to be entitled to an annuity (e.g., because of marriage), will no longer be included in annual earnings for the purpose of making deductions from the survivor's annuity under the retirement test of the railroad program. (The retirement test of the railroad program which applies in survivors cases and which is based on annual earnings was, before this change made by Public Law 89-700, the same as the retirement test of the social security program.)

7. The annuities of disabled workers and disabled children over age 18 will be continued for 2 months after the month of their recovery. This brings these provisions of the Railroad Retirement Act in line with the comparable provisions of the Social Security Act.

8. Adoption of a child by a brother or sister after the employee's death will not terminate a child's annuity. This is in line with one of the 1965 amendments to the Social Security Act.

9. An overpayment made to any person can be recovered by adjustment, during the lifetime of the overpaid individual, of the annuities of any other person entitled on the basis of the same earnings record. A somewhat similar but more comprehensive provision for recovering overpayments under the Social Security Act from other beneficiaries entitled on the same earnings record during the lifetime of the overpaid individual, or from his estate after his death, was added by the Senate Committee on Finance to the 1965 social security amendments. However, the provision was removed by the Conference Committee.

Public Law 89-699 (H. R. 17285)

Public Law 89-699 establishes a system of employer-financed supplemental annuities under the Railroad Retirement Act, and provides a benefit increase of up to 7 percent for certain annuitants under the railroad retirement system--in general, for those who did not receive an increase, as a result of the 1965 social security amendments, through the operation of the social security minimum provision of the Railroad Retirement Act. This 7-percent increase provided by Public Law 89-699 will not be paid to an annuitant for any month for which he receives a supplemental annuity. The benefit increase would be financed by an increase of one-fourth of 1 percent each in the railroad retirement contribution rates for both employers and employees, effective on January 1, 1967.

The supplemental annuities will range from $45 monthly to $70 monthly, and will be payable only to retired railroad workers with at least 25 years of service. They will be in effect for only 60 months, beginning with November 1966, and will be payable only to persons whose regular retirement annuities first become payable on or after July 1, 1966. The supplemental annuities will be financed by a tax, effective for 60 months, beginning with November 1966, on railroad employers of 2 cents per man-hour of work performed for such employers. Unlike the other annuities payable under the Railroad Retirement Act, supplemental annuities will be subject to income tax.

The supplemental annuities provided by Public Law 89-699 had been the subject of negotiation for several years by the carriers and unions, who on August 24, 1966, reached an agreement to request the Congress to enact legislation providing for the supplemental annuities under the railroad retirement law.

Robert M. Ball
Commissioner

LISTING OF REFERENCE MATERIALS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. *Railroad Retirement Act--Supplemental Benefits. Hearing . . . 89th Congress, 2d session*

U.S. Congress. Senate. Committee on Labor and Public Welfare. *Railroad Retirement Benefits. Hearing . . . 89th Congress, 2d session.*

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2171

AMENDING THE RAILROAD RETIREMENT ACT OF 1937, THE RAILROAD UNEMPLOYMENT INSURANCE ACT, AND THE RAILROAD RETIREMENT TAX ACT

OCTOBER 1, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 14355]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 14355) to amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act and the Railroad Retirement Tax Act to make certain technical changes, to provide for survivor benefits to children ages 18–21 inclusive and for other purposes, having considered the same, report favorably thereon with amendments, and recommend that the bill as amended do pass.

The amendments are as follows:

1. On page 3, line 5, strike out "(i)" and insert "(j)".

2. On page 5, in line 20, strike out the word "annuities" and insert "benefits"; in line 21, after the word "disappeared" insert "and to have been completely insured"; in line 22, strike out "have ben" and insert "have been"; in line 23, strike out "annuity amounts" and insert "benefits"; and in line 24, strike out "as a widow's annuity".

3. On page 18, strike out lines 8, 9, 10, 11 and 12 and insert:

> be effective with respect to months after the month in which this Act is enacted.

4. On page 20, strike out lines 5 and 6 and insert in lieu thereof the following:

> shall be effective with respect to annuities for months after the month of enactment of this Act. No lump-sum benefit under section 5(f)(2) of the Railroad Retirement Act of 1937

shall be awarded after the date of enactment of this Act in any case in which an individual survives who would be entitled to an annuity under the amendment made by this section unless such individual executes an election in accordance with such section 5(f) (2) before attainment of age 60 to have such benefit paid in lieu of other benefits.

Purpose of the Bill

In the administration of the Railroad Retirement Act of 1937 and the Railroad Unemployment Insurance Act, the Railroad Retirement Board has encountered a number of technical difficulties which the bill would eliminate, and several substantive problems which the bill would solve. The technical amendments would add no cost to either the railroad retirement system or the railroad unemployment insurance system.

Of the substantive amendments, one provides benefits for surviving children in the ages 18 to 21, inclusive, who are full-time students, and would cost $2.4 million a year on a level basis. This amendment is necessary to provide benefits to such children similar to the benefits now available under the Social Security Act.

Another amendment relates to the residual benefit under section 5(f)(2) of the Railroad Retirement Act payable after the death of an employee, and would cost $4.3 million a year on a level basis. This residual benefit is intended to be in an amount approximately equal to the taxes an employee paid, plus an allowance in lieu of some interest, but minus, of course, other benefits paid. In view of the tax rates for years after 1967 (8.15 percent for 1968 up to 9.35 percent for years after 1972), the maximum factor of 8 percent now applicable in computing this benefit will not be large enough to give full effect to the underlying purpose of the benefit. With respect to the periods after 1965 the amount to be included in the residual lump sum would be the amount of employee taxes (one-half of an employee representative's taxes would be deemed employee taxes) in effect during that period plus one-half of 1 percent of the compensation on which such taxes were payable, which would be a form of interest.

The net cost of all the other amendments would be $1.1 million, making the total cost of the bill $7.8 million a year on a level basis.

Although at the present time the actuarial deficiency in the financing of the railroad retirement system is about 0.62 percent of taxable payroll (or $29.8 million a year on a level basis), which deficiency would be increased by 0.16 percent of such payroll (or $7.8 million a year on a level basis) to 0.78 percent of such payroll (or $37.6 million a year on a level basis), the committee believes that the equities of the proposals in the bill are such as to warrant their enactment.

Hearings on the Bill

Hearings on the bill were held on April 21, 1966, before the Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce. The Chairman of the Railroad Retirement Board and counsel for the Railway Labor Executives' Association testified in support of the bill. No testimony was submitted in opposition to the bill.

JUSTIFICATION OF THE BILL—COST

The committee is, of course, cognizant of the fact that the railroad retirement system is now underfinanced by 0.62 percent of taxable payroll on a level basis (or $29.8 million a year on a level basis) and that enactment of this bill would increase the deficit to 0.78 percent of taxable payroll (or $37.6 million a year on a level basis). The Railroad Retirement Board is also concerned about this increase in the deficit, but in its report on the bill stated that "the consideration in favor of the provisions included in the bill are such as to warrant their enactment." The testimony of the Chairman of the Board and of the counsel for the Railway Labor Executives' Association during the hearings on the bill was to the same effect. The committee is of the same opinion.

While the total cost of the bill is estimated to be $7.8 million a year on a level basis, the bulk of this cost would be incurred by the provision to provide benefits to full-time students in the ages 18 to 21, inclusive ($2.4 million a year), and the provision to bring up to date the residual lump-sum benefits under the Railroad Retirement Act ($4.3 million a year). The remaining amendments would cost $1.2 million a year, but, according to the report of the Railroad Retirement Board, two of these amendments would save $0.1 million a year, leaving the net cost of the other amendments at $1.1 million a year on a level basis. The committee believes that the provision in the bill for benefits to full-time students, as now provided for under the Social Security Act, is essential and should be enacted. The other costly provision in the bill is the residual benefit which, under a congressional policy of long standing, is intended to insure an employee that in no case will the benefits to him or his family be less in total than the amount of taxes he had paid into the railroad retirement system, plus a small amount in lieu of interest. The committee believes that there should be no departure from this longstanding congressional policy. The committee is aware of the fact that when the railroad retirement system is underfinanced by only about an estimated 0.50 percent or less of payroll, the system is considered to be in a financially sound condition. The committee believes, however, that the fact that after enactment of the bill the deficit would be 0.78 percent or 0.28 percent above the acceptable tolerance of 0.50 percent is not so serious as to warrant a rejection of the bill. The committee therefore concludes that the bill should be enacted.

EXPLANATION OF THE BILL BY SECTIONS

TECHNICAL CHANGES

Section 101. (a) Since Alaska and Hawaii are now States in the Union, this subsection would remove from section 1(e) of the Railroad Retirement Act the unnecessary specific reference to them as such.

(b) This subsection would make technical changes in section 1(h) of the act with respect to the language of the provision for disregarding earnings in the service of a local lodge or division of a railway labor organization employer of less than $3 a month.

(c) Section 3(e) of the Railroad Retirement Act of 1937 contains a provision which, in effect, guarantees that an annuity shall be no less than 110 percent of the amount, or the additional amount, which would be payable under the Social Security Act if the railroad service on which the annuity is based had been employment subject to that act. For the purposes of this provision, as well as others, the Social Security Act is defined in section 1(q) of the Railroad Retirement Act of 1937 as the Social Security Act as amended in 1965. In the past, this section 1(q) had to be changed each time the Social Security Act was amended so as to refer to the Social Security Act as currently in effect. To avoid the necessity of changing section 1(q) of the act each time the Social Security Act is amended, the amendment made by this subsection of the bill would provide that the term "Social Security Act" shall mean the Social Security Act as amended from time to time, and thus dispense with the necessity of changing section 1(q) each time the Social Security Act is amended.

SECTION 102. ADJUSTMENT OF CERTAIN ANNUITIES

Section 102. (a) Under the amendment made by this subsection to section 2(a) of the act, an employee's disability annuity would be paid for 2 months after his recovery from disability. The provision as changed would correspond to a similar provision in the Social Security Act.

(b)(1) and (c) If an employee annuitant who is 65 years of age does not have a current connection with the railroad industry, no spouse's annuity is payable to his wife if she is under age 65 (or 62 in the case of a reduced annuity) even though she has the employee's minor or disabled child in her care. The reason for this is that her eligibility depends upon the child becoming entitled to a child's survivor annuity if the employee were then to die. However, if he were then to die without being currently connected with the railroad industry, or was not completely insured for other reasons, the child would not be entitled to an annuity, as such, under the Railroad Retirement Act, but would be entitled to a monthly benefit under the Social Security Act. The amendment made by subsection 102(b)(1) of the bill to section 2(e)(ii) of the Railroad Retirement Act would make the wife of such employee annuitant eligible for a spouse's annuity regardless of his insured status, as long as the child meets the requirements of section 5(l)(1) of the Railroad Retirement Act of 1937, other than section 5(l)(1)(ii)(B) thereof (the proposed new provision to qualify a child age 18 to 21, inclusive, while a full-time student). The amendment made by subsection (c) in section 2(g) of the act would terminate a spouse's annuity based on having a child in her care when the child attains age 18 or recovers from disability even though the child would be entitled to an annuity by reason of being a full-time student.

(b)(2) The amendment made by this paragraph would eliminate the words "from time to time" from section 2(e) of the act which would be no longer necessary by reason of the enactment of section 101(c) of the bill.

(d) Under present law, an annuity on the basis of age is reduced by one one-hundred-eightieth for each month that the annuitant is under age 65 (other than in the case of a woman with 30 years of serv-

ice); if the annuitant is only age 60, the annuity is reduced by one-third, and if his annuity is later computed by reason of an increase in benefits or added service, the increase is also reduced by one-third even if at the time of recomputation the annuitant is, say, 63 years old. The amendment made by this subsection would add a new subsection (j) to section 2 of the act to provide that the amount subsequently added to the annuity be reduced only on the basis of the annuitant's age at the time the amount is added. In the case described above, the increase would be adjusted by only twenty-four one-hundred-eightieths instead of sixty one-hundred-eightieths.

SECTION 103. EFFECTIVE DATES; GUARANTEED MINIMUM BENEFITS; DISAPPEARANCE

Section 103. (a) The amendments made by this subsection would correct technically, in section 3(b)(1) of the act, the reference to certain dates.

(b) To expedite adjudication of claims, the amendment made by this subsection in section 3(c) of the act would permit the certification for payment of an annuity based on months of service immediately preceding retirement with respect to which the employer's return of compensation had not yet been entered on the Board's records. In such case, the compensation for such months would be assumed to be the average of the compensation for months in the last period for which the employer had filed a return which had been entered on the Board's records, subject, however, to subsequent adjustment upon the employee's request if the assumption proves to have been in error. The provision, however, is discretionary and would not be used, for example, where the number of years of service is crucial to the determination of eligibility.

(c)(1) The amendment made by this paragraph in section 3(e) of the act is intended to eliminate an anomaly. The social security guarantee provision in section 3(e) of the act, in effect, assures that an annuity, or the total of annuities for a month, shall in no case be less than 110 percent of the amount, or the additional amount, which would be payable to all persons for the month if the railroad service on which the annuity or annuities is based had been employment under the Social Security Act. Consider the case of a man whose annuity under the regular railroad retirement formula would be $50 a month. He has social security employment, but not enough for an insured status under the Social Security Act. By combining the service credits under both systems he could receive $100 a month under the Social Security Act (there is no primary insurance amount under the Social Security Act of exactly $100 but the round figure is used for simplicity). In such case his annuity as calculated under the social security guarantee provision contained in section 3(e) of the Railroad Retirement Act is in the amount of $110 a month. If he subsequently acquires additional employment under the Social Security Act to entitle him to a primary insurance benefit of $48, the $100 is reduced by $48 and the employee's annuity under the Railroad Retirement Act becomes $57.20 a month ($52 plus 10 percent). The total of the two benefits is then $105.20 instead of $110 he formerly received under the Railroad Retirement Act alone. Thus, the employee's eligibility under the Social

Security Act has resulted in penalizing him to the extent of $4.80 a month. The amendment made by this subsection would entitle him to $62 ($52 plus 10 percent of $100) instead of $57.20, and the total of both benefits would be $110 a month ($62 plus $48), or the same amount he received under the Railroad Retirement Act alone before he became entitled to a social security benefit. This change will also remove the anomaly under present law where the sum of a widow's annuity plus her own social security benefit can be less than would be her widow's annuity computed under the minimum guarantee if she were not eligible for the social security benefit.

(c)(2) Under present law, an annuity which begins after the first day of a month cannot be paid at the social security guarantee rate for the days of such month for which it is payable; for such days the annuity is paid under the regular railroad retirement formula. The amendment made by this paragraph to section 3(e) of the act would permit an annuity to be paid at the social security guarantee rate for part of a month. The amount of the annuity for the part of the month would bear the same proportion to the annuity for an entire month as the proportion of the days for which it is payable bears to 30.

(d) For the purpose of determining family relationships and the "living with" requirement, section 5(1)(1) of the Railroad Retirement Act incorporates the provisions of section 216(h) (1), (2), and (3) of the Social Security Act as in effect before such act was amended in 1957. Paragraph (5) of section 3(f) of the Railroad Retirement Act relating to "living with" incorporates the "conditions set forth in section 216(h) (2) or (3) of the Social Security Act." By reason of the provisions in section 5(1)(1) of the Railroad Retirement Act, the Railroad Retirement Board has, in practice, applied the conditions set forth in section 216(h) (2) or (3) of the Social Security Act as in effect prior to 1957. The amendment made by this subsection would clarify the Board's position and authority in this respect.

(e) The Court of Appeals for the Sixth Circuit held, contrary to the position taken by the Board, that when an annuitant disappears, under circumstances not showing satisfactorily whether or not he died or continued in life, his retirement annuities continue to accrue until the end of the 7-year period when he can be regarded as having died under the rule generally applicable in connection with the presumption of death. (*Tobin* v. *Railroad Retirement Board*, 286 F. 2d 480; and see *Flanagan* v. *Railroad Retirement* Board, 332 F. 2d 301 (C.A. 3).) As a result, the Board is now obligated to pay a large lump sum representing such accruals for 7 years. In the *Tobin* cases, this payment was made to the annuitant's daughter but, of course, it could, in other cases, go to grandchildren, parents, or brothers and sisters. The amendment in section 3(g) of the act would place the burden upon the claimant for accrued annuities to prove that the annuitant was alive during each month for which the accrued annuity is claimed.

Where the annuitant disappears, under circumstances which do not demonstrate that he died, and leaves a wife receiving a spouse's annuity, she obviously continues to be his wife or else she is his widow. In such case, the Railroad Retirement Board has paid the lesser of the spouse's annuity or the widow's annuity on the theory that she is entitled to one or the other. Under the amendment made by this subsection, the annuitant in such case would be deemed to have died

when he disappeared, but only for the purpose of paying annuities under section 5. Such annuities, however, would be subject to adjustment and recovery if the annuitant is proven to be alive. Ordinarily, under present law, a widow's annuity will not be less than she has received as a spouse's annuity, and this would prevent a reduction in his wife's annuity payments upon his disappearance. Under this amendment, the assumption of death would apply only if the annuitant's wife would be entitled to a spouse's annuity (either on a reduced or a full basis) if he was shown to be alive, regardless of whether she has filed an application for a spouse's annuity. The application for the widow's annuity would be treated as an application for a spouse's annuity where necessary. (Under present practice an application for a spouse's annuity is treated as an application for a widow's annuity where necessary.)

(f) Under present law all annuity amounts are rounded to the next higher multiple of 10 cents. This subsection would amend section 3(i) of the act so that annuities payable under the regular railroad retirement formula would end in a digit denoting 5 cents. The purpose of this change is to enable field representatives to ascertain immediately from the last digit of the annuity amount (either 5 or 0) whether the payment is under the regular railroad retirement formula or under the social security guarantee provision. This knowledge would permit the representatives to provide full advice to an annuitant as to the effect on his annuity of employment in which he is engaged, or contemplates engaging.

SECTION 104. REDESIGNATIONS

Section 104. This amendment would merely redesignate certain subsections of section 4 of the act to supply the missing designations of subsections (h) and (m).

SECTION 105. TECHNICAL CHANGES; RESIDUAL LUMP SUM

Section 105. (a) and (b) The amendments made by these two subsections would amend section 5(b) of the act to make certain that a widow's current insurance annuity will not be payable on the basis of having in her care a nondisabled child age 18 to 21, inclusive, who is a full-time student (such a child would be eligible for an annuity under an amendment proposed by the bill), and to strike out certain superfluous language.

(c) This subsection would amend section 5(f)(1) of the act to permit the payment of the insurance lump-sum benefit directly to a funeral home subject to the same conditions and limitations provided for in the Social Security Act for the payment of the death benefit to a funeral home. This change would also permit individuals who have paid certain charges in connection with a burial, other than the charges of a funeral home (such as those in connection with opening and closing the grave and providing the burial plot), to be reimbursed from the insurance lump-sum benefit. In addition, clause (2) of this subsection would eliminate an inequity regarding the eligibility for the deferred lump sum under section 5(f)(1) of the Railroad Retirement Act. Under present law, this lump sum is never payable in a case where, for example, at the time of the death of the employee, his widow

and minor child are entitled to annuities on the basis of his compensation for less than 12 months even though the total of the monthly annuities to both is less than the insurance lump sum. This amendment in clause (2) would make possible the payment of the deferred lump sum in such cases so that the survivors will not receive less in total benefits than the amount of the lump sum that would have been payable had there been no immediate entitlement to monthly benefits. The lump sum would be reduced, however, by the amount of the annuities paid for that period. Under existing law, the regular lump-sum payment under section 5(f)(1) of the Railroad Retirement Act is payable only to the widow or widower of the employee, but the deferred lump sum is payable to the employee's widow, widower, child or parent, but only if any such person is entitled to an annuity at the time such lump sum becomes due. Under the amendment, such lump sum would be payable only to the widow or widower, whether or not either is then entitled to an annuity on the basis of the death of the employee. The reason for the exclusion of the child or parent of the employee from eligibility for the deferred lump sum is to make the eligibles for this lump sum the same as for the regular lump-sum payment.

(d)(1) The residual lump-sum benefit under section 5(f)(2) of the Railroad Retirement Act is intended to be in an amount approximately equal to the taxes an employee paid under the Railroad Retirement Tax Act, plus an allowance in lieu of interest, but minus, of course, other benefits paid. In view of the tax rates for years after 1967 (8.15 percent for 1968 up to 9.35 percent for years after 1972) the maximum multiplier of 8 percent now applicable in computing this benefit will not be large enough to give full effect to the underlying purpose of the benefit. This amendment made by paragraph (1) of this subsection would continue the present provisions through December 31, 1965. With respect to the years after 1965, the amount to be included in the residual lump sum would be the amount of employee taxes (one-half of an employee representative's taxes would be deemed employee taxes) payable during that time plus one-half of 1 percent of the compensation on which such taxes were payable. The word "payable" is used rather than "paid" in order to avoid ascertaining whether taxes were actually paid. For this purpose, compensation of $160 a month for creditable military service after 1965, would be deemed to be taxable. The employee taxes for hospital insurance benefits would not be included in the computation of the residual benefit as are other employee taxes. The parenthetic phrase inserted before the proviso will exclude in the calculation of such lump sum both the hospital insurance taxes and the hospital insurance benefits.

(2) The reference in section 5(f)(2) of the Railroad Retirement Act to "retirement age (as defined in section 216(a) of the Social Security Act)" is now anomalous since retirement age is not now defined in the Social Security Act. The term as used has been treated by the Board as meaning age of eligibility for survivor benefits; that is, age 60 in the case of a widow and age 62 in the case of a widower or parent, and this paragraph would clarify the Board's authority in this respect.

(e) Section 5(g)(3) of the act is now obsolete. It served only to protect certain rights in regard to the provisions of the act under which the entitlement by an individual to a primary benefit under the

Social Security Act or a retirement annuity under the Railroad Retirement Act affected such individual's rights to a survivor annuity under section 5. Both of these provisions were eliminated in 1954 and 1955, respectively, and the amendment made by this subsection would take cognizance of this.

(f) This subsection makes certain changes of a technical nature in the provisions of section 5(i) of the act relating to deductions from survivor benefits. Also, the amendments made by this subsection to section 5(i) of the act would require a reduction in an annuity as to months before an application has been filed so as not to cause the payments to others for those months to be erroneous. This would prevent the need for adjustments and recoveries. For example, the maximum in benefits to a family may have been paid before a child (who was not included in the payments) became entitled to benefits as a student through the provisions of this bill. In such a case, his entitlement for months before his application was filed would, except for this change, cause the others to have been overpaid for the months in question. Further, a residual lump sum under section 5(f)(2) may have been paid to a schoolchild who will qualify for monthly benefits after the amendment providing benefits to children ages 18 to 21 is enacted. The amendment made by this subsection permits recovery, but only of that part of the residual paid to the schoolchild.

(g) Under present law, in applying the work deduction provisions of the Social Security Act which are applicable by reference to survivor annuitants and are applicable in determinations under the social security guarantee provision in section 3(e) of the act, if an individual ceases during a year to be eligible for an annuity or to be included in the guarantee, his earnings for the entire year are taken into account in determining his excess earnings which require deductions from annuity payments during the year. The amendment made by this subsection in section 5(i)(1)(ii) of the act would cause to be disregarded, for purposes of such deductions, all earnings for months in the year beginning with the month in which the individual ceased to be eligible or to be included in the guarantee provision computations for reasons other than excess earnings.

(h) Under the amendment by this subsection to section 5(j) of the act, a child's disability annuity would be paid for 2 months after recovery from disability, the same as under the Social Security Act.

(i) This subsection would amend section 5(k)(1) of the act to correct a section reference.

(j)(1) Adoption by a brother or sister would not, under the amendment made by this subsection to section 5(l)(1)(ii) of the act, disqualify a child for a child's annuity if otherwise qualified. This corresponds to a similar amendment made in 1965 to the Social Security Act.

The amendments made by paragraph (2) and clause (iv) of paragraph (3) of this subsection to section 5(l)(1) provide for the payment of survivor annuities to children ages 18 to 21, inclusive, if they are full-time students, similar to such provisions in the Social Security Amendments of 1965, except that, as provided in the last sentence of section 112(i) of the bill, no application will be required of a child with respect to whom the Board has information of his eligibility for an annuity under this amendment through the application of the so-

cial security guarantee provision in section 3(e) of the Railroad Retirement Act of 1937.

(3) The amendment made by clause (i) of paragraph (3) of this subsection to section 5(l)(1) would avoid the anomaly under existing law where a widow of a railroad employee is not entitled to a benefit, as such, under the Railroad Retirement Act because she failed to meet the "living with" requirement; and is not entitled to a benefit, as such, under the Social Security Act because her husband died insured under the Railroad Retirement Act. This change would apply only to provide entitlement to an annuity; it would not cause an individual to meet the living with requirement as to lump-sum death benefits under section 5(f)(1) and (2) or as to accrued annuities under section 3(f). The annuity would be payable even in a case where the residual lump sum under section 5(f)(2) of the act had been awarded on or before the date of enactment of the bill. The reason for this is that such lump sum could not be recovered from the person or persons to whom it was awarded because such award was in accordance with the law then in effect; and a suspension of annuities to the widow until such time as the residual lump sum is canceled out would, in most cases, have the effect of denying the widow an annuity altogether. Clause (ii) of paragraph (3) of this subsection would insert "and subsection (f) of section 3" after "subsection (f) of section 2" because a test for determining who is a widow, widower, child, or parent is needed for subsection (f) of section 3. The new sentence added by clause (iii) of this paragraph is necessary because section 5(l)(1) does not expressly include grandchildren, brothers, and sisters of the deceased employee in the provisions for determining entitlement to the residual benefit under section 5(f)(2) and accrued annuities under section 3(f), which include, among the beneficiaries, grandchildren, brothers, and sisters. This is, in effect, a clarifying amendment. The amendments made by clause (v) of this paragraph would correct some punctuations.

(k) The amendment made by this subsection would expedite adjudication of survivor claims. (See discussion on sec. 103(b).)

SECTION 106. EMPLOYER RETURNS

Section 106. The change made by this subsection in section 8 of the act would eliminate the requirement that the employer's return of compensation be made under oath, and would correct an error in grammar.

SECTION 107. RECOVERY OF OVERPAYMENTS

Section 107. (a) and (b). The language of the first sentence of section 9 of the Railroad Retirement Act is such that it permits any erroneous payments of auxiliary or survivor benefits to an individual to be recovered only from subsequent payments due that particular individual. For example: (1) Erroneous payments to a spouse cannot be recovered except by consent from payments due another individual; and (2) erroneous payments to one survivor cannot be recovered from another except by consent. The amendment made by subsection (a) would make possible such recovery as a matter of law. The amendment made by subsection (b) would limit the second sentence of sec-

tion 9(a) of the Railroad Retirement Act to the individual to whom the overpayment was made.

SECTION 108. COMPENSATION FOR FURNISHING INFORMATION

Section 108. The amendment made by this section to section 10 of the act would authorize information to be furnished, subject to limitations and conditions, to certain private organizations such as furnishing information to insurance companies, railroad labor and railroad management organizations, upon payment by such persons or organizations to the Board of an amount equal to the cost incurred by the Board in furnishing such information; and such amounts would be credited to the Railroad Retirement Account. Such amounts, under existing law, must be transferred to the general funds in the Treasury. Another amendment made by this section to section 10 of the act would place upon the Railroad Retirement Board the same authority and restriction with regard to disclosure of information obtained in the administration of the Railroad Retirement Act as is now provided in the Railroad Unemployment Insurance Act.

SECTION 109. GUARDIANSHIPS

Section 109. The Social Security Act permits payment of benefits to an individual or to someone for his use and benefit even though he is an incompetent or a minor for whom a guardian is acting. The amendment made by this section to section 19 of the act would confer comparable authority upon the Railroad Retirement Board.

SECTIONS 110–112. TECHNICAL CHANGES; EFFECTIVE DATES

Section 110. The amendment made by this section would strike out a superfluous subsection designation in section 20 of the act.

Section 111. The amendments made by this section would change references in section 202 of part II of the act to certain subsections of section 4 of the Railroad Retirement Act which would be amended by section 104 of the bill.

Section 112. This section provides the effective dates for the amendments made by the bill.

TITLE II. RAILROAD UNEMPLOYMENT INSURANCE ACT

The amendments made by title II of the bill, other than section 202(b), are either technical, making no substantive changes in the Railroad Unemployment Insurance Act, or conform to amendments made in title I of the bill.

Section 202(b). Section 2(g) of the Railroad Unemployment Insurance Act does not provide for escheat of accrued benefits to the railroad unemployment insurance account in the absence of persons to receive payment, as section 3(f)(6) of the Railroad Retirement Act provides for escheat to the railroad retirement account. The amendment made by this section would so provide.

TITLE III. RAILROAD RETIREMENT TAX ACT

Section 301. The amendments made by this section would substitute fixed dates (which are now known) for phrases such as "the calendar month next following the month in which this Act was amended in 1959", in the relevant provisions of all three acts (the Railroad Retirement Act, the Railroad Unemployment Insurance Act and the Railroad Retirement Tax Act). Further, the last amendment made by this section would make the automatic tax increase applicable with respect to compensation paid for services rendered after September 30, 1965, instead of after December 31, 1964, because the 1965 amendments to the Railroad Retirement Tax Act (Public Law 89-212) eliminated the provisions for tax rates for periods before October 1, 1965.

Section 302. The amendment made by this section to section 3221(a) of the Railroad Retirement Tax Act would permit two or more employers who employ the same employee to agree that one of them should report the employee and employer taxes up to the creditable limit and make the required apportionment between or among themselves of their respective obligations for the reporting and payment of the employee and employer taxes. While no similar change is made in the corresponding provisions of the Railroad Unemployment Insurance Act, the committee understands that the Board is authorized to make such a change administratively under that Act and intends to do so.

UNITED STATES OF AMERICA,
RAILROAD RETIREMENT BOARD,
Chicago, Ill., April 14, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, Rayburn House Office Building, Washington, D.C.

DEAR MR. STAGGERS: This is the report of the Railroad Retirement Board on the bill H.R. 14355. The bill was introduced by you on April 6, 1966, and was referred to the House Committee on Interstate and Foreign Commerce.

The bill would make a number of technical changes in the Railroad Retirement Act, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act, none of which would increase the costs of either the railroad retirement system or the railroad unemployment insurance system. The bill would also make a number of substantive changes which would add 0.16 percent of taxable payroll, or $7.8 million a year on a level basis, to the cost of the railroad retirement system. This report will explain briefly these proposed substantive changes.

The 1965 amendments to the Social Security Act provide benefits for surviving children covered under the act if they are full-time students, in the ages 18–21, inclusive. Children do not now have such rights under the Railroad Retirement Act. The bill would provide such rights for them. This provision, it is estimated, will cost $2.4 million a year on a level basis.

The other provision in the bill which involves costs of significance relates to the residual lump-sum benefit provided by section 5(f)(2) of the Railroad Retirement Act. It has been the policy of the Congress for many years to provide a residual death benefit which is intended to be in an amount approximately equal to the taxes the employee paid, plus an allowance in lieu of some interest, but minus, of course, other benefits paid. In view of the tax rates for years after 1967 (8.15 percent for 1968, up to 9.35 percent for years after 1972), the maximum factor of 8 percent now applicable in computing this benefit will not be large enough to give full effect to the underlying purpose of the benefit. After the change the residual benefit would be calculated by including an amount equal to the employee taxes paid for years after 1965, to which amount would be added 0.50 percent of the taxable compensation in the nature of interest. The cost of this amendment is estimated to be $4.3 million a year on a level basis.

All the other substantive amendments are minor and, it is estimated, will cost $1.2 million a year on a level basis, but some of them would save $0.1 million a year, leaving the net cost of them $1.1 million a year. One of these amendments would permit a young wife of an annuitant, having the annuitant's child in her care, to qualify for a

spouse's annuity even though her husband employee has no current connection with the railroad industry. The cost of this amendment is estimated at $500,000 a year on a level basis.

Another amendment would avoid an anomaly in the case of a widow who was not "living with" her husband at the time of his death. She now fails to qualify for a widow's annuity under the Railroad Retirement Act because this act contains a "living with" requirement. The Social Security Act does not require that a widow be "living with" her husband, but benefits cannot be paid to her under the Social Security Act because the case is under the jurisdiction of the Railroad Retirement Board. This amendment would permit her to qualify under the Railroad Retirement Act and would cost, it is estimated, $150,000 a year on a level basis.

Another anomaly under existing law is that in the application of the overall minimum provision in section 3(e) of the Railroad Retirement Act, a person not eligible for benefits under the Social Security Act can receive an annuity in an amount equal to 110 percent of the amount that would be payable to the beneficiary under the Social Security Act if the railroad service on which the annuity is based had been "employment" covered under the Social Security Act. If, however, the annuitant becomes eligible for monthly benefits under the Social Security Act, the railroad retirement annuity must be reduced. The result is that, in some cases, the total of the annuity under the Railroad Retirement Act and the monthly benefits under the Social Security Act is less than was payable to the beneficiary before he became eligible for the monthly benefits under the Social Security Act. This amendment would increase the annuity in such cases to an amount sufficient to make the total of the annuity and the monthly benefits no less than was payable to the beneficiary before he became eligible for the monthly benefits under the Social Security Act. The estimated cost of this amendment is $100,000 a year on a level basis.

In the application of the overall social security minimum, an annuity, as stated earlier, is payable in an amount equal to 110 percent of the amount, or the additional amount, which would have been paid to the annuitant under the Social Security Act if the railroad service forming the base for the annuity had been "employment" under the Social Security Act. Where an employee's annuity begins other than on the first of the month, however, the regular railroad retirement formula would apply for the part of the month. The amendment would make the overall minimum amount applicable in such a case beginning with the date on which the annuity begins to accrue. The amount of the annuity for the part of the month would bear the same proportion to an annuity for the entire month as the proportion for the days for which it is payable bears to 30. The estimated cost of this amendment is $100,000 a year on a level basis.

Another of the substantive amendments would eliminate an inequity regarding the eligibility for the deferred lump sum under section 5(f)(1) of the Railroad Retirement Act. Under present law, this lump sum is never payable in a case where, for example, at the time of the death of the employee, his widow and minor child are entitled to annuities on the basis of his compensation for less than 12 months even though the total of the monthly annuities to both is less than the insurance lump sum. This amendment would make possible the payment

of the deferred lump sum in such cases so that the survivors will not receive less in total benefits than the lump sum that would have been payable had there been no entitlement to monthly benefits. The lump sum would be reduced, however, by the amount of the annuities paid for that period. The estimated cost of this amendment is $200,000 a year on a level basis.

Under present law, if a survivor annuitant ceases to be eligible for the annuity in the middle of the year, the annuitant's earnings for the entire year are taken into account in determining deductions because of excess earnings from annuities during the year. This amendment would cause to be disregarded, for purposes of such deductions, all earnings for months in the year beginning with the month in which the annuitant ceased to be eligible. The estimated cost of this amendment is $100,000 a year on a level basis.

Under present law, adoption of a child by a brother or sister disqualifies the child for a survivor annuity. The 1965 amendments to the Social Security Act provided that such an adoption should not disqualify the child for benefits under that act, and the bill would provide the same with regard to children covered under the Railroad Retirement Act. The estimated cost of this amendment is $50,000 a year on a level basis.

As stated earlier, the actual cost of all these substantive amendments is $1.2 million, but the bill contains two provisions, each of which would save an estimated $50,000 a year. One of these would permit the crediting to the railroad retirement account of moneys received by the Board in payment for administrative expenses incurred for services to private organizations such as insurance companies and railroad labor and railroad management organizations. In the past, sums received by the Board for such services were transferred to the Treasury. The other would preclude the payment of accrued annuities with respect to an annuitant who has disappeared unless he is shown to have been alive during each month with respect to which the accrued annuities are claimed. Where a wife was receiving an annuity as such, she would be assured of continuance of monthly payments in the form of a widow's annuity after her husband disappeared; in such a case for the purpose of paying a widow's annuity, he would be presumed to be dead immediately after his disappearance.

It is the policy of the Board to oppose legislation which would have the effect of increasing the costs of the railroad retirement system without providing for revenue to cover the added costs. As you know, whenever there is an estimated deficit on a long-range actuarial basis in the financing of the railroad retirement system, of only about 0.50 percent of taxable payroll on a level basis, the system is considered to be in a reasonably sound financial condition. This bill would increase the present deficit (0.62 percent of payroll or $29.8 million a year) by 0.16 percent of payroll ($7.8 million a year), to a total of 0.78 percent of payroll or $37.6 million a year. Nevertheless, the Board has proposed this bill (see Board's letter of April 4, 1966, to the Speaker of the House). The view of the Board is that the considerations in favor of the provisions included in the bill are such as to warrant their enactment despite the relatively small costs that would be added to the system.

The Board favors the enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

HOWARD W. HABERMEYER,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., April 20, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on H.R. 14355, a bill to amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act to make certain technical changes, to provide for survivor benefits to children ages 18 to 21, inclusive, and for other purposes.

The Bureau of the Budget would have no objection to enactment of H.R. 14355.

Sincerely yours,

WILFRED H. ROMMEL,
Acting Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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 reported, 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):

THE RAILROAD RETIREMENT ACT OF 1937

PART I

* * * * * * *

"DEFINITIONS

"SECTION 1. For the purposes of this Act—

"(a) * * *

* * * * * * *

"(e) The term 'United States,' when used in a geographical sense, means the States[, Alaska, Hawaii,] and the District of Columbia.

* * * * * * *

"(h) (1) The term 'compensation' means any form of money remuneration paid to an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips (except as is provided under paragraph (2)), or the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee. For the purposes of determining monthly compensation and years of service and for the purposes of [subsections (a), (c), and (d) of section 2 and subsection (a) of section 5] *sections 2 and 5* of this Act, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $3 and [(1)] (*i*) such compensation is earned between December 31, 1936, and April 1, 1940, and taxes thereon pursuant to section 2(a) and 3(a) of the Carriers Taxing Act of 1937 or sections 1500 and 1520 of the Internal Revenue Code are not paid prior to July 1, 1940; or [(2)] (*ii*) such compensation is earned after March 31, 1940. A payment made by an employer to an individual through the employer's pay roll 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. In determining the monthly compensation, the average monthly remuneration, and quarters of coverage of any employee, there shall be attributable as compensation paid to him in each calendar month in which he is in military service creditable under section 4 the amount of $160 in addition to the compensation, if any, paid to him with respect to such month. Compensation for service 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 for purposes of determining eligibility for and the amount of benefits pursuant to this Act if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his 'years of service.'

"(2) Solely for purposes of determining amounts to be included in the compensation of an individual who is an employee (as defined in subsection (b)) the term 'compensation' shall (subject to section 3(c)) also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than $20.

"(3) Tips included as compensation by reason of the provisions of paragraph (2) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.

* * * * * * *

"(q) The terms 'Social Security Act' and 'Social Security Act, as amended' shall mean the Social Security Act as amended [in 1965] *from time to time.*

"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. * * *

"4. * * *

"5. * * *

"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 paragraph 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 second month following the month* [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.

"(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] *who meets the qualifications prescribed in section 5(l)(1) (without regard to the provisions of clause (ii)(B) thereof)* 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 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.

* * * * * * *

"(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] *who meets the qualifications prescribed in section 5(l)(1) (without regard to the provisions of clause (ii)(B) thereof)* of this Act.

* * * * * * *

"*(j) In cases where an annuity awarded under subsection (a)(3) or (h) of this section is increased either by a recomputation or a change in the law, the reduction for the increase in the annuity shall be determined separately and the period with respect to which the reduction applies shall be determined as if such increase were a separate annuity payable for and after the first month for which such increase is effective.*

* * * * * * *

"COMPUTATION OF ANNUITIES

"SEC. 3. (a) The annuity shall be computed * * *

"(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] *subsequent to December 31, 1936,* 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] *subsequent to December 31, 1936,* 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] *subsequent to December 31, 1936.*

* * * * * * *

"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 calendar month next following the month in which this Act was amended in 1959] *before June 1, 1959,* or in excess of [$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, or in excess of $450 for any month after the month in which this Act was so amended and before the calendar month next following the calendar month in which this Act was amended in 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended] *$400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965,* 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. *Where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 8 of this Act has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the employee) include such months in the computation of the annuity without further verification and may consider the compensation*

for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board.

"(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) $5.00 multiplied by the number of his years of service; or (2) $83.50; or (3) 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 110 per centum of the amount, or 110 per centum of the additional amount] *is less than the total amount, or the additional amount, plus 10 per centum of the total 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* 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 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 (g) and (h)(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 110 per centum of such amount or 110 per centum of such additional amount.] *shall be increased proportionately to such total amount, or such additional amount, plus 10 per centum of such total amount: Provided further, That if an annuity accrues to an individual for a part of a month, the amount payable for such part of a month under the preceding proviso shall be one-thirtieth of the amount payable under the proviso for an entire month, multiplied by the number of days in such part of a month*

"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.

"(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 * * *

* * * * * * *

"(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, *as in effect before 1957*, are fulfilled.

* * * * * * *

"(g) No annuity shall accrue with respect to the calendar month in which an annuitant dies. *In cases where an individual entitled to an annuity under this Act disappears, no annuity shall accrue to him or to his spouse as such with respect to any month until and unless such individual is shown, by evidence satisfactory to the Board, to have continued in life throughout such month. Where an annuity would accrue for months under section 2(a) for such individual, and under section 2(e) for such individual's spouse, had he been shown to be alive during such months, he shall be deemed, for the purposes of benefits under section 5, to have died in the month in which he disappeared and to have been completely insured: Provided, however, That if he is later determined to have been alive during any of such months, recovery of any benefits paid on the basis of his compensation under section 5 for the months in which he was not known to be alive, minus the total of the amounts that would have been paid as a spouse's annuity during such months (treating the application for a widow's annuity as an application for a spouse's annuity), shall be made in accordance with the provisions of section 9.*

* * * * * * *

["(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.]

"(*i*) *If the amount of any annuity computed under this section (other than the proviso of subsection (e)), under section 2 (other than a spouse's annuity payable in the maximum amount), and under section 5, does not, after any adjustment, end in a digit denoting five cents, it shall be raised so that it will end in such a digit. If the amount of any annuity under this Act (other than an annuity ending in a digit denoting five cents pursuant to the next preceding sentence) is not, after any adjustment, a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.*

"MILITARY SERVICE

"SEC. 4. (a) For the purposes of determining eligibility for an annuity and computing an annuity, * * *

* * * * * * *

"[(i)] (*h*) * * *

"[(j)] (*i*) * * *

"[(k)] (*j*) * * *

"[(l)] (*k*) An individual who, before the ninety-first day after the date on which this amendment of section 4 is enacted was awarded an annuity under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, but who had rendered military service which, if credited, would have resulted in an increase in his annuity, may, notwithstanding the previous award of an annuity, file with the Board an application for an increase in such annuity based on his military service. Upon the filing of such application, if the Board finds that the military service thus claimed is creditable and would result in an increase in the annuity, the Board, notwithstanding the previous award, shall recertify the annuity on an increased basis in the same manner as though the provisions making military service creditable had been in effect at the time of the original certification subject, however, to the provisions of [subsection (k)] *subsection (j)* of this section. * * *

"[(n)] (*l*) In addition to the amount authorized to be appropriated in subsection (a) of section 15 of this Act, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1941, (1) an amount sufficient to meet the additional cost of crediting military service rendered prior to January 1, 1937, and after June 30, 1963, and (2) an amount found by the Board to be equal to the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under Subchapter B of Chapter 9 of the Internal Revenue Code, as amended, with respect to the compensation, as defined in such Subchapter B, of all individuals entitled to credit under the Railroad Retirement Acts, as amended, for military service after December 31, 1936, and prior to January 1, 1957, if each of such individuals, in addition to compensation actually earned, had earned such compensation in the amount of $160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount earned by any individual in any one calendar month, and (3) an amount found by the Board to be equal to (A) the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under chapter 22 of

the Internal Revenue Code of 1954 with respect to the compensation, as defined in such chapter, of all individuals entitled (without regard to subsection [(p)(1)] *(n)(1)* of this section) to credit under this Act for military service after December 31, 1956, and before July 1, 1963, if each of such individuals, in addition to compensation actually paid, had been paid such compensation in the amount of $160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount paid to any individual in any one calendar month, less (B) the amount of the taxes which were paid with respect to such military service under sections 3101 and 3111 of the Internal Revenue Code of 1954. * * *

"[(o)] *(m)* * * *

"[(p)] *(n)* * * *

"[(q)] *(o)* * * *

"[(r)] *(p)* * * *

"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)] *employee, which child (without regard to the provisions of subsection (1)(l)(ii)(B)) is 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] *no child of the deceased employee (without regard to the provisions of subsection (1)(l)(ii)(B)) 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.

* * * * * * *

"(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 there be no such widow or widower, such lump sum shall be paid—*

"(i) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remain unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least 90 days have elapsed after the date of death of such insured individual and prior to the expiration of such 90 days no person has assumed responsibility for the payment of any of such burial expenses;

"(ii) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (i)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses; or

"(iii) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (i) and (ii), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.

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.] *to the widow or widower to whom a lump sum would have been payable under this paragraph except for the fact that a monthly benefit under this section was payable for the month in which the employee died and who will not have died before receiving payment of such lump sum.* 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)] *upon attaining the age of eligibility* 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, 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, *and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by him or her after December 31, 1965, under the provisions of section 3201 of the Railroad Retirement Tax Act, plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service rendered after June 30, 1963, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of the Railroad Retirement Tax Act to be employee taxes payable under section 3201 of such Act* (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] *before June 1, 1959*, and in excess of [$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, and in excess of $450 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this Act was so amended] *$400 for any month after May 31, 1959, and before November 1, 1963, and in excess of $450 for any month after October 31, 1963, and before October 1, 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965*), 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[:] *(for this purpose, payments to providers of services under section 21 of this Act and the amount of the employee tax attributable to so much in tax rate as is derived from section 3101(b) of the Internal Revenue Code of 1954, shall be disregarded): 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)] *upon attaining the age of eligibility* 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. * * *

"(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.]

* * * * * * *

"(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 excess earnings under section 203(f) of the Social Security Act or, having engaged in any activity outside the United States, would be charged under such section 203(f) with any excess 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(h)(3) of the Social Security Act if the individuals to whom this subdivision applies were entitled to benefits under section 202 of such Act: *Provided, however, That in determining an individual's excess earnings for a year for the purposes of this section and section 3(e) there shall not be included his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity or ceases, without regard to the effect of excess earnings, to be included in the computation under section 3(e)*; 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 *as in effect before 1947* (other than a survivor annuity pursuant to an election); [and]

"(ii) any lump sum paid, with respect to the death of such employee, *before 1947* under title II of the Social Security Act[.]; *and*

"(iii) any lump-sum benefit, paid to the same person, with respect to the death of such employee under subsection (f)(2).

"(4) Any annuity for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.

"*(5)*[(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 prescribes. 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: *Provided, however, That the annuity of a child qualified under subsection (1)(l)(ii)(C) of this section shall cease to be payable with the month preceding the third month following the month in which he ceases to be unable to engage in any regular employment by reason of a permanent physical or mental condition unless in the month herein first mentioned he qualifies for an annuity under one of the other provisions of this 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, section 15 of the Railroad Retirement Act of 1935, [section 210(a)(10)[(9)]] *section 210(a)(9)* 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. * * *

* * * * * * *

"(l) 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) * * *

"(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 step parent, grand parent, aunt, *uncle, brother or sister* [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] *and*—

"*(A) shall be less than eighteen years of age; or*

"*(B) shall be less than twenty-two years of age and a full-time student at an educational institution (determined as prescribed in this paragraph); or*

"*(C) shall, without regard to his age, be unable to engage in any regular employment by reason of a permanent physical or mental condition which began before he attained 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, *or if such widow or widower would be paid benefits, as such, under title II of the Social Security Act, but for the fact that the employee died insured under this Act.* 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 *and subsection (f) of section 3* 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. *In determining for purposes of this section and subsection (f) of section 3 whether an applicant is the grandchild, brother or sister 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 the same as if such persons were included in such section 216(h)(1).* 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. Where a woman has qualified for an annuity under this section as a widow, and marries another employee who

dies within one year after the marriage, she shall not be disqualified for an annuity under this section as the widow of the second employee by reason of not having been married to the employee for one year[;]. *The provisions of paragraph (8) of section 202(d) of the Social Security Act (defining the terms 'full-time student' and 'educational institution') shall be applied by the Board in the administration of this section as if the references therein to the Secretary were references to the Board. For purposes of the last sentence of subsection (j) of this section, a child entitled to a child's insurance annuity only on the basis of being a full-time student described in clause (ii)(B) of this paragraph shall cease to be qualified therefor in the first month during no part of which he is a full-time student, or the month in which he attains age twenty-two, whichever first occurs. A child whose entitlement to a child's insurance annuity, on the basis of the compensation of an insured individual, terminated with the month preceding the month in which such child attained age eighteen, or with a subsequent month, may again become entitled to such an annuity (provided no event to disqualify the child has occurred) beginning with the first month thereafter in which he is a full-time student and has not attained the age of twenty-two, if he has filed an application for such reentitlement.*

"(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[;].

* * * * * * *

"(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[;].

* * * * * * *

"(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) * * *

"(ii) * * *

"(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[;].

* * * * * * *

"(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,

any excess over $350 for any calendar month after June 30, 1954, and *before June 1, 1959* [before the calendar month next following the month in which this Act was amended in 1959], any excess over *$400 for any month after May 31, 1959, and before November 1, 1963, any excess of $450 for any month after October 31, 1963, and before October 1, 1965, and any excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, any excess over $450 for any calendar month after the month in which this Act was so amended and before the calendar month next following the calendar month in which this Act was amended in 1965, and any excess over (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, 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 and before 1966 is less than $4,800, or for any calendar year after 1965 is less than an amount equal to the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, and the average monthly remuneration computed on compensation alone is less than (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, 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, $4,200 for years after 1954 and before 1959, $4,800 for years after 1958 and before 1966, and an amount equal to the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954 for years after 1965, 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. *In any case where credit is claimed for months of service within two years prior to the death of the employee who rendered such service, with respect to which the employer's return pursuant to section 8 of this Act has not*

been entered on the records of the Board before a benefit under this section could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the survivor) include the compensation for such months in the computation of the benefit without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee.

"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[;].

* * * * * * *

"CONCLUSIVENESS OF RETURNS OF COMPENSATION AND OF FAILURE TO MAKE RETURNS OF COMPENSATION

"SEC. 8. Employers shall file with the Board, in such manner and form and at such times as the Board by rules and regulations may prescribe, returns [under oath] of compensation of employees, and, if the Board shall so require, shall furnish employees with statements of their compensation as reported to the Board. The Board's record of the compensation so returned shall be conclusive as to the amount of compensation paid to an employee during each period covered by the return, and the fact that the Board's records show that no return was made of the compensation [claimed to will have been paid] *claimed to have been paid* to an employee during a particular period shall be taken as conclusive that no compensation was paid to such employee during that period, unless the error in the amount of compensation returned in the one case, or the failure to make return of the compensation in the other case, is called to the attention of the Board within four years after the last date on which return of the compensation was required to be made.

"ERRONEOUS PAYMENTS

"SEC. 9. (a) If the Board finds that at any time more than the correct amount of annuities, pensions, or death benefits has been paid to any individual under this Act or the Railroad Retirement Act of 1935 or a payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940), recovery by adjustments in subsequent payments to which such individual *or, on the basis of the same compensation, any other individual,* is entitled under this Act or any other Act administered by the Board may, except as otherwise provided in this section, be made under regulations prescribed by the Board. If *the individual to whom more than the correct amount has been paid* [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.

* * * * * * *

"RETIREMENT BOARD

"PERSONNEL

"SEC. 10. (a) There is hereby established as an independent agency in the executive branch of the Government a Railroad Retirement Board. * * *

"DUTIES

"(b) 1. The Board shall have * * *

"2. If the Board finds that an applicant is entitled to an annuity under the provisions of this Act or the Railroad Retirement Act of 1935 then the Board shall make an award fixing the amount of the annuity and shall certify the payment thereof as hereinafter provided; otherwise the application shall be denied.

"3. The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursements of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.

"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. All rules, regulations, or decisions of the Board shall require the approval of at least two members, except as provided in subdivision 5 of this subsection and they shall be entered upon the records of the Board, which shall be a public record. Notice of a decision of the Board, or of an employee thereof, shall be communicated to the applicant in writing within thirty days after such decision shall have been made. The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary

to assure proper administration of such Acts. *Subject to the provisions of this subsection, the Board may furnish information from such records and data to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the Railroad Retirement Account.* The Board shall have power to require all employers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of such Acts. The several district courts of the United States and the District Court of the United States for the District of Columbia shall have jurisdiction upon suit by the Board to compel obedience to any order of the Board issued pursuant to this section. The orders, writs, and processes of the District Court of the United States for the District of Columbia in such suits may run and be served anywhere in the United States. The Board shall make an annual report to the President of the United States to be submitted to Congress. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"5. The Board is authorized to delegate to any of its employees the power to make decisions on applications for annuities or death benefits in accordance with rules and regulations prescribed by the Board: *Provided, however,* That any person aggrieved by a decision so made shall have the right to appeal to the Board.

"6. In addition to the powers and duties expressly provided, the Board shall have and exercise with respect to the administration of this Act such of the powers, duties and remedies provided in subsections (d) (m) and (n) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the express provisions of this Act.

* * * * * * *

"INCOMPETENCE

"SEC. 19. (a) Every individual receiving or claiming benefits, or to whom any right or privilege is extended, under this or any other Act of Congress now or hereafter administered by the Board shall be conclusively presumed to have been competent until the date on which the Board receives written notice, in a form and manner acceptable to the Board, that he is an incompetent, or a minor, for whom a guardian or other person legally vested with the care of his person or estate has been appointed: [*Provided, however,* That the Board may, in its discretion, validly, recognize actions by, and conduct transactions with, others acting, prior to receipt of, or in the absence of, such written notice, in behalf of an individual found by the Board to be an incompetent or a minor, if the Board finds such actions or transactions to be in the best interest of such individual.] *Provided, however, That regardless of the legal competency or incompetency of an individual entitled to a benefit (under any Act administered by the Board), the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with and make payments to, such individual, or recognize actions by, and conduct transactions with and make payments to, a relative or some other person for such individual's use and benefit.*

"(b) Every guardian or other person legally vested with the care of the person or estate of an incompetent or minor who is receiving or claiming benefits, or to whom any right or privilege is extended, under this or any other Act of Congress now or hereafter administered by the Board shall have power everywhere, in the manner and to the extent prescribed by the Board, *but subject to the provisions of the preceding subsection*, to take any action necessary or appropriate to perfect any right or exercise any privilege of the incompetent or minor and to conduct all transactions on his behalf under this or any other Act of Congress now or hereafter administered by the Board. Any payment made pursuant to the provisions of this or the preceding subsection shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

"(c) This section shall be effective as of August 29, 1935.

"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).

"HOSPITAL INSURANCE BENEFITS FOR THE AGED

"SEC. 21. * * *."

PART II

SEC. 201. The Act entitled "An Act to establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes," * * *

"SEC. 202. The claims of individuals (and the claims of spouses and next of kin of such individuals) who, prior to the date of the enactment of this Act, relinquished all rights to return to the service of a carrier as defined in the Railroad Retirement Act of 1935 or ceased to be employee representatives as defined therein, and became eligible for annuities under such Act, shall be adjudicated by the Board in the same manner and with the same effect as if this Act had not been enacted: *Provided, however,* That with respect to any such claims no reduction shall be made in any annuity certified after the date of the enactment of this Act because of continuance in service after age sixty-five: *And provided further,* That service rendered prior to August 29, 1935, to a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall be included in the service period in connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such company was a carrier as defined in the Railroad Retirement Act of 1935; and service rendered prior to August 29, 1935, to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall also be included in the service period in

connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such predecessor was a carrier as defined in the Railroad Retirement Act of 1935: *And provided further*, That for the purposes of determining eligibility for an annuity and computing an annuity there shall also be included in an individual's service period, subject to and in accordance with the second proviso of subsection (a), subsections (b) to (e), inclusive, and subsections [(g) to (l)] *(g) to (k)*, inclusive, of section 4 of this Act, as amended, voluntary or involuntary military service of an individual within or without the United States during any war service period, including such military service prior to the date of enactment of this amendment, if, prior to the beginning of his military service in a war service period and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to a carrier, or to a person, service to which is otherwise creditable, or was serving as a representative; but such military service shall be included only subject to and in accordance with the provisions of the Railroad Retirement Act of 1935, in the same manner as though military service were service rendered as an employee. This proviso, as herein amended, shall be effective as of October 8, 1940. No right shall be deemed to have accrued under this proviso which would not have accrued had this amendment thereof been enacted on October 8, 1940. *And provided further*, That annuity payments due an individual under the Railroad Retirement Act of 1935 but not yet paid at death shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of section 5 of such Act; otherwise they shall be paid to such person or persons as the deceased may have designated by a writing filed with the Board prior to his death, or if there be no designation, to the legal representative of the deceased.

* * * * * * *

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, 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 indentifiable 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] *section 6 of this Act,* the period during which such compensation will have been earned.

* * * * * * *

(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 [$500] *$750: 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 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.

* * * * * * *

(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.

* * * * * * *

BENEFITS

SEC. 2. (a) Benefits shall be payable to any qualified employee (i) 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
[$500 to $699.99	$4.50]
$750 [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 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 $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.

* * * * * * *

(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.] *accrued annuities under section 3(f)(1) of the Railroad Retirement Act of 1937 are paid. In the event that no such accrued annuities are paid, and if application for such accrued benefits is filed prior to the expiration of two years after the death of the individual to whom such benefits accrued, such accrued benefits shall be paid, upon certification by the Board, to the individual or individuals who would be entitled thereto under section 3(f)(1) of the Railroad Retirement Act of 1937 if such accrued benefits were accrued*

annuities. If there is no individual to whom all or any part of such accrued benefits can be paid in accordance with the foregoing provisions, such benefits or part thereof shall escheat to the credit of the account.

* * * * * * *

CONCLUSIVENESS OF RETURNS OF COMPENSATION AND OF FAILURE TO MAKE RETURNS OF COMPENSATION

SEC. 6. Employers shall file with the Board, in such manner and at such times as the Board by regulations may prescribe, returns [under oath] of compensation of employees, and, if the Board shall so require, shall distribute to employees annual statements of compensation: *Provided,* That no returns shall be required of employers which would duplicate information contained in similar returns required under any other Act of Congress administered by the Board. The Board's record of the compensation so returned shall, for the purpose of determining eligibility for and the amount of benefits, be conclusive as to the amount of compensation paid to an employee during the period covered by the return, and the fact that the Board's records show that no return was made of the compensation claimed to have been paid to an employee during a particular period shall, for the purposes of determining eligibility for and the amount of benefits, be taken as conclusive that no compensation was paid to such employee during that period, unless the error in the amount of compensation in the one case, or failure to make or record return of the compensation in the other case, is called to the attention of the Board within eighteen months after the date on which the last return covering any portion of the calendar year which includes such period is required to have been made.

* * * * * * *

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 June 1, 1959* [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 May 31, 1959* [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 June 1, 1959* [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 May 31, 1959* [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 June 1, 1959* [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 May 31, 1959* [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 May 31, 1959* [after 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:
	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

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 [3¾ 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 June 1, 1959* [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 May 31, 1959* [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.

* * * * * * *

(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 or such code] *the provisions of the Railroad Retirement Tax Act*, 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.

* * * * * * *

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 unemployment 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] *0.25 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.

* * * * * * *

RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION [FUND

SEC. 11. (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 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] *0.25 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.

* * * * * * *

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, * * *

* * * * * * *

(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. *Subject to the provisions of this section, the Board may furnish such information to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the railroad unemployment insurance administration fund established pursuant to section 11(a) of this Act.*

* * * * * * *

(g) In determining whether an employee has qualified for benefits in accordance with [section 3(a)] *section 3* 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 determining 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.

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INTERNAL REVENUE CODE OF 1954

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CHAPTER 22—RAILROAD RETIREMENT TAX ACT

Subchapter A—Tax on Employees

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,]

(1) 6¼ percent of so much of the compensation paid to such employee for services rendered by him after September 30, 1965.

(2) 6½ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1965,

(3) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1966,

(4) 7 percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1967,

(5) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1968,

as is not in excess of *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*]: *Provided,* That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered *after September 30, 1965* [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(a) plus the rate imposed by section 3101(b) at such time exceeds 2¾ percent (the rate provided by paragraph (2) of 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 September 30, 1965* [after the month in which this provision was amended in 1959] by more than one employer for services rendered during any calendar month *after September 30, 1965* [after the month in which this provision was amended in 1959] and the aggregate of such compensation is in excess of (*i*) *$450, or* (*ii*) *an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or* (*i*) *$450, or* (*ii*) *an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*], 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 September 30, 1965* [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 September 30, 1965* [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 (*i*) *$450, or* (*ii*) *an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or* (*i*) *$450, or* (*ii*) *an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*], 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 September 30, 1965* [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 September 30, 1965* [after the month in which this provision was amended in 1959], to such employee for services rendered during such month. *An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (3) of section 3231(e) is applicable may deduct an amount equivalent to such tax with respect to such tips from any compensation of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than $20.*

(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.

(c) SPECIAL RULE FOR TIPS.—

(1) In the case of tips which constitute compensation, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

(2) If the tax imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the compensation of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employers—

(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

(B) to determine the amount to be deducted upon each payment of compensation (exclusive of tips) during such quarter as if the tips so estimated constituted actual tips so reported, and

(C) to deduct upon any payment of compensation (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

(4) If the tax imposed by section 3201 with respect to tips which

constitute compensation exceeds the portion of such tax which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.

Subchapter B—Tax on Employee Representatives

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,]

(1) 12½ percent of so much of the compensation paid to such employee representative for services rendered by him after September 30, 1965,

(2) 13 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1965,

(3) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1966,

(4) 14 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1967, and

(5) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1968,

as is not in excess of *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*]: *Provided,* That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered *after September 30, 1965* [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(a) plus the rate imposed by section 3101(b) at such time exceeds 2¾ percent

(the rate provided by paragraph (2) of 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.

(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,]

(1) 6¼ percent of so much of the compensation paid by such employer for services rendered to him after September 30, 1965,

(2) 6½ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1965,

(3) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1966,

(4) 7 percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1967, and

(5) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1968,

as is, with respect to any employee for any calendar month, not in excess of *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*]; except that if an employee is paid compensation *after September 30, 1965* [after the month in which this provision was amended in 1959], by more than one employer for services rendered during any calendar month *after September 30, 1965* [after the month in which this provision was amended in 1959], the tax imposed by this section shall apply to not more than *(i) $450 or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i)*

$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended] of the aggregate compensation paid to such employee by all such employers *after September 30, 1965* [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 September 30, 1965* [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 September 30, 1965* [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 *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*], 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 September 30, 1965* [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 September 30, 1965* [after the month in which this provision was amended in 1959], to such employee for services rendered during such month. *Where compensation for services rendered in a month is paid an employee by two or more employers, one of the employers who has knowledge of such joint employment may, by proper notice to the Secretary of the Treasury, and by agreement with such other employer or employers as to settlement of their respective liabilities under this section and section 3202, elect for the tax imposed by section 3201 and this section to apply to all of the compensation paid by such employer for such month as does not exceed the maximum amount of compensation in respect to which taxes are imposed by such section 3201 and this section; and in such a case the liability of such other employer or employers under this section and section 3202 shall be limited to the difference, if any, between the compensation paid by the electing employer and the maximum amount of compensation to which section 3201 and this section apply.*

(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered [after December 31, 1964] *after September 30, 1965*, 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(a) plus the rate imposed by section 3111(b) at such time exceeds 2¾ percent (the rate provided by paragraph (2) of section 3111 as amended by the Social Security Amendments of 1956).

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Union Calendar No. 955

89TH CONGRESS
2D SESSION

H. R. 14355

[Report No. 2171]

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1966

Mr. STAGGERS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

OCTOBER 1, 1966

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

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

A BILL

To amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act to make certain technical changes, to provide for survivor benefits to children ages eighteen to twenty-one, inclusive, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

SEC. 101. (a) Section 1 (e) of the Railroad Retirement Act of 1937 is amended by striking out ", Alaska, Hawaii,".

(b) The third sentence of section 1 (h) (1) of such Act is amended by striking out "subsections (a), (c), and

(d) of section 2 and subsection (a) of section 5" and inserting in lieu thereof "sections 2 and 5"; and by striking out "(1)" and "(2)" and inserting in lieu thereof "(i)" and "(ii)", respectively.

(c) Section 1(q) of such Act is amended by striking out "in 1965" and inserting in lieu thereof "from time to time".

SEC. 102. (a) Section 2(a) of the Railroad Retirement Act of 1937 is amended by striking out from the third sentence of the last paragraph thereof the phrase "the month" and inserting in lieu thereof the following: "the second month following the month".

(b) Section 2(e) of such Act is amended—

(1) by striking out from clause (ii) "who, if her husband were then to die, would be entitled to a child's annuity under subsection (c) of section 5" and inserting in lieu thereof "who meets the qualifications prescribed in section 5(l)(1) (without regard to the provisions of clause (ii) (B) thereof)"; and

(2) by striking out the words "from time to time" immediately before the colon preceding the first proviso.

(c) Section 2(g) of such Act is amended by striking out "who, if her husband were then to die, would be entitled to an annuity under subsection (c) of section 5" and inserting in lieu thereof "who meets the qualifications prescribed

in section 5(l) (1) (without regard to the provisions of clause (ii) (B) thereof)".

(d) Section 2 of such Act is further amended by adding at the end thereof the following new subsection:

"~~(i)~~ *(j)* In cases where an annuity awarded under subsection (a) (3) or (h) of this section is increased either by a recomputation or a change in the law, the reduction for the increase in the annuity shall be determined separately and the period with respect to which the reduction applies shall be determined as if such increase were a separate annuity payable for and after the first month for which such increase is effective."

SEC. 103. (a) Section 3(b) (1) of the Railroad Retirement Act of 1937 is amended by striking out the phrase "after January 1, 1937" wherever it appears in said section and inserting in lieu thereof "subsequent to December 31, 1936".

(b) Section 3(c) of such Act is amended by inserting after the last sentence thereof the following new sentence: "Where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 8 of this Act has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in

its discretion (subject to subsequent adjustment at the request of the employee) include such months in the computation of the annuity without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board."

(c) (1) Section 3 (e) of such Act is amended by striking out from the first proviso in the first paragraph the following: "is less than 110 per centum of the amount, or 110 per centum of the additional amount", and inserting in lieu thereof the following: "is less than the total amount, or the additional amount, plus 10 per centum of the total amount"; by inserting the word "and" before "women entitled to spouses' annuities"; by striking out from such proviso "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 by striking out the last comma from such proviso and all that follows in such proviso and inserting in lieu thereof the following: "shall be increased proportionately to such total amount, or such additional amount, plus 10 per centum of such total amount."

(2) The said section 3 (e) is further amended by striking out "entire"; and by inserting before the period at the

end of the first paragraph ": *Provided further*, That if an annuity accrues to an individual for a part of a month, the amount payable for such part of a month under the preceding proviso shall be one-thirtieth of the amount payable under the proviso for an entire month, multiplied by the number of days in such part of a month".

(d) Paragraph (5) of section 3 (f) of such Act is amended by inserting after the phrase "the Social Security Act" the following: ", as in effect before 1957,".

(e) Section 3 (g) of such Act is amended by adding at the end thereof the following: "In cases where an individual entitled to an annuity under this Act disappears, no annuity shall accrue to him or to his spouse as such with respect to any month until and unless such individual is shown, by evidence satisfactory to the Board, to have continued in life throughout such month. Where an annuity would accrue for months under section 2 (a) for such individual, and under section 2 (e) for such individual's spouse, had he been shown to be alive during such months, he shall be deemed, for the purposes of ~~annuities~~ *benefits* under section 5, to have died in the month in which he disappeared *and to have been completely insured*: *Provided, however,* That if he is later determined to have ~~ben~~ *been* alive during any of such months, recovery of any ~~annuity~~ ~~amounts~~ *benefits* paid ~~as a widow's annuity~~ on the basis of his com-

pensation under section 5 for the months in which he was not known to be alive, minus the total of the amounts that would have been paid as a spouse's annuity during such months (treating the application for a widow's annuity as an application for a spouse's annuity), shall be made in accordance with the provisions of section 9."

(f) Section 3 (i) of such Act is amended to read as follows:

"(i) If the amount of any annuity computed under this section (other than the proviso of subsection (e)), under section 2 (other than a spouse's annuity payable in the maximum amount), and under section 5, does not, after any adjustment, end in a digit denoting 5 cents, it shall be raised so that it will end in such a digit. If the amount of any annuity under this Act (other than an annuity ending in a digit denoting 5 cents pursuant to the next preceding sentence) is not, after any adjustment, a multiple of $0.10, it shall be raised to the next higher multiple of $0.10."

SEC. 104. Section 4 of the Railroad Retirement Act of 1937 is amended by redesignating subsections "(i)", "(j)", "(k)", and "(l)" as "(h)", "(i)", "(j)", and "(k)", respectively; by redesignating subsections "(n)", "(o)", "(p)", "(q)", and "(r)" as "(l)", "(m)", "(n)", "(o)", and "(p)", respectively; by striking out the phrase "sub-

section (k)" in subsection "(k)" as redesignated, and inserting in lieu thereof "subsection (j)"; and by striking out "(p) (1)" in subsection "(1)" as redesignated and inserting in lieu thereof "(n) (1)".

SEC. 105. (a) The first sentence of section 5(b) of the Railroad Retirement Act of 1937 is amended by striking out "employee entitled to receive an annuity under subsection (c)" and inserting in lieu thereof "employee, which child (without regard to the provisions of subsection (l) (1) (ii) (B)) is entitled to receive an annuity under subsection (c),".

(b) (1) The second sentence of such section 5(b) is amended by striking out "no child of the deceased employee is entitled" and inserting in lieu thereof "no child of the deceased employee (without regard to the provisions of subsection (l) (1) (ii) (B)) is entitled".

(2) The proviso in said section 5(b) and the proviso in section 5(a) are each amended by striking out the words "subsection (e) of".

(c) Section 5(f) (1) of such Act is amended (1) by striking out the second sentence thereof and inserting in lieu thereof the following: "If there be no such widow or widower, such lump sum shall be paid—

"(i) if all or part of the burial expenses of such insured individual which are incurred by or through

a funeral home or funeral homes remain unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least ninety days have elapsed after the date of death of such insured individual and prior to the expiration of such ninety days no person has assumed responsibility for the payment of any of such burial expenses;

"(ii) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (i)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses; or

"(iii) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (i) and (ii), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses

in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.",

and (2) by striking out from the third sentence thereof all after the phrase "this paragraph" where it appears the second time in such sentence and inserting in lieu thereof the following: "to the widow or widower to whom a lump sum would have been payable under this paragraph except for the fact that a monthly benefit under this section was payable for the month in which the employee died and who will not have died before receiving payment of such lump sum."

(d) (1) Section 5 (f) (2) of such Act is amended by inserting after "1961" the following: ", and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by him or her after December 31, 1965, under the provisions of section 3201 of the Railroad Retirement Tax Act, plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service rendered after

June 30, 1963, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of the Railroad Retirement Tax Act to be employee taxes payable under section 3201 of such Act". The said section 5 (f) (2) is further amended by striking out the colon before the proviso and inserting in lieu thereof the following: "(for this purpose, payments to providers of services under section 21 of this Act and the amount of the employee tax attributable to so much in tax rate as is derived from section 3101 (b) of the Internal Revenue Code of 1954, shall be disregarded) :".

(2) The said section 5 (f) (2) is further amended by striking out the phrase "upon attaining retirement age (as defined in section 216 (a) of the Social Security Act)" wherever it appears and inserting in lieu thereof "upon attaining the age of eligibility".

(e) Section 5 (g) of such Act is amended by striking out paragraph (3) thereof.

(f) Section 5 (i) of such Act is amended by inserting in paragraph 3 (i) after "Retirement Acts" the following: "as in effect before 1947" and by striking out the word "and"; by inserting after "employee" in paragraph 3 (ii) "before 1947", and by changing the period to a semicolon and inserting thereafter the word "and"; by inserting after paragraph 3 (ii) the following: "(iii) any lump-sum bene-

fit, paid to the same person, with respect to the death of such employee under subsection (f) (2)"; and by inserting after paragraph (3) thereof the following new paragraph:

"(4) Any annuity for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.";

and by changing "(4)" to "(5)" in the last paragraph thereof.

(g) Section 5 (i) (1) (ii) of such Act is amended by inserting before "; or" the following: ": *Provided, however,* That in determining an individual's excess earnings for a year for the purposes of this section and section 3 (e) there shall not be included his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity or ceases, without regard to the effect of excess earnings, to be included in the computation under section 3 (e)".

(h) Section 5 (j) of such Act is amended by inserting before the period at the end thereof the following: ": *Provided, however,* That the annuity of a child qualified under subsection (l) (1) (ii) (C) of this section shall cease to be payable with the month preceding the third month following

the month in which he ceases to be unable to engage in any regular employment by reason of a permanent physical or mental condition unless in the month herein first mentioned he qualifies for an annuity under one of the other provisions of this Act".

(i) Section 5(k)(1) of such Act is amended by striking out "section 210(a)(10)" and inserting in lieu thereof "section 210(a)(9)".

(j)(1) Section 5(l)(1)(ii) of such Act is amended by striking out "or uncle" and inserting in lieu thereof "uncle, brother or sister".

(2) The said section 5(l)(1)(ii) is further amended by striking out "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" and inserting in lieu thereof the following: "and—

"(A) shall be less than eighteen years of age; or

"(B) shall be less than twenty-two years of age and a full-time student at an educational institution (determined as prescribed in this paragraph); or

"(C) shall, without regard to his age, be unable to engage in any regular employment by reason of a permanent physical or mental condition which began

before he attained age eighteen, and".

(3) Section 5(l)(1) of such Act is further amended (i) by inserting before the period at the end of the second sentence thereof the following: ", or if such widow or widower would be paid benefits, as such, under title II of the Social Security Act but for the fact that the employee died insured under this Act"; (ii) by inserting after "subsection (f) of section 2" in the fourth sentence thereof the following: "and subsection (f) of section 3"; (iii) by inserting after such fourth sentence the following new sentence: "In determining for purposes of this section and subsection (f) of section 3 whether an applicant is the grandchild, brother, or sister 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 the same as if such persons were included in such section 216(h)(1)."; (iv) by changing the semicolon at the end thereof to a period and inserting thereafter the following: "The provisions of paragraph (8) of section 202(d) of the Social Security Act (defining the terms 'full-time student' and 'educational institution') shall be applied by the Board in the administration of this section as if the references therein to the Secretary were references to the Board. For purposes of the last sentence of subsection (j) of this section, a child entitled to a child's in-

surance annuity only on the basis of being a full-time student described in clause (ii) (B) of this paragraph shall cease to be qualified therefor in the first month during no part of which he is a full-time student, or the month in which he attains age 22, whichever first occurs. A child whose entitlement to a child's insurance annuity, on the basis of the compensation of an insured individual, terminated with the month preceding the month in which such child attained age eighteen, or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month thereafter in which he is a full-time student and has not attained the age of twenty-two, if he has filed an application for such reentitlement."; and (v) by striking out the semicolon from the end of paragraphs "(2)", "(3)", "(5)", "(7)", and "(9)" and inserting in lieu thereof a period.

(k) Section 5 (l) (9) of such Act is amended by inserting after the last sentence of the first paragraph thereof the following new sentence: "In any case where credit is claimed for months of service within two years prior to the death of the employee who rendered such service, with respect to which the employer's return pursuant to section 8 of this Act has not been entered on the records of the Board before a benefit under this section could otherwise be certified for payment, the Board may, in its discretion (subject to subse-

quent adjustment at the request of the survivor) include the compensation for such months in the computation of the benefit without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee."

SEC. 106. Section 8 of the Railroad Retirement Act of 1937 is amended by striking out from the first sentence the phrase "under oath"; and by striking out from the second sentence the phrase "claimed to will have been paid" and inserting in lieu thereof "claimed to have been paid".

SEC. 107. (a) The first sentence of section 9 (a) of the Railroad Retirement Act of 1937 is amended by inserting after "individual", where it appears the third time, the following: "or, on the basis of the same compensation, any other individual,".

(b) The second sentence of such section 9 (a) is amended by striking out the phrase "such individual" where it first appears in such sentence, and inserting in lieu thereof "the individual to whom more than the correct amount has been paid".

SEC. 108. Section 10 of the Railroad Retirement Act of 1937 is amended (i) by inserting after the seventh sentence of subsection (b) 4 the following new sentence: "Subject to

the provisions of this subsection, the Board may furnish information from such records and data to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the Railroad Retirement Account."; and (ii) by inserting after the end of such section 10 the following new paragraph:

"6. In addition to the powers and duties expressly provided, the Board shall have and exercise with respect to the administration of this Act such of the powers, duties, and remedies provided in subsections (d), (m), and (n) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the express provisions of this Act."

SEC. 109. (a) Section 19(a) of the Railroad Retirement Act of 1937 is amended by striking out the proviso and inserting in lieu thereof the following: "*Provided, however*, That, regardless of the legal competency or incompetency of an individual entitled to a benefit (under any Act administered by the Board), the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to, such individual, or recognize actions by, and conduct transactions with, and make payments to, a relative or some other person for such individual's use and benefit."

(b) The first sentence of section 19(b) of such Act is amended by inserting after "in the manner and to the extent prescribed by the Board," the following: "but subject to the provisions of the preceding subsection,".

SEC. 110. Section 20 of the Railroad Retirement Act of 1937 is amended by striking out "(a)" after "SEC. 20.".

SEC. 111. Section 202 of part II of such Act is amended by striking out "(g) to (l)" and inserting in lieu thereof "(g) to (k)".

EFFECTIVE DATES

SEC. 112. (a) The amendments made by the several sections of this title shall be effective on the enactment date of this Act except as otherwise provided herein.

(b) The amendments made by sections 102(a) and 105(h) shall be effective with respect to determinations of recovery from disability made on or after the enactment date of this Act.

(c) The amendments made by sections 102(b) and 102(c) shall be effective with respect to months after the month of enactment.

(d) The amendments made by section 102(d) shall be effective with respect to recomputations made, or changes in law enacted, on or after the enactment date of this Act.

(e) The amendments made by sections 103(b) and 105(k) shall be effective with respect to annuities awarded

on or after the enactment date of this Act.

(f) The amendments made by section 103 (c) (1) shall be effective with respect to annuities accruing in or after the month of enactment.

(g) The amendments made by sections 103 (c) (2), 103 (f), and 105 (f) shall be effective with respect to awards made on or after the enactment date of this Act.

(h) The amendments made by section 103 (e) shall ~~be effective with respect to annuities accruing on or after the enactment date of this Act except that no annuity shall accrue solely by reason of this amendment for any month earlier than the twelfth month before the month of enactment~~ *be effective with respect to months after the month in which this Act is enacted.*

(i) The amendments made by sections 105 (a), 105 (b) (1), and 105 (j) (2) shall be effective with respect to annuities accruing for months after 1964 where, pursuant to the next sentence, no application for the annuity is required or, if required, such application is filed within one year after the month of enactment of this Act; otherwise, the twelve-month limitation on retroactivity, provided for in section 5 (j) of the Railroad Retirement Act of 1937, shall apply. In the case of an individual who is not entitled to a child's insurance annuity under section 5 (c) of the Railroad Retirement Act of 1937 for the month in which this

Act is enacted, such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted; except that no application shall be required of a child age eighteen to twenty-one, inclusive, with respect to whom the Board has information on the date of enactment of this Act of his eligibility for an annuity under the amendments made by section 105 (j) (2) of this Act through the application of section 3 (e) of the Railroad Retirement Act of 1937.

(j) The amendments made by section 105 (c) (1) shall be effective with respect to lump-sum payments awarded on or after the enactment date of this Act.

(k) The amendments made by section 105 (c) (2) shall be effective with respect to deaths occurring in or after the twelfth month preceding the month of enactment.

(l) The amendments made by section 105 (d) (1) shall be effective with respect to deaths occurring on or after the enactment date of this Act.

(m) The amendments made by section 105 (g) shall be effective with respect to deductions made in the calendar year 1966 and thereafter.

(n) The amendments made by section 105 (j) (1) shall be effective with respect to annuities under section 5 (c) of the Railroad Retirement Act for months after the month in which this Act is enacted; except that in the case of an

individual who was not entitled to an annuity under section 5(c) of such Act for the month in which this Act was enacted, such amendment shall apply only on the basis of an application filed in or after the month in which this Act is enacted.

(o) The amendment made by section 105(j)(3)(i) ~~shall be effective with respect to months after the month of enactment of this Act.~~ *shall be effective with respect to annuities for months after the month of enactment of this Act. No lump-sum benefit under section 5(f)(2) of the Railroad Retirement Act of 1937 shall be awarded after the date of enactment of this Act in any case in which an individual survives who would be entitled to an annuity under the amendment made by this section unless such individual executes an election in accordance with such section 5(f)(2) before attainment of age 60 to have such benefit paid in lieu of other benefits.*

TITLE II—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

SEC. 201. (a) Section 1(i) of the Railroad Unemployment Insurance Act is amended by striking out "section 8" and inserting in lieu thereof "section 6 of this Act".

(b) Section 1(k) of such Act is amended by striking out "$500" and inserting in lieu thereof "$750".

(c) Sections 1(s) and 1(t) of such Act are each

amended by striking out ", Alaska, Hawaii,".

SEC. 202. (a) Section 2 (a) of the Railroad Unemployment Insurance Act is amended by striking out the first line from the table thereof and by substituting "$750" for "700" in the second line of such table.

(b) Section 2 (g) of such Act is amended by striking out all of said section after "whom any" and inserting in lieu thereof the following: "accrued annuities under section 3 (f) (1) of the Railroad Retirement Act of 1937 are paid. In the event that no such accrued annuities are paid, and if application for such accrued benefits is filed prior to the expiration of two years after the death of the individual to whom such benefits accrued, such accrued benefits shall be paid, upon certification by the Board, to the individual or individuals who would be entitled thereto under section 3 (f) (1) of the Railroad Retirement Act of 1937 if such accrued benefits were accrued annuities. If there is no individual to whom all or any part of such accrued benefits can be paid in accordance with the foregoing provisions, such benefits or part thereof shall escheat to the credit of the account."

SEC. 203. The first sentence of section 6 of the Railroad Unemployment Insurance Act is amended by striking out the phrase "under oath".

SEC. 204. (a) Section 8 (b) of the Railroad Unem-

ployment Insurance Act is amended by striking out "3¾ per centum" and inserting in lieu thereof "4 per centum".

(b) Section 8(h) of such Act is amended by striking out "section 1800 or 2700 of the Internal Revenue Code, and the provisions of section 3661 of such code" and inserting in lieu thereof "the provisions of the Railroad Retirement Tax Act".

SEC. 205. Sections 10(a) and 11(a) of the Railroad Unemployment Insurance Act are each amended by striking out "0.2 per centum" and inserting in lieu thereof "0.25 per centum".

SEC. 206. Section 12 of the Railroad Unemployment Insurance Act is amended by adding at the end of subsection (d) thereof the following new sentence: "Subject to the provisions of this section, the Board may furnish such information to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the railroad unemployment insurance administration fund established pursuant to section 11(a) of this Act."; and by striking out "section 3(a)" from subsection (g) and inserting in lieu thereof "section 3".

TITLE III—AMENDMENTS TO THE RAILROAD RETIREMENT ACT, THE RAILROAD UNEMPLOYMENT INSURANCE ACT, AND THE RAILROAD RETIREMENT TAX ACT

SEC. 301. Sections 3(c), 5(f)(2), and 5(l)(9) of the Railroad Retirement Act of 1937, sections 8(a) and 8(b) of the Railroad Unemployment Insurance Act, and sections 3201, 3202, 3211, and 3221 of the Railroad Retirement Tax Act are amended by—

(i) striking out "before the calendar month next following the month in which this Act was amended in 1959", wherever such language appears in such sections 3(c), 5(f)(2), 5(l)(9), 8(a) and 8(b), and inserting in each instance in lieu thereof "before June 1, 1959";

(ii) by striking out the language "after the month in which this Act was so amended" wherever such language appears in such sections 8(a) and 8(b) and inserting in each instance in lieu thereof "after May 31, 1959";

(iii) by striking out the language "after the month in which this provision was amended in 1959", wherever

such language appears in such sections 3202 and 3221, and inserting in each instance in lieu thereof "after September 30, 1965";

(iv) by striking out from such sections 3 (c), 5 (f) (2), and 5 (l) (9) the language beginning with "$400" down through the phrase "was so amended" where such phrase appears the third time and inserting in lieu thereof:

(a) in such section 3 (c) the following: "$400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965";

(b) in such section 5 (f) (2) the following: "$400 for any month after May 31, 1959, and before November 1, 1963, and in excess of $450 for any month after October 31, 1963, and before October 1, 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section

3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965"; and

(c) in such section 5(l)(9) the following: "$400 for any month after May 31, 1959, and before November 1, 1963, any excess of $450 for any month after October 31, 1963, and before October 1, 1965, and any excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965";

(v) by striking out from such sections 3201, 3202, 3211, and 3221 the language (wherever it appears in such sections) beginning with "$400" down through the phrase "was so amended" where such phrase appears the second time in such language and inserting in lieu thereof the following: "(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965"; and

(vi) by striking out from the proviso in such sections 3201 and 3211, from subsection (b) of such sec-

tion 3221 the phrase "after December 31, 1964" and inserting in lieu thereof "after September 30, 1965".

SEC. 302. Section 3221 (a) of the Railroad Retirement Tax Act is amended by adding at the end thereof the following new sentence: "Where compensation for services rendered in a month is paid an employee by two or more employers, one of the employers who has knowledge of such joint employment may, by proper notice to the Secretary of the Treasury, and by agreement with such other employer or employers as to settlement of their respective liabilities under this section and section 3202, elect for the tax imposed by section 3201 and this section to apply to all of the compensation paid by such employer for such month as does not exceed the maximum amount of compensation in respect to which taxes are imposed by such section 3201 and this section; and in such a case the liability of such other employer or employers under this section and section 3202 shall be limited to the difference, if any, between the compensation paid by the electing employer and the maximum amount of compensation to which section 3201 and this section apply.

Union Calendar No. 955

89TH CONGRESS
2D SESSION

H. R. 14355

[Report No. 2171]

A BILL

To amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act to make certain technical changes, to provide for survivor benefits to children ages eighteen to twenty-one, inclusive, and for other purposes.

By Mr. STAGGERS

APRIL 6, 1966

Referred to the Committee on Interstate and Foreign Commerce

OCTOBER 1, 1966

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

AMENDING THE RAILROAD RETIREMENT AND INSURANCE ACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14355) to amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act to make certain technical changes, to provide for survivor benefits to children ages 18 to 21, inclusive, and for other purposes, as amended.

The Clerk read as follows:

H.R. 14355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

SEC. 101. (a) Section 1(e) of the Railroad Retirement Act of 1937 is amended by striking out ", Alaska, Hawaii,".

(b) The third sentence of section 1(h)(1) of such Act is amended by striking out "subsections (a), (c), and (d) of section 2 and subsection (a) of section 5" and inserting in lieu thereof "sections 2 and 5"; and by striking out "(1)" and "(2)" and inserting in lieu thereof "(i)" and "(ii)", respectively.

(c) Section 1(q) of such Act is amended by striking out "in 1965" and inserting in lieu thereof "from time to time".

SEC. 102. (a) Section 2(a) of the Railroad Retirement Act of 1937 is amended by striking out from the third sentence of the last paragraph thereof the phrase "the month" and inserting in lieu thereof the following: "the second month following the month".

(b) Section 2(e) of such Act is amended—

(1) by striking out from clause (ii) "who, if her husband were then to die, would be entitled to a child's annuity under subsection (c) of section 5" and inserting in lieu thereof "who meets the qualifications prescribed in section 5(1)(1) (with regard to the provisions of clause (ii)(B) thereof)"; and

(2) by striking out the words "from time to time" immediately before the colon preceding the first proviso.

(c) Section 2(g) of such Act is amended by striking out "who, if her husband were then to die, would be entitled to an annuity under subsection (c) of section 5" and inserting in lieu thereof "who meets the qualifications prescribed in section 5(1)(1) (without regard to the provisions of clause (ii)(B) thereof)".

(d) Section 2 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) In cases where an annuity awarded under subsection (a)(3) or (h) of this section is increased either by a recomputation or a change in the law, the reduction for the increase in the annuity shall be determined separately and the period with respect to which the reduction applies shall be determined as if such increase were a separate annuity payable for and after the first month for which such increase is effective."

SEC. 103. (a) Section 3(b)(1) of the Railroad Retirement Act of 1937 is amended by striking out the phrase "after January 1, 1937" wherever it appears in said section and inserting in lieu thereof "subsequent to December 31, 1936".

(b) Section 3(c) of such Act is amended by inserting after the last sentence thereof the following new sentence: "Where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 8 of this Act has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the employee) include such months in the computation of the annuity without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been centered on the records of the Board."

(c)(1) Section 3(e) of such Act is amended by striking out from the first proviso in the first paragraph the following: "is less than 110 per centum of the amount, or 110 per centum of the additional amount", and inserting in lieu thereof the following: "is less than the total amount, or the additional amount, plus 10 per centum of the total amount"; by inserting the word "and" before "women entitled to spouses' annuities"; by striking out from such proviso "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 by striking out the last comma from such proviso and all that follows in such proviso and inserting in lieu thereof the following: "shall be increased proportionately to such total amount, or such additional amount, plus 10 per centum of such total amount."

(2) The said section 3(e) is further amended by striking out "entire"; and by inserting before the period at the end of the first paragraph ": *Provided further*, That if an annuity accrues to an individual for a part of a month, the amount payable for such part of a month under the preceding proviso shall be one-thirtieth of the amount payable under the proviso for an entire month, multiplied by the number of days in such part of a month".

(d) Paragraph (5) of section 3(f) of such Act is amended by inserting after the phrase "the Social Security Act" the following: ", as in effect before 1957,".

(e) Section 3(g) of such Act is amended by adding at the end thereof the following: "In cases where an individual entitled to an annuity under this Act disappears, no annuity shall accrue to him or to his spouse as such with respect to any month until and unless such individual is shown, by evidence satisfactory to the Board, to have continued in life throughout such month. Where an annuity would accrue for months under section 2(a) for such individual, and under section 2(e) for such individual's spouse, had he been shown to be alive during such months, he shall be deemed, for the purposes of benefits under section 5, to have died in the month in which he disappeared and to have been completely insured: *Provided, however*, That if he is later determined to have been alive during any of such months, recovery of any benefits paid on the basis of his compensation under section 5 for the months in which he was not known to be alive, minus the total of the amounts that would have been paid as a spouse's annuity during such months (treating the application for a widow's annuity as an application for a spouse's annuity), shall be made in accordance with the provisions of section 9."

(f) Section 3(i) of such Act is amended to read as follows:

"(i) If the amount of any annuity computed under this section (other than the proviso of subsection (e)), under section 2 (other than a spouse's annuity payable in the maximum amount), and under section 5, does not, after any adjustment, end in a digit denoting 5 cents, it shall be raised so that it will end in such a digit. If the amount of any annuity under this Act (other than an annuity ending in a digit denoting 5 cents pursuant to the next preceding sentence) is not, after any adjustment, a multiple of $0.10, it shall be raised to the next higher multiple of $0.10."

SEC. 104. Section 4 of the Railroad Retirement Act of 1937 is amended by redesignating subsections "(i)", "(j)", "(k)", and "(l)" as "(h)", "(i)", "(j)", and "(k)", respectively; by redesignating subsections "(n)", "(o)", "(p)", "(q)", and "(r)" and "(l)", "(m)", "(n)", "(o)", and "(p)", repectively; by striking out the phrase "subsection (k)" in subsection "(k)" as redesignated, and inserting in lieu thereof "subsection (j)"; and by striking out "(p)(1)" in subsection "(l)" as redesignated and inserting in lieu thereof "(n)(1)".

SEC. 105. (a) The first sentence of section 5(b) of the Railroad Retirement Act of 1937 is amended by striking out "employee entitled to receive an annuity under subsection (c)" and inserting in lieu thereof "employee, which child (without regard to the provisions of subsection (1)(1)(ii)(B)) is entitled to receive an annuity under subsection (c),".

(b)(1) The second sentence of such section 5(b) is amended by striking out "no child of the deceased employee is entitled" and inserting in lieu thereof "no child of the deceased employee (without regard to the provisions of subsection (1)(1)(ii)(B)) is entitled".

(2) The proviso in said section 5(b) and the proviso in section 5(a) are each amended by striking out the words "subsection (e) of".

(c) Section 5(f)(1) of such Act is amended (1) by striking out the second sentence thereof and inserting in lieu thereof the following: "If there be no such widow or widower, such lump sum shall be paid—

"(i) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remain unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least ninety days have elapsed after the date of death of such insured individual and prior to the expiration of such ninety days no person has assumed responsibility for the payment of any such burial expenses;

"(ii) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (i)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses; or

"(iii) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (i) and (ii) to any person tor persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.",

and (2) by striking out from the third sentence thereof all after the phrase "this paragraph" where it appears the second time in such sentence and inserting in lieu thereof the following: "to the widow or widower to whom a lump sum would have been payable under this paragraph except for the fact that a monthly benefit under this section was payable for the month in which the employee died and who will not have died before receiving payment of such lump sum."

(d)(1) Section 5(f)(2) of such Act is amended by inserting after "1961" the following: ", and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by him or her after December 31, 1965, under the provisions of section 3201 of the Railroad Retirement Tax Act, plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service rendered after June 30, 1968, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of the Railroad Retirement Tax Act to be employee taxes payable under section 3201 of such Act". The said section 5(f)(2) is further amended by striking out the colon before the proviso and inserting in lieu thereof the following: "(for this purpose, payments to providers of services under section 21 of this Act and the amount of the employee tax attributable to so much in tax rate as is derived from section 3101(b) of the Internal Revenue Code of 1954, shall be disregarded):".

(2) The said section 5(f)(2) is further amended by striking out the phrase "upon attaining retirement age (as defined in section 216(a) of the Social Security Act)" wherever it appears and inserting in lieu thereof "upon attaining the age of eligibility".

(e) Section 5(g) of such Act is amended by striking out paragraph (3) thereof.

(f) Section 5(i) of such Act is amended by inserting in paragraph 3(i) after "Retirement Acts" the folowing: "as in effect before 1947" and by striking out the word "and"; by inserting after "employee" in paragraph 3(ii) "before 1947", and by changing the period to a semicolon and inserting there? after the word "and"; by inserting after paragraph 3(ii) the following: "(iii) any lump-sum benefit, paid to the same person, with respect to the death of such employee under subsection (f)(2)"; and by inserting after paragraph (3) thereof the following new paragraph:

"(4) Any annuity for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.";

and by changing "(4)" to "(5)" in the last paragraph thereof.

(g) Section 5(1)(1)(ii) of such Act is amended by inserting before "; or" the following: ": *Provided, however*, That in determining an individual's excess earnings for a year for the purposes of this section and section 3(e) there shall not be included his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity or ceases, without regard to the effect of excess earnings, to be included in the computation under section 3(e)".

(h) Section 5(j) of such Act is amended by inserting before the period at the end thereof the following: ": *Provided, however*, That the annuity of a child qualified under subsection (1)(1)(ii)(C) of this section shall cease to be payable with the month preceding the third month following the month in which he ceases to be unable to engage in any regular employment by reason of a permanent physical or mental condition unless in the month herein first mentioned he qualifies for an annuity under one of the other provisions of this Act".

(i) Section 5(k)(1) of such Act is amended by striking out "section 210(a)(10)" and inserting in lieu thereof "section 210(a)(9)".

(j)(1) Section 5(1)(1)(ii) of such Act is amended by striking out "or uncle" and inserting in lieu thereof "uncle, brother, or sister".

(2) The said section 5(1)(1)(ii) is further amended by striking out "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" and inserting in lieu thereof the following: "and—

"(A) shall be less than eighteen years of age; or

"(B) shall be less than twenty-two years of age and a full-time student at an educational institution (determined as prescribed in this paragraph); or

"(C) shall, without regard to his age, be unable to engage in any regular employment by reason of a permanent physical or mental condition which began before he attained age eighteen, and".

(3) Section 5(1)(1) of such Act is further amended (i) by inserting before the period at the end of the second sentence thereof the following: ", or if such widow or widower would be paid benefits, as such, under title II of the Social Security Act but for the fact that the employee died insured under this Act"; (ii) by inserting after "subsection (f) of section 2" in the fourth sentence thereof the following: "and subsection (f) of section 3"; (iii) by inserting after such fourth sentence the following new sentence: "In determining for purposes of this section and subsection (f) of section 3 whether an applicant is the grandchild, brother, or sister 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 the same as if such persons were included in such section 216(h)(1)."; (iv) by changing the semicolon at the end thereof to a period and inserting thereafter the following: "The provisions of paragraph (8) of section 202(d) of the Social Security Act (defining the terms 'full-time student' and 'educational institution') shall be applied by the Board in the administration of this section as if the references therein to the Secretary were references to the Board. For purposes of the last sentence of subsection (j) of this section, a child entitled to a child's insurance annuity only on the basis of being a full-time student described in clause (ii)(B) of this paragraph shall cease to be qualified therefor in the first month during no part of which he is a full-time student, or the month in which he attains age 22, whichever first occurs. A child whose entitlement to a child's insurance annuity, on the basis of the compensation of an insured individual, terminated with the month preceding the month in which such child attained age eighteen, or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month thereafter in which he is a full-time student and has not attained the age of twenty-two, if he has filed an application for such reentitlement."; and (v) by striking out the semicolon from the end of paragraphs "(2)", "(3)", "(5)", "(7)", and "(9)" and inserting in lieu thereof a period.

(k) Section 5(1)(9) of such Act is amended by inserting after the last sentence of the first paragraph thereof the following new sentence: "In any case where credit is claimed for months of service within two years prior to the death of the employee who rendered such service, with respect to which the employer's return pursuant to section 8 of this Act has not been entered on the records of the Board before a benefit under this section could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the survivor) include the compensation for such months in the computation of the benefit without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee."

SEC. 106. Section 8 of the Railroad Retirement Act of 1937 is amended by striking out from the first sentence the phrase "under oath"; and by striking out from the second sentence the phrase "claimed to will have been paid" and inserting in lieu thereof "claimed to have been paid".

SEC. 107. (a) The first sentence of section 9(a) of the Railroad Retirement Act of 1937 is amended by inserting after "individual", where it appears the third time, the following: "or, on the basis of the same compensation, any other individual,".

(b) The second sentence of such section 9(a) is amended by striking out the phrase "such individual" where it first appears in such sentence, and inserting in lieu thereof "the individual to whom more than the correct amount has been paid".

SEC. 108. Section 10 of the Railroad Retirement Act of 1937 is amended (i) by inserting after the seventh sentence of subsection (b)4 the following new sentence: "Subject to the provisions of this subsection, the Board may furnish information from such records and data to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the Railroad Retirement Account."; and (ii) by inserting after the end of such section 10 the following new paragraph:

"6. In addition to the powers and duties expressly provided, the Board shall have and exercise with respect to the administration of this Act such of the powers, duties, and remedies provided in subsections (d), (m), and (n) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the express provisions of this Act."

SEC. 109. (a) Section 19(a) of the Railroad Retirement Act of 1937 is amended by striking out the proviso and inserting in lieu thereof the following: *"Provided, however*, That, regardless of the legal competency or incompetency of an individaul entitled to a benefit (under any Act administered by the Board) the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to, such individual, or recognize actions by, and conduct transactions with, and make payments to, a relative or some other person for such individual's use and benefit."

(b) The first sentence of section 19(b) of such Act is amended by inserting after "in the manner and to the extent prescribed by the Board," the following: "but subject to the provisions of the preceding subsection,".

SEC. 110. Section 20 of the Railroad Retirement Act of 1937 is amended by striking out "(a)" after "SEC. 20.".

SEC. 111. Section 202 of part II of such Act is amended by striking out "(g) to (l)" and inserting in lieu thereof "(g) to (k)".

Effective dates

SEC. 112. (a) The amendments made by the several sections of this title shall be effective on the enactment date of this Act except as otherwise provided herein.

(b) The amendments made by sections 102(a) and 105(h) shall be effective with respect to determinations of recovery from disability made on or after the enactment date of this Act.

(c) The amendments made by sections 102(b) and 102(c) shall be effective with respect to months after the month of enactment.

(d) The amendments made by section 102(d) shall be effective with respect to recomputations made, or changes in law enacted, on or after the enactment date of this Act.

(e) The amendments made by sections 103(b) and 105(k) shall be effective with respect to annuities awarded on or after the enactment date of this Act.

(f) The amendments made by section 103(c)(1) shall be effective with respect to annuities accruing in or after the month of enactment.

(g) The amendments made by sections 103(c)(2), 103(f), and 105(f) shall be effective with respect to awards made on or after the enactment date of this Act.

(h) The amendments made by section 103(e) shall be effective with respect to months after the month in which this Act is enacted.

(i) The amendments made by sections 105(a), 105(b)(1), and 105(j)(2) shall be effective with respect to annuities accruing for months after 1964, where pursuant to the next sentence, no application for the annuity is required or, if required, such application is filed within one year after the month of enactment of this Act; otherwise, the twelve-month limitation on retroactivity, provided for in section 5(j) of the Railroad Retirement Act of 1937, shall apply. In the case of an individual who is not entitled to a child's insurance annuity under section 5(c) of the Railroad Retirement Act of 1937 for the month in which this Act is enacted, such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted; except that no application shall be required of a child age eighteen to twenty-one, inclusive, with respect to whom the Board has information on the date of enactment of this Act of his eligibility for an annuity under the amendments made by section 105(j)(2) of this Act through the application of section 3(e) of the Railroad Retirement Act of 1937.

(j) The amendments made by section 105(c)(1) shall be effective with respect to lump-sum payments awarded on or after the enactment date of this Act.

(k) The amendments made by section 105(c)(2) shall be effective with respect to deaths occurring in or after the twelfth month preceding the month of enactment.

(l) The amendments made by section 105(d)(1) shall be effective with respect to deaths occurring on or after the enactment date of this Act.

(m) The amendments made by section 105(g) shall be effective with respect to deductions made in the calendar year 1966 and thereafter.

(n) The amendments made by section 105(j)(1) shall be effective with respect to annuities under section 5(c) of the Railroad Retirement Act for months after the month in which this Act is enacted; except that in the case of an individual who was not entitled to an annuity under section 5(c) of such Act for the month in which this Act was enacted, such amendment shall apply only on the basis of an application filed in or after the month in which this Act is enacted.

(o) The amendment made by section 105(j)(3)(i) shall be effective with respect to annuities for months after the month of enactment of this Act. No lump-sum benefit under section 5(f)(2) of the Railroad Retirement Act of 1937 shall be awarded after the date of enactment of this Act in any case in which an individual survives who would be entitled to an annuity under the amendment made by this section unless such individual executes an election in accordance with such section 5(f)(2) before attainment of age 60 to have such benefit paid in lieu of other benefits.

TITLE II—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

SEC. 201. (a) Section 1(i) of the Railroad Unemployment Insurance Act is amended by striking out "section 8" and inserting in lieu thereof "section 6 of this Act".

(b) Section 1(k) of such Act is amended by striking out "$500" and inserting in lieu thereof "$750".

(c) Sections 1(s) and 1(t) of such Act are each amended by striking out ", Alaska, Hawaii,".

SEC. 202. (a) Section 2(a) of the Railroad Unemployment Insurance Act is amended by striking out the first line from the table thereof and by substituting "$750" for "700" in the second line of such table.

(b) Section 2(g) of such Act is amended by striking out all of said section after "whom any" and inserting in lieu thereof the following: "accrued annuities under section 3(f)(1) of the Railroad Retirement Act of 1937 are paid. In the event that no such accrued annuities are paid, and if application for such accrued benefits is filed prior to the expiration of two years after the death of the individual to whom such benefits accrued, such accrued benefits shall be paid, upon certification by the Board, to the individual or individuals who would be entitled thereto under section 3(f)(1) of the Railroad Retirement Act of 1937 if such accrued benefits were accrued annuities. If there is no individual to whom all or any part of such accrued benefits can be paid in accordance with the foregoing provisions, such benefits or part thereof shall escheat to the credit of the account."

SEC. 203. The first sentence of section 6 of the Railroad Unemployment Insurance Act is amended by striking out the phrase "under oath".

SEC. 204. (a) Section 8(b) of the Railroad Unemployment Insurance Act is amended by striking out "3¾ per centum" and inserting in lieu thereof "4 per centum".

(b) Section 8(h) of such Act is amended by striking out "section 1800 or 2700 of the Internal Revenue Code, and the provisions of section 3661 of such code" and inserting in lieu thereof "the provisions of the Railroad Retirement Tax Act".

SEC. 205. Sections 10(a) and 11(a) of the Railroad Unemployment Insurance Act are each amended by striking out "0.2 per centum" and inserting in lieu thereof "0.25 per centum".

SEC. 206. Section 12 of the Railroad Unemployment Insurance Act is amended by adding at the end of subsection (d) thereof the following new sentence: "Subject to the provisions of this section, the Board may furnish such information to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the railroad unemployment insurance administration fund established pursuant to section 11(a) of this Act."; and by striking out "section 3(a)" from subsection (g) and inserting in lieu thereof "section 3".

TITLE III—AMENDMENTS TO THE RAILROAD RETIREMENT ACT, THE RAILROAD UNEMPLOYMENT INSURANCE ACT, AND THE RAILROAD RETIREMENT TAX ACT

SEC. 301. Sections 3(c), 5(f)(2), and 5(l)(9) of the Railroad Retirement Act of 1937, sections 8(a) and 8(b) of the Railroad Unemployment Insurance Act, and sections 3201, 3202, 3211, and 3221 of the Railroad Retirement Tax Act are amended by—

(i) striking out "before the calendar month next following the month in which this Act was amended in 1959", wherever such language appears in such sections 3(c), 5(f)(2), 5(l)(9), 8(a) and 8(b), and inserting in each instance in lieu thereof "before June 1, 1959";

(ii) by striking out the language "after the month in which this Act was so amended" wherever such language appears in such sections 8(a) and 8(b) and inserting in each instance in lieu thereof "after May 31, 1959";

(iii) by striking out the language "after the month in which this provision was amended in 1959", wherever such language appears in such sections 3202 and 3221, and inserting in each instance in lieu thereof "after September 30, 1965";

(iv) by striking out from such sections 3(c), 5(f)(2), and 5(l)(9) the language beginning with "$400" down through the phrase "was so amended" where such phrase appears the third time and inserting in lieu thereof:

(a) in such section 3(c) the following: "$400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965";

(b) in such section 5(f)(2) the following: "$400 for any month after May 31, 1959, and before November 1, 1963, and in excess of $450 for any month after October 31, 1963, and before October 1, 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965"; and

(c) in such section 5(l)(9) the following: "$400 for any month after May 31, 1959, and before November 1, 1963, any excess of $450 for any month after October 31, 1963, and before October 1, 1965, and any excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965";

(v) by striking out from such sections 3201, 3203, 3211, and 3221 the language (wherever it appears in such sections) beginning with "$400" down through the phrase "was so amended" where such phrase appears the second time in such language and inserting in lieu thereof the following: "(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965"; and

(vi) by striking out from the proviso in such sections 3201 and 3211, from subsection (b) of such section 3221 the phrase "after December 31, 1964" and inserting in lieu thereof "after September 30, 1965".

SEC. 302. Section 3221(a) of the Railroad Retirement Tax Act is amended by adding at the end thereof the following new sentence: "Where compensation for services rendered in a month is paid an employee by two or more employers, one of the employers who has knowledge of such joint employment may, by proper notice to the Secretary of the Treasury, and by agreement with such other employer or employers as to settlement of their respective liabilities under this section and section 3202, elect for the tax imposed by section 3201 and this section to apply to all of the compensation paid by such employer for such month as does not exceed the maximum amount of compensation in respect to which taxes are imposed by such section 3201 and this section; and in such a case the liability of such other employer or employers under this section and section 3202 shall be limited to the difference, if any, between the compensation paid

by the electing employer and the maximum amount of compensation to which section 3201 and this section apply.

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, this is a good bill. It was considered by the subcommittee and passed out of the subcommittee unanimously and it passed the full committee unanimously. I will ask the chairman of the subcommittee, Mr. TORBERT MACDONALD, of Massachusetts, to give a brief explanation of the bill.

(Mr. MACDONALD asked and was given permission to revise and extend his remarks.)

Mr. MACDONALD. Mr. Speaker, this bill was drafted by the Railroad Retirement Board and recommended by the Board to the committee. At the hearings it was supported by the representatives of the railroad brotherhoods and witnesses representing the carriers expressed no opposition to the bill.

The bill makes a very substantial number of changes in the Railroad Retirement Act which are discussed in considerable detail in the report on the bill. The most important changes made by the bill are two: First, the bill provides benefits under the Railroad Retirement Act for children over the age of 18 and below the age of 22 while they are attending school. These benefits will be payable retroactively to January 1, 1965, or to the date the child attains age 18, whichever last occurred, and will thereby bring the Railroad Retirement Act provisions relating to coverage of students into conformity with the similar provisions of the Social Security Act as amended in 1965.

The second important change involves what is known as the residual lump sum. The Railroad Retirement Act contains a feature providing that every person who pays taxes into the fund is guaranteed that he or his survivors would receive in benefits for virtue of those payments into the fund not less than the total amount which that individual has paid in taxes into the fund, plus an additional amount designed to represent interest on the sums deposited into the railroad retirement fund. For example, if an employee has paid $4,000 into the fund and dies after receiving $3,000 in benefits, not less than $1,000 plus this increased allowance will be payable either in benefits or as a lump sum to his survivors or his estate as applicable.

The provisions of the Railroad Retirement Act specifying the amounts to be paid for the residual lump-sum benefit are tailored precisely to the provisions of the Railroad Retirement Tax Act, and each time the base wages subject to tax under that act have been increased it has been necessary to amend the provision for the residual lump sum in order to reflect in that section the increased taxes payable by employees.

Last year, because of problems associated with the interrelationship between medicare and the railroad retirement system, it became necessary to increase the base wages subject to tax under the Railroad Retirement Tax Act, but no change was made at that time in the provision for the residual lump sum. This bill makes the appropriate changes in section 5(f)(1) of the Railroad Retirement Act to reflect the new $550 a month base wages subject to tax, and the rate of taxes applicable to those wages.

In addition to making these two changes, plus a number of technical and clerical changes in the law, the bill contains provisions rectifying some injustices that have arisen. They are as follows:

Section 102(b)(1) provides for a spouse's annuity on the basis of having a child in her care regardless of the employee's having a current connection with the railroad industry.

Section 103(c)(1) provides for applying the 10-percent increase in the social security minimum before rather than after reduction for social security benefits.

Section 103(c)(2) provides that the social security minimum should be applicable on the annuity accrual date—rather than at the beginning of the following month—where the annuity begins in the middle of the month.

Section 103(e) provides that where an annuitant has disappeared he would be assumed to be dead, and a widow's—instead of a spouse's—annuity would be payable subject to an adjustment if he is found to be alive.

Section 105(c)(2) would permit the payment of the deferred insurance lump sum under section 5(f)(1) of the act to a widow or widower whether or not either is entitled to an annuity on the basis of the employee's death at the time the lump sum becomes payable.

Section 105(g) would eliminate—for purposes of the work deduction requirement in survivor annuity cases—all earnings in months after the month in which the annuitant's qualification for the survivor annuity ceases.

Section 105(j)(1) would not disqualify a child for a survivor annuity if the child is adopted by a brother or sister.

Section 105(j)(3), clause (i), provides that a widow or widower not entitled to an annuity, as such, under the Railroad Retirement Act because of not living with the employee at the time of his death, and not entitled to a benefit, as such, under the Social Security Act because the employee died insured under the Railroad Retirement Act, would be deemed to have been living with the employee at the time of his death and be paid annuities under the Railroad Retirement Act.

Section 108(ii) would permit the crediting to the railroad retirement account of the payments made to the Board for administrative services rendered to persons or organizations—such as insurance companies or organizations of railroad labor or railroad management.

We held hearings on this bill and the subcommittee and the full committee ordered it reported to the House unanimously, and I urge the House to pass the bill.

(Mr. BURKE (at the request of Mr. MACDONALD) was given permission to extend his remarks at this point in the RECORD.)

Mr. BURKE. Mr. Speaker, I wish to associate myself with my esteemed colleague from Massachusetts, the Honorable H. TORBERT MACDONALD, in support of this legislation granting a 7-percent increase to those on railroad retirement. I strongly support the bill that provides benefits for surviving children in the age group from 18 to 21, inclusive, who are full-time students. These improvements in the Railroad Retirement Act are similar to those granted in the social security bill passed last year. I filed two bills this year dealing with this problem and I am pleased to see that the committee incorporated the provisions of my bills into these two bills.

The gentleman from Massachusetts [Mr. MACDONALD] and the other members of the Committee on Interstate and Foreign Commerce are to be commended for their excellent work.

The rising cost of living, inflation, has hit retirees harder than any other segment of our economy. They are feeling the brunt of spiraling costs. Time is of the essence and this legislation should be rushed along for the President's signature.

(Mr. HARSHA (at the request of Mr. MACDONALD) was given permission to extend his remarks at this point in the RECORD.)

[Mr. HARSHA addressed the House. His remarks will appear hereafter in the Appendix.]

Mr. SPRINGER. Mr. Speaker, I think the main provision of this bill relates to the survivors' children receiving payments up to the age of 22 provided they stay in school. That is the big change. There are two other important changes which should be noted, I think. An employee who dies and who has not worked long enough to get anything under this act will have his payments refunded.

There is a slight change in the spouse's annuity, and I think my colleagues ought to know that all the amendments in this bill will cost $7.8 million a year and will not affect the security of the fund. In my opinion, this bill ought to pass, and I recommend it to my colleagues.

Mr. POFF. Mr. Speaker, H.R. 14355 has my enthusiastic support.

The measure makes a number of technical amendments which have very little consequential effect on costs or benefits. However, they are absolutely vital to the proper functioning of the system.

The bill does contain two important substantive amendments. One relates to the residual benefit payable under section 5(f)(2) of the statute. This amendment guarantees that the employee will recapture all of the premiums he has

paid into the railroad retirement fund, plus an allowance in lieu of interest, after he retires and before he dies, or that the difference will be paid to his estate after his death.

The other substantive amendment is one which I proposed in H.R. 10537 which I introduced on October 18, 1965. This amendment does nothing more or less than grant to children of a deceased railroad worker the same treatment that Congress accorded children of a deceased social security worker in the social security bill passed in 1965. Under that bill, the widow will continue to receive benefits for children until they reach their 22d birthday, so long as they are enrolled full time in school. Under the Railroad Retirement Act, as formerly under the Social Security Act, the cutoff age for such benefits is 18. The amendment in H.R. 14355 will advance the cut-off age to 22d thereby and accord equal treatment to children of railroad workers and social security workers.

Mr. Speaker, this correction should have been made promptly after the social security amendment was adopted. The delay has caused some inconvenience and some personal anxiety and hardship to distraught widows of deceased railroad workers who have children over the age of 18 in school. It would be a pleasure for me to be able to advise those who have written to me that this act of simple justice has finally been consummated.

I earnestly hope that a special effort will be made by the chairman of the House committee to persuade the chairman of the Senate committee to act expeditiously. Only a short time remains in this session of Congress, and time is of the essence.

The SPEAKER. The question is on the motion of the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 14355, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Calendar No. 1688

89TH CONGRESS, 2d Session } SENATE { REPORT No. 1719

AMENDING THE RAILROAD RETIREMENT ACT OF 1937, THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND THE RAILROAD RETIREMENT TAX ACT

OCTOBER 13, 1966.—Ordered to be printed

Mr. PELL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

together with individual views

[To accompany H.R. 14355]

The Committee on Labor and Public Welfare, to which was referred the bill (H.R. 14355) to amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act and the Railroad Retirement Tax Act, to make certain technical changes, to provide for survivor benefits to children, ages 18 to 21, inclusive, and for other purposes, having considered the same, reports favorably thereon without amendment, and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill would amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act and the Railroad Retirement Tax Act, to effect certain changes needed as to form or of a technical nature, to make changes designed to improve the administration of the Railroad Retirement Act, and to make several substantive changes which would improve the railroad retirement system. The amendments to the Railroad Unemployment Insurance Act and the Railroad Retirement Tax Act involve no substantive changes and would add no costs to either the railroad retirement system or the railroad unemployment insurance system.

One of the major substantive amendments to the Railroad Retirement Act would provide benefits for surviving children in the ages 18 to 21, inclusive, who are full-time students in an educational institution. Such benefits are now provided under the Social Security Act. Without this change many children will not be able to obtain even a reasonably satisfactory education.

Another major substantive amendment would conform the residual lump-sum benefit under section 5(f)(2) of the Railroad Retirement Act to increases in the schedule of tax rates in the Railroad Retirement Tax Act. The purpose of this lump-sum benefit which is payable after the death of an employee is to assure that in every case benefit payments will amount to at least as much as the employee paid in taxes in support of the railroad retirement system. It was designed to be in an amount approximately equal to the taxes an employee paid, plus an allowance in lieu of some interest, but minus, of course, other benefits paid. In view of the tax rates for years after 1967—8.15 percent for 1968 up to 9.35 percent for years after 1972—which have resulted from legislation enacted after the provision for this benefit, the maximum factor of 8 percent now applicable in computing this benefit will not be large enough to give full effect to the underlying purpose. With respect to the periods after 1965 the amount to be included in the residual lump sum would be equal to the taxes the employee paid—one-half of an employee representative's taxes would be deemed employee taxes—plus one-half of 1 percent of the compensation on which such taxes were payable, which would be a form of interest. For this purpose, compensation of $160 a month for creditable military service after 1965 would be deemed to be taxable. Taxes for hospital insurance benefits, as well as the hospital insurance benefits themselves, would be excluded from the computation of the residual lump-sum benefit.

Provisions	*Estimated cost*	*Yearly costs on a level basis (or savings denoted by minus sign)*
Sec. 102(b)(1) of the bill provides for a spouse's annuity on the basis of having a child in her care even though the employee has no current connection with the railroad industry		$500,000
Sec. 103(c)(1) provides for the application of the 10-percent increase (above the amount that would be payable as a social security benefit if railroad service had been "employment" subject to the Social Security Act, in cases where benefits are payable under the social security minimum provision) before rather than after reduction for social security benefits to which the individual is also entitled		100,000
Sec. 103(c)(2) provides that the social security minimum provision would be applicable on the annuity accrual date (rather than at the beginning of the following month) where the annuity begins in the middle of the month		100,000
Sec. 103(e) provides that where an annuitant has disappeared, he would be assumed to be dead, and a widow's (instead of a spouse's) annuity would be payable subject to an adjustment if he is found to be alive		−50,000
Sec. 105(c)(2) would permit the payment of the deferred insurance lump sum under sec. 5(f)(1) of the act to a widow or widower whether or not either is entitled to an annuity on the basis of the employee's death at the time the lump sum becomes payable		200,000
Sec. 105(d)(1) would revise the method of computing the residual lump sum under sec. 5(f)(2) of the act		4,300,000
Sec. 105(g) would eliminate (for purposes of the work deduction requirement in survivor annuity cases) all earnings in months after the month in which the annuitant's qualification for the survivor annuity ceases		100,000
Section 105(j)(1) would remove the provision which now disqualifies a child for a survivor annuity if the child is adopted by his brother or sister		50,000
Sec. 105(j)(2) provides for the payment of survivor annuities to children age 18 to 21 inclusive if they are full-time students		2,400,000

Estimated cost—Continued

Provisions	Yearly costs on a level basis (or savings denoted by minus sign)
Sec. 105(j)(3) provides that a widow or widower not entitled to an annuity, as such, under the Railroad Retirement Act (because of not "living with" the employee at the time of his death) and not entitled to a benefit, as such, under the Social Security Act (because the employee died insured under the Railroad Retirement Act) would be deemed to have been "living with" the employee at the time of his death and be paid an annuity, as such, under the Railroad Retirement Act	$150,000
Sec. 108 would permit the crediting to the Railroad Retirement Account (rather than to the general funds of the Treasury) of the payments made to the Board for administrative services rendered to persons or organizations (such as insurance companies or organizations of railroad labor or railroad management)	−50,000
Total costs	7,900,000
Total savings	−100,000
Net estimated costs	7,800,000

EFFECT OF THE BILL ON THE FINANCIAL CONDITION OF THE RAILROAD RETIREMENT SYSTEM

There is now an estimated long-range deficiency in the financing of the benefits under the railroad retirement system of 0.62 percent of taxable payroll or $29.8 million a year on a level basis. Enactment of the bill would increase this deficiency by 0.16 percent of such payroll or $7.8 million a year on a level basis to 0.78 percent of such payroll or $37.6 million a year on a level basis.

JUSTIFICATION OF THE BILL

The Railroad Retirement Board, in its report on the bill, stated that "the considerations in favor of the provisions included in the bill are such as to warrant their enactment". The testimony of the Chairman of the Board and of the counsel for the Railway Labor Executives' Association during the hearings on the bill was to the same effect. The committee is of the same opinion.

While the total cost of the bill is estimated to be $7.8 million a year on a level basis, most of this cost would result from the provision for benefits to full-time students in the ages 18 to 21, inclusive ($2.4 million a year), and the provision to bring up to date the residual lump-sum benefits under the Railroad Retirement Act ($4.3 million a year). The remaining amendments would cost $1.2 million a year, but two of these amendments would save $0.1 million a year, leaving the net cost of the other amendments at $1.1 million a year on a level basis. The committee believes that the provision in the bill for benefits to full-time students is of essential importance. The other costly provision in the bill changes the formula for computing the residual benefit. Under a congressional policy of long standing, this benefit is intended to insure that in no case will the benefits paid to an employee and his family be less in total than the amount of taxes he paid into the railroad retirement system, plus an amount in lieu of interest. The committee believes that there should be no departure from this long-standing congressional policy.

The railroad retirement system is regarded as being in a reasonably sound financial condition when it is underfinanced by only about an estimated 0.50 percent or less of taxable payroll. Even though after

enactment of the bill the deficit would be 0.78 percent which is 0.28 percent above the accepted tolerance of 0.50 percent, this is not so serious as to outweigh the considerations in favor of the bill. The committee therefore concludes that the bill should be enacted.

HISTORY OF THE LEGISLATION

The bill H.R. 14355, was introduced on April 6, 1966, by the chairman of the House Committee on Interstate and Foreign Commerce. the companion bill, S. 3274, was introduced on April 25, 1966, by the chairman of the Subcommittee on Railroad Retirement of the Senate Committee on Labor and Public Welfare.

Hearings on the House bill were held on April 21, 1960, before the Subcommittee on Commerce and Finance of the House Interstate and Foreign Commerce Committee, and on the Senate bill, before the Subcommittee on Railroad Retirement of the Senate Committee on Labor and Public Welfare, on May 18, 1966. At both hearings, the bills were supported by the Railroad Retirement Board, railway labor, and other groups. Inserted into the Senate record was a letter from the Association of American Railroads, which stated that the association had no objection to the proposed legislation. Also during the Senate hearing, the subcommittee chairman stated that perhaps consideration should be given to an eventual amalgamation of the Railroad Retirement System and the Social Security System. The history of the system, the excellent administrative cost record of the Railroad Retirement Board (approximately half that of the Social Security System) and the variety of benefits administered were pointed out as factors which warrant the separation of the two systems.

The House Committee on Interstate and Foreign Commerce favorably reported H.R. 14355 on October 1, 1966, and the House of Representatives passed the bill, as amended, on October 3, 1966.

On August 29, 1966, the Subcommittee on Railroad Retirement, favorably reported S. 3274 with the same amendments as were adopted by the House. As so amended the Senate bill is identical with H.R. 14355, passed by the House. The committee therefore reports favorable on the bill H.R. 14355, as it was passed by the House of Representatives.

SECTION-BY-SECTION ANALYSIS OF THE BILL

Section 101

(a) Since Alaska and Hawaii are now States in the Union, this subsection would remove from section 1(e) of the Railroad Retirement Act the unnecessary specific reference to them as such.

(b) This subsection would make technical changes in section 1(h) of the act with respect to the language of the provision for disregarding earnings in the service of a local lodge or division of a railway-labor-organization employer of less than $3 a month.

(c) Section 3(e) of the Railroad Retirement Act of 1937 contains a provision which, in effect, guarantees that an annuity shall be no less than 110 percent of the amount, or the additional amount, which would be payable under the Social Security Act if the railroad service on which the annuity is based had been employment subject to that act. For the purposes of this provision, as well as others, the Social Security Act is defined in section 1(q) of the Railroad Retirement Act of 1937 as the Social Security Act as amended in 1965. In the past,

this section 1(q) had to be changed each time the Social Security Act was amended so as to refer to the Social Security Act as currently in effect. To avoid the necessity of changing section 1(q) of the act each time the Social Security Act is amended, the amendment made by this subsection of the bill would provide that the term "Social Security Act" shall mean the Social Security Act as amended from time to time, and thus dispense with the necessity of changing section 1(q) each time the Social Security Act is amended.

Section 102

(a) Under the amendment made by this subsection to section 2(a) of the act, an employee's disability annuity would be paid for 2 months after his recovery from disability. The provision as changed would correspond to a similar provision in the Social Security Act.

(b)(1) and (c) If an employee annuitant who is 65 years of age does not have a current connection with the railroad industry, no spouse's annuity is payable to his wife if she is under age 65 (or 62 in the case of a reduced annuity) even though she has the employee's minor or disabled child in her care. The reason for this is that her eligibility depends upon the child becoming entitled to a child's survivor annuity if the employee were then to die. However, if he were then to die without being currently connected with the railroad industry, or was not completely insured for other reasons, the child would not be entitled to an annuity, as such, under the Railroad Retirement Act, but would be entitled to a monthly benefit under the Social Security Act. The amendment made by subsection 102(b)(1) of the bill to section 2(e)(ii) of the Railroad Retirement Act would make the wife of such employee annuitant eligible for a spouse's annuity regardless of his insured status, as long as the child meets the requirements of section 5(l)(1) of the Railroad Retirement Act of 1937, other than section 5(l)(1)(ii)(B) thereof (the proposed new provision to qualify a child age 18 to 21, inclusive, while a full-time student). The amendment made by subsection (c) in section 2(g) of the act would terminate a spouse's annuity based on having a child in her care when the child attains age 18 or recovers from disability even though the child would be entitled to an annuity by reason of being a full-time student.

(b)(2) The amendment made by this paragraph would eliminate the words "from time to time" from section 2(e) of the act which would be no longer necessary by reason of the enactment of section 101(c) of the bill.

(d) Under present law, an annuity on the basis of age is reduced by 1/180 for each month that the annuitant is under age 65 (other than in the case of a woman with 30 years of service); if the annuitant is only age 60, the annuity is reduced by one-third, and if his annuity is later computed by reason of an increase in benefits or added service, the increase is also reduced by one-third even if at the time of recomputation the annuitant is, say, 63 years old. The amendment made by this subsection would add a new subsection (j) to section 2 of the act to provide that the amount subsequently added to the annuity be reduced only on the basis of the annuitant's age at the time the amount is added. In the case described above, the increase would be adjusted by only 24/180 instead of 60/180.

Section 103

(a) The amendments made by this subsection would correct technically, in section 3(b)(1) of the act, the reference to certain dates.

(b) To expedite adjudication of claims, the amendment made by this subsection in section 3(c) of the act would permit the certification for payment of an annuity based on months of service immediately preceding retirement with respect to which the employer's return of compensation had not yet been entered on the Board's records. In such case, the compensation for such months would be assumed to be the average of the compensation for months in the last period for which the employer had filed a return which had been entered on the Board's records, subject, however, to subsequent adjustment upon the employee's request if the assumption proves to have been in error. The provision, however, is discretionary and would not be used, for example, where the number of years of service is crucial to the determination of eligibility.

(c)(1) The amendment made by this paragraph in section 3(e) of the act is intended to eliminate an anomaly. The social security guaranty provision in section 3(e) of the act, in effect, assures that an annuity, or the total of annuities for a month, shall in no case be less than 110 percent of the amount, or the additional amount, which would be payable to all persons for the month if the railroad service on which the annuity or annuities is based had been employment under the Social Security Act. Consider the case of a man whose annuity under the regular railroad retirement formula would be $50 a month. He has social security employment, but not enough for an insured status under the Social Security Act. By combining the service credits under both systems he could receive $100 a month under the Social Security Act (there is no primary insurance amount under the Social Security Act of exactly $100 but the round figure is used for simplicity). In such case his annuity as calculated under the social security guaranty provision contained in section 3(e) of the Railroad Retirement Act is in the amount of $110 a month. If he subsequently acquires additional employment under the Social Security Act to entitle him to a primary insurance benefit of $48, the $100 is reduced by $48 and the employee's annuity under the Railroad Retirement Act becomes $57.20 a month ($52 plus 10 percent). The total of the two benefits is then $105.20 instead of $110 he formerly received under the Railroad Retirement Act alone. Thus, the employee's eligibility under the Social Security Act has resulted in penalizing him to the extent of $4.80 a month. The amendment made by this subsection would entitle him to $62 ($52 plus 10 percent of $100) instead of $57.20, and the total of both benefits would be $110 a month ($62 plus $48), or the same amount he received under the Railroad Retirement Act alone before he became entitled to a social security benefit. This change will also remove the anomaly under present law where the sum of a widow's annuity plus her own social security benefit can be less than would be her widow's annuity computed under the minimum guaranty if she were not eligible for the social security benefit.

(c)(2) Under present law, an annuity which begins after the first day of a month cannot be paid at the social security guaranty rate for the days of such month for which it is payable; for such days the annuity is paid under the regular railroad retirement formula. The amend-

ment made by this paragraph to section 3(e) of the act would permit an annuity to be paid at the social security guaranty rate for part of a month. The amount of the annuity for the part of the month would bear the same proportion to the annuity for an entire month as the proportion of the days for which it is payable bears to 30.

(d) For the purpose of determining family relationships and the "living with" requirement, section 5(l)(1) of the Railroad Retirement Act incorporates the provisions of section 216(h)(1), (2) and (3) of the Social Security Act as in effect before such act was amended in 1957. Paragraph (5) of section 3(f) of the Railroad Retirement Act relating to "living with" incorporates the "conditions set forth in section 216(h)(2) or (3) of the Social Security Act." By reason of the provisions in section 5(l)(1) of the Railroad Retirement Act, the Railroad Retirement Board has, in practice, applied the conditions set forth in section 216(h) (2) or (3) of the Social Security Act as in effect prior to 1957. The amendment made by this subsection would clarify the Board's position and authority in this respect.

(e) The Court of Appeals for the Sixth Circuit held, contrary to the position taken by the Board, that when an annuitant disappears, under circumstances not showing satisfactorily whether or not he died or continued in life, his retirement annuities continue to accrue until the end of the seven-year period when he can be regarded as having died under the rule generally applicable in connection with the presumption of death. (*Tobin* v. *Railroad Retirement Board*, 286 F. 2d 480; and see *Flanagan* v. *Railroad Retirement Board*, 332 F. 2d 301 (C.A. 3).) As a result, the Board is now obligated to pay a large lump sum representing such accruals for 7 years. In the *Tobin* case, this payment was made to the annuitant's daughter but, of course, it could, in other cases, go to grandchildren, parents, or brothers and sisters. The amendment in section 3(g) of the act would place the burden upon the claimant for accrued annuities to prove that the annuitant was alive during each month for which the accrued annuity is claimed.

Where the annuitant disappears, under circumstances which do not demonstrate that he died, and leaves a wife receiving a spouse's annuity, she obviously continues to be his wife or else she is his widow. In such case, the Railroad Retirement Board has paid the lesser of the spouse's annuity or the widow's annuity on the theory that she is entitled to one or the other. Under the amendment made by this subsection, the annuitant in such case would be deemed to have died when he disappeared, but only for the purpose of paying annuities under section 5. Such annuities, however, would be subject to adjustment and recovery if the annuitant is proven to be alive. Ordinarily, under present law, a widow's annuity will not be less than she has received as a spouse's annuity, and this would prevent a reduction in his wife's annuity payments upon his disappearance. Under this amendment, the assumption of death would apply only if the annuitant's wife would be entitled to a spouse's annuity (either on a reduced or a full basis) if he was shown to be alive, regardless of whether she has filed an application for a spouse's annuity. The application for the widow's annuity would be treated as an application for a spouse's annuity where necessary. (Under present practice an application for a spouse's annuity is treated as an application for a widow's annuity where necessary.)

(f) Under present law all annuity amounts are rounded to the next higher multiple of 10 cents. This subsection would amend section

3(i) of the act so that annuities payable under the regular railroad retirement formula would end in a digit denoting 5 cents. The purpose of this change is to enable field representatives to ascertain immediately from the last digit of the annuity amount (either 5 or 0) whether the payment is under the regular railroad retirement formula or under the social security guaranty provision. This knowledge would permit the representatives to provide full advice to an annuitant as to the effect on his annuity of employment in which he is engaged, or contemplates engaging.

Section 104

This amendment would merely redesignate certain subsections of section 4 of the act to supply the missing designations of subsections (h) and (m).

Section 105

(a) and (b) The amendments made by these two subsections would amend section 5(b) of the act to make certain that a widow's current insurance annuity will not be payable on the basis of having in her care a nondisabled child age 18 to 21, inclusive, who is a full-time student (such a child would be eligible for an annuity under an amendment proposed by the bill), and to strike out certain superfluous language.

(c) This subsection would amend section 5(f)(1) of the act to permit the payment of the insurance lump-sum benefit directly to a funeral home subject to the same conditions and limitations provided for in the Social Security Act for the payment of the death benefit to a funeral home. This change would also permit individuals who have paid certain charges in connection with a burial, other than the charges of a funeral home, (such as those in connection with opening and closing the grave and providing the burial plot), to be reimbursed from the insurance lump-sum benefit. In addition, clause (2) of this subsection would eliminate an inequity regarding the eligibility for the deferred lump sum under section 5(f)(1) of the Railroad Retirement Act. Under present law, this lump sum is never payable in a case where, for example, at the time of the death of the employee, his widow and minor child are entitled to annuities on the basis of his compensation for less than 12 months even though the total of the monthly annuities to both is less than the insurance lump sum. This amendment in clause (2) would make possible the payment of the deferred lump sum in such cases so that the survivors will not receive less in total benefits than the amount of the lump sum that would have been payable had there been no immediate entitlement to monthly benefits. The lump sum would be reduced, however, by the amount of the annuities paid for that period. Under existing law, the regular lump-sum payment under section 5(f)(1) of the Railroad Retirement Act is payable only to the widow or widower of the employee, but the deferred lump sum is payable to the employee's widow, widower, child or parent, but only if any such person is entitled to an annuity at the time such lump sum becomes due. Under the amendment, such lump sum would be payable only to the widow or widower, whether or not either is then entitled to an annuity on the basis of the death of the employee. The reason for the exclusion of the child or parent of the employee from eligibility for the deferred lump sum is that they are not eligible as such for this regular lump-sum payment; at one time they were so eligible

but when the law changed, the deferred lump-sum provision was not changed to conform.

(d)(1) The residual lump-sum benefit under section 5(f)(2) of the Railroad Retirement Act is intended to be in an amount approximately equal to the taxes an employee paid under the Railroad Retirement Tax Act, plus an allowance in lieu of interest, but minus, of course, other benefits paid. In view of the tax rates for years after 1967 (8.15 percent for 1968 up to 9.35 percent for years after 1972) the maximum multiplier of 8 percent now applicable in computing this benefit will not be large enough to give full effect to the underlying purpose of the benefit. This amendment made by paragraph (1) of this subsection would continue the present provisions through December 31, 1965. With respect to the years after 1965, the amount to be included in the residual lump sum would be the amount of employee taxes (one-half of an employee representative's taxes would be deemed employee taxes) payable during that time plus one-half of 1 percent of the compensation on which such taxes were payable. The word "payable" is used rather than "paid" in order to avoid ascertaining whether taxes were actually paid. For this purpose, compensation of $160 a month for creditable military service after 1965, would be deemed to be taxable. The employee taxes for hospital insurance benefits, as well as the hospital insurance benefits themselves, would be excluded from the computation of the residual lump sum.

(2) The reference in section 5(f)(2) of the Railroad Retirement Act to "retirement age (as defined in sec. 216(a) of the Social Security Act)" is now anomalous, since retirement age is not now defined in the Social Security Act. The term as used has been treated by the Board as meaning age of eligibility for survivor benefits, that is, age 60 in the case of a widow and age 62 in the case of a widower or parent, and this paragraph would clarify the Board's authority in this respect.

(e) Section 5(g)(3) of the act is now obsolete. It served only to protect certain rights in regard to the provisions of the act under which the entitlement by an individual to a primary benefit under the Social Security Act or a retirement annuity under the Railroad Retirement Act affected such individual's rights to a survivor annuity under section 5. Both of these provisions were eliminated in 1954 and 1955, respectively, and the amendment made by this subsection would take cognizance of this.

(f) This subsection makes certain changes of a technical nature in the provisions of section 5(i) of the act relating to deductions from survivor benefits. Also, the amendments made by this subsection to section 5(i) of the act would require a reduction in an annuity as to months before an application has been filed so as not to cause the payments to others for those months to be erroneous. This would prevent the need for adjustments and recoveries. For example, the maximum in benefits to a family may have been paid before a child (who was not included in the payments) became entitled to benefits as a student through the provisions of this bill. In such a case, his entitlement for months before his application was filed would, except for this change, cause the others to have been overpaid for the months in question. Further, a residual lump sum under section 5(f)(2) may have been paid to a school child who will qualify for monthly benefits after the amendment providing benefits to children ages 18 to 21 is

enacted. The amendment made by this subsection permits recovery, but only of that part of the residual paid to the school child.

(g) Under present law, in applying the work deduction provisions of the Social Security Act which are applicable by reference to survivor annuitants and are applicable in determinations under the social security guaranty provision in section 3(e) of the act, if an individual ceases during a year to be eligible for an annuity or to be included in the guaranty, his earnings for the entire year are taken into account in determining his excess earnings which require deductions from annuity payments during the year. The amendment made by this subsection in section 5(i)(1)(ii) of the act would cause to be disregarded, for purposes of such deductions, all earnings for months in the year beginning with the month in which the individual ceased to be eligible or to be included in the guaranty provision computations for reasons other than excess earnings.

(h) Under the amendment by this subsection to section 5(j) of the act, a child's disability annuity would be paid for 2 months after recovery from disability, the same as under the Social Security Act.

(i) This subsection would amend section 5(k)(1) of the act to correct a section reference.

(j)(1) Adoption by a brother or sister would not, under the amendment made by this subsection to section 5(l)(1)(ii) of the act, disqualify a child for a child's annuity if otherwise qualified. This corresponds to a similar amendment made in 1965 to the Social Security Act.

The amendments made by paragraph (2) and clause (iv) of paragraph (3) of this subsection to section 5(l)(1) provide for the payment of survivor annuities to children ages 18 to 21, inclusive, if they are full-time students, similar to such provisions in the Social Security Amendments of 1965, except that, as provided in the last sentence of section 112(i) of the bill, no application will be required of a child with respect to whom the Board has information of his eligibility for an annuity under this amendment through the application of the social security guaranty provision in section 3(e) of the Railroad Retirement Act of 1937.

(3) The amendment made by clause (i) of paragraph (3) of this subsection to section 5(l)(1) would avoid the anomaly under existing law where a widow of a railroad employee is not entitled to a benefit, as such, under the Railroad Retirement Act because she failed to meet the "living with" requirement; and is not entitled to a benefit, as such, under the Social Security Act because her husband died insured under the Railroad Retirement Act. This change would apply only to provide entitlement to an annuity; it would not cause an individual to meet the "living with" requirement as to lump-sum death benefits under section 5(f)(1) and (2) or as to accrued annuities under section 3(f). The annuity would be payable even in a case where the residual lump sum under section 5(f)(2) of the act had been awarded on or before the date of enactment of the bill. The reason for this is that such lump sum could not be recovered from the person or persons to whom it was awarded because such award was in accordance with the law then in effect; and a suspension of annuities to the widow until such time as the residual lump sum is canceled out would, in most cases have the effect of denying the widow an annuity altogether. Clause (ii) of paragraph (3) of this subsection would insert "and subsection (f) of section 3" after "subsection (f) of section 2" because a test for

determining who is a widow, widower, child, or parent is needed for subsection (f) of section 3. The new sentence added by clause (iii) of this paragraph is necessary because section 5(l)(1) does not expressly include grandchildren, brothers, and sisters of the deceased employee in the provisions for determining entitlement to the residual benefit under section 5(f)(2) and accrued annuities under section 3(f), which include, among the beneficiaries, grandchildren, brothers, and sisters. This is, in effect, a clarifying amendment. The amendments made by clause (v) of this paragraph would correct some punctuations.

(k) The amendment made by this subsection would expedite adjudication of survivor claims. (See discussion on Sec. 103(b).)

SEC. 106. The change made by this subsection in section 8 of the act would eliminate the requirement that the employer's return of compensation be made under oath, and would correct an error in grammar.

SEC. 107. (a) and (b) The language of the first sentence of section 9 of the Railroad Retirement Act is such that it permits any erroneous payments of auxiliary or survivor benefits to an individual to be recovered only from subsequent payments due that particular individual. For example: (1) Erroneous payments to a spouse cannot be recovered except by consent from payments due another individual; and (2) erroneous payments to one survivor cannot be recovered from another except by consent. The amendment made by subsection (a) would make possible such recovery as a matter of law. The amendment made by subsection (b) would limit the second sentence of section 9(a) of the Railroad Retirement Act to the individual to whom the overpayment was made.

SEC. 108. The amendment made by this section to section 10 of the act would authorize information to be furnished, subject to limitations and conditions, to certain private organizations such as furnishing information to insurance companies, railroad labor and railroad management organizations, upon payment by such persons or organizations to the Board of an amount equal to the cost incurred by the Board in furnishing such information; and such amounts would be credited to the Railroad Retirement Account. Such amounts, under existing law, must be transferred to the general funds in the Treasury. Another amendment made by this section to section 10 of the act would place upon the Railroad Retirement Board the same authority and restriction with regard to disclosure of information obtained in the administration of the Railroad Retirement Act as is now provided in the Railroad Unemployment Insurance Act.

Section 109

The Social Security Act permits payment of benefits to an individual or to someone for his use and benefit even though he is an incompetent or a minor for whom a guardian is acting. The amendment made by this section to section 19 of the act would confer comparable authority upon the Railroad Retirement Board.

Section 110

The amendment made by this section would strike out a superfluous subsection designation in section 20 of the act.

Section 111

The amendments made by this section would change references in section 202 of part II of the act to certain subsections of section 4 of

the Railroad Retirement Act which would be amended by section 104 of the bill.

Section 112

This section provides the effective dates for the amendments made by the bill.

The amendments made by title II of the bill, other than section 202(b), are either technical, making no substantive changes in the Railroad Unemployment Insurance Act, or conform to amendments made in title I of the bill.

Section 202

(b) Section 2(g) of the Railroad Unemployment Insurance Act does not provide for escheat of accrued benefits to the railroad unemployment insurance account in the absence of persons to receive payment, as section 3(f)(6) of the Railroad Retirement Act provides for escheat to the Railroad Retirement Account. The amendment made by this section would so provide.

Section 301

The amendments made by this section would substitute fixed dates (which are now known) for phrases such as "the calendar month next following the month in which this act was amended in 1959," in the relevant provisions of all three acts (the Railroad Retirement Act, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act). Further, the last amendment made by this section would make the automatic tax increase applicable with respect to compensation paid for services rendered after September 30, 1965, instead of after December 31, 1964, because the 1965 amendments to the Railroad Retirement Tax Act (Public Law 89–212) eliminated the provisions for tax rates for periods before October 1, 1965.

Section 302

The amendment made by this section to section 3221(a) of the Railroad Retirement Tax Act would permit two or more employers who employ the same employee to agree that one of them should report the employee and employer taxes up to the creditable limit and make the required apportionment between or among themselves of their respective obligations for the reporting and payment of the employee and employer taxes. While no similar change is made in the corresponding provisions of the Railroad Unemployment Insurance Act, the committee understands that the Board is authorized to make such a change administratively under that act and intends to do so.

DEPARTMENTAL REPORTS

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 6, 1966.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, 4230 New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on S. 3274, a bill "To amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insur-

ance Act, and the Railroad Retirement Tax Act to make certain technical changes, to provide for survivor benefits to children ages 18–21, inclusive, and for other purposes."

The Bureau of the Budget would have no objection to enactment of S. 3274.

Sincerely yours,

W. H. ROMMEL,
Acting Assistant Director for Legislative Reference.

UNITED STATES OF AMERICA,
RAILROAD RETIREMENT BOARD,
Chicago, Ill., May 2, 1966.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR SENATOR HILL: This is the report of the Railroad Retirement Board on the bill S. 3274.

The bill would make a number of technical changes in the Railroad Retirement Act, the Railroad Unemployment Insurance Act and the Railroad Retirement Tax Act, none of which would increase the costs of either the railroad retirement system or the railroad unemployment insurance system. The bill would also make a number of substantive changes which would add 0.16 percent of taxable payroll, or $7.8 million a year on a level basis, to the cost of the railroad retirement system. This report will explain these proposed substantive changes.

The 1965 amendments to the Social Security Act provide benefits for surviving children covered under that Act if they are full-time students, in the ages 18–21, inclusive. Children do not now have such rights under the Railroad Retirement Act. Section 105(j)(2) of the bill would provide such rights for them.

The other provision in the bill which involves costs of significance is section 105(d)(1) of the bill which relates to the residual lump-sum benefit provided by section 5(f)(2) of the Railroad Retirement Act. It has been the policy of the Congress for many years to provide a residual death benefit which is intended to be in an amount approximately equal to the taxes the employee paid, plus an allowance in lieu of some interest, but minus, of course, other benefits paid. In view of the tax rates for years after 1967 (8.15 percent for 1968, up to 9.35 percent for years after 1972), the maximum factor of 8 percent now applicable in computing this benefit will not be large enough to give full effect to the underlying purpose of the benefit. After the change the residual benefit would be calculated by including an amount equal to the employee taxes paid for years after 1965, to which amount would be added 0.50 percent of the taxable compensation in the nature of interest.

Of the remaining substantive amendments, one (section 102(b)(1) of the bill) would permit a young wife of an annuitant, having the annuitant's child in her care, to qualify for a spouse's annuity even though her husband employee has no current connection with the railroad industry.

Section 105(j)(3) of the bill would avoid an anomaly in the case of a widow who was not "living with" her husband at the time of

his death. She now fails to qualify for a widow's annuity under the Railroad Retirement Act even though the Board has jurisdiction as to the payment of survivor benefits because this act contains a "living with" requirement. The Social Security Act does not require that a widow be "living with" her husband, but benefits cannot be paid to her under the Social Security Act because the case is under the jurisdiction of the Railroad Retirement Board. This amendment would permit her to qualify under the Railroad Retirement Act.

Another anomaly under existing law is in the application of the overall minimum provision in section 3(e) of the Railroad Retirement Act. A person not eligible for benefits under the Social Security Act can receive an annuity in an amount equal to 110 percent of the amount that would be payable to the beneficiary under the Social Security Act if the railroad service on which the annuity is beased had been "employment" covered under the Social Security Act. If, however, the annuitant becomes eligible for monthly benefits under the Social Security Act, the railroad retirement annuity must be reduced. The result is that, in some cases, the total of the annuity under the Railroad Retirement Act and the monthly benefits under the Social Security Act is less than was payable to the beneficiary before he became eligible for the monthly benefits under the Social Security Act. Under the amendment made by section 103(c)(1) of the bill the annuity in such cases would be increased to an amount sufficient to make the total of the annuity and the monthly benefits no less than was payable to the beneficiary before he became eligible for the monthly benefits under the Social Security Act.

In the application of the overall social security minimum, an annuity, as indicated in the preceding paragraph, is payable in an amount equal to 110 percent of the amount, or the additional amount, which would have been paid to the annuitant under the Social Security Act if the railroad service forming the base for the annuity had been "employment" under the Social Security Act. Where an employee's annuity begins other than on the first of the month, however, the regular railroad retirement formula would apply for the part of the month. Section 103(c)(2) of the bill would make the overall minimum amount applicable in such a case beginning with the date on which the annuity begins to accure. The amount of the annuity for the part of the month would bear the same proportion to an annuity for the entire month as the proportion for the days for which it is payable bears to 30.

Another of the substantive amendments (sec. 105(c)(2) of the bill) would eliminate an inequity regarding the eligibility for the deferred lump sum under section 5(f)(1) of the Railroad Retirement Act. Under present law, this lump sum is never payable in a case where, for example, at the time of the death of the employee, his widow and minor child are entitled to annuities on the basis of his compensation for less than 12 months thereafter even though the total of the monthly annuities to both is less than the insurance lump sum. This amendment would make possible the payment of the deferred lump sum in such cases so that the survivors will not receive less in total benefits than the lump sum that would have been payable had there been no entitlement to monthly benefits. The lump sum would be reduced by the amount of the annuities paid for that period.

Under present law, if a survivor annuitant ceases to be eligible for the annuity in the middle of the year, the annuitant's earnings for the entire year are taken into account in determining deductions because of excess earnings from annuities during the year. Section 105(g) of the bill would cause to be disregarded, for purposes of such deductions, all earnings for months in the year beginning with the month in which the annuitant ceased to be eligible.

Under present law, adoption of a child by a brother or sister disqualifies the child for a survivor annuity. The 1965 amendments to the Social Security Act provided that such an adoption should not disqualify the child for benefits under that act, and section 105(j)(1) of the bill would provide the same with regard to children covered under the Railroad Retirement Act.

All the other substantive amendments are minor and, it is estimated, will cost $1.2 million a year on a level basis, but two of them would together save $0.1 million a year, leaving the net cost of them $1.1 million a year.

Estimated cost of the bill per year

Sec. 102(b)(1) provides for a spouse's annuity on the basis of having a child in her care regardless of the employee's having a current connection with the railroad industry. The estimated level cost of this amendment	$500,000
Sec. 103(c)(1) provides for applying the 10-percent increase in the social security minimum before rather than after reduction for social security benefits. The estimated level cost of this amendment	100,000
Sec. 103(c)(2) provides that the social security minimum should be applicable on the annuity accrual date (rather than at the beginning of the following month) where the annuity begins in the middle of the month. The estimated level cost of this amendment	100,000
Sec. 103(e) provides that where an annuitant has disappeared, he would be assumed to be dead, and a widow's (instead of a spouse's) annuity would be payable subject to an adjustment if he is found to be alive. The estimated reduction in the level cost	—50,000
Sec. 105(c)(2) would permit the payment of the deferred insurance lump sum under sec. 5(f)(1) of the act to a widow or widower whether or not either is entitled to an annuity on the basis of the employee's death at the time the lump sum becomes payable. The estimated level cost of this amendment	200,000
Sec. 105(d)(1) would revise the method of computing the residual lump sum under sec. 5(f)(2). The estimated level cost of this amendment	4,300,000
Sec. 105(g) would eliminate (for purposes of the work deduction requirement in survivor annuity cases) all earnings in months after the month in which the annuitant's qualification for the survivor annuity ceases. The estimated level cost of this amendment	100,000
Sec. 105(j)(1) would not disqualify a child for a survivor annuity if the child is adopted by a brother or sister. The estimated level cost of this amendment	50,000
Sec. 105(j)(2) provides for the payment of survivor annuities to children age 18 to 21 inclusive if they are full-time students (similar to such provisions of the Social Security Amendments of 1965). The estimated level cost of this amendment	2,400,000
Sec. 105(j)(3), clause (i), provides that a widow or widower not entitled to an annuity, as such, under the Railroad Retirement Act because of not "living with" the employee at the time of his death, and not entitled to a benefit, as such, under the Social Security Act because the employee died insured under the Railroad Retirement Act, would be deemed to have been "living with" the employee at the time of his death and be paid annuities under the Railroad Retirement Act. The estimated level cost of this amendment	150,000

Estimated cost of the bill per year—Continued

Sec. 108(ii) would permit the crediting to the Railroad Retirement Account of the payments made to the Board for administrative services rendered to persons or organizations (such as insurance companies or organizations of railroad labor or railroad management). The estimated reduction in the level cost	—$50,000
Total cost	7,900,000
Total savings	100,000
Net estimated cost	7,800,000

One of the provisions which would reduce cost (sec. 103(e) of the bill) would preclude the payment of accrued annuities with respect to an annuitant who has disappeared unless he is shown to have been alive during each month with respect to which the accrued annuities are claimed. Where a wife was receiving an annuity as such, she would be assured of continuance of monthly payments in the form of a widow's annuity after her husband disappeared; in such a case for the purpose of paying a widow's annuity, he would be presumed to be dead immediately after his disappearance. The other provision (sec. 108(ii) of the bill) would permit the crediting to the Railroad Retirement Account of moneys received by the Board in payment for administrative expenses incurred for services to private organizations such as insurance companies and railroad labor and railroad management organizations. Under existing law, sums received by the Board for such services must be transferred to the general funds of the Treasury.

It is the policy of the Board to oppose legislation which would have the effect of increasing the costs of the railroad retirement system without providing for revenue to cover the added costs. As you know, whenever there is an estimated deficit on a long-range actuarial basis in the financing of the railroad retirement system, of only about 0.50 percent of taxable payroll on a level basis, the system is considered to be in a reasonably sound financial condition. This bill would increase the present deficit (0.62 percent of payroll or $29.8 million a year) by 0.16 percent of payroll ($7.8 million a year), to a total of 0.78 percent of payroll or $37.6 million a year. Nevertheless, the Board has proposed this bill (see Board's letter of April 4, 1966, to the President pro tempore of the Senate). The view of the Board is that the considerations in favor of the provisions included in the bill are such as to warrant their enactment despite the relatively small costs that would be added to the system.

The Board favors the enactment of the bill.

This bill is identical to the bill H.R. 14355, which was introduced in the House of Representatives on April 6, 1966, by Mr. Staggers, and on which the Board filed its report on April 14, 1966. The Bureau of the Budget advised that there was no objection to the presentation of that report to the committee from the standpoint of the administration's program.

Sincerely yours,

HOWARD W. HABERMEYER, *Chairman.*

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 italic, existing law in which no change is proposed is shown in roman):

THE RAILROAD RETIREMENT ACT OF 1937

PART I

* * * * * * *

"DEFINITIONS

"Section 1. For the purposes of this Act—

"(a) * * *

* * * * * * *

"(e) The term 'United States,' when used in a geographical sense, means the [States, Alaska, Hawaii,] *States* and the District of Columbia.

* * * * * * *

"(h)(1) The term 'compensation' means any form of money remuneration paid to an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips (except as is provided under paragraph (2)), or the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee. For the purposes of determining monthly compensation and years of service and for the purposes of [subsections (a), (c), and (d) of section 2 and subsection (a) of section 5] *sections 2 and 5* of this Act, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $3 and [(1)] (*i*) such compensation is earned between December 31, 1936, and April 1, 1940, and taxes thereon pursuant to section 2(a) and 3(a) of the Carriers Taxing Act of 1937 or sections 1500 and 1520 of the Internal Revenue Code are not paid prior to July 1, 1940; or [(2)] (*ii*) such compensation is earned after March 31, 1940. A payment made by an employer to an individual through the employer's pay roll 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. In determining the monthly compensation, the average monthly remuneration, and quarters of coverage of any employee, there shall be attributable as compensation paid to him in each calendar month in which he is in military service creditable under section 4 the amount of $160 in addition to the compensation, if any, paid to him with respect to such month. Compensation for service 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 for purposes of determining eligibility for and the amount of benefits pursuant to this Act if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his 'years of service.'

"(2) Solely for purposes of determining amounts to be included in the compensation of an individual who is an employee (as defined in subsection (b)) the term 'compensation' shall (subject to section 3(c)) also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than $20.

"(3) Tips included as compensation by reason of the provisions of paragraph (2) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.

* * * * * * *

"(q) The terms 'Social Security Act' and 'Social Security Act, as amended' shall mean the Social Security Act as amended [in 1965] *from time to time.*

"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.

* * * * * * *

"5. * * *

"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 paragraph 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] *the second month following 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.

"(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] *who meets the qualifications prescribed in section 5(1)(1) (without regard to the provisions of clause (ii)(B) thereof)* 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 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.

* * * * * * *

"(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] *who meets the qualifications prescribed in section 5(1)(1) (without regard to the provisions of clause (ii)(B) thereof)* of this Act.

"(h) * * *

"*(i) In cases where an annuity awarded under subsection (a)(3) or (h) of this section is increased either by a recomputation or a change in the law, the reduction for the increase in the annuity shall be determined separately and the period with respect to which the reductions applies shall be determined as if such increase were a separate annuity payable for and after the first month for which such increase is effective.*

* * * * * * *

"COMPUTATION OF ANNUITIES

"SEC. 3. (a) The annuity shall be computed * * *

"(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] *subsequent to December 31, 1936,* 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] *subsequent to December 31, 1936,* 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] *subsequent to December 31, 1936.*

"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 calendar month next following the month in which this Act was amended in 1959] *before June 1, 1959,* or in excess of [$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, or in excess of $450 for any month after the month in which this Act was so amended and before the calendar month next following the calendar month in which this Act was amended in 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended] *$400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965,* 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. *Where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 8 of this Act has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the employee) include such months in the computation of the annuity without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board.*

"(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) $5.00 multiplied by the number of his years of service; or (2) $83.50; or (3) 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 110 per centum of the amount, or 110 per centum of the additional amount] *is less than the total amount, or the additional amount, plus 10 per centum of the total 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* 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 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 (g) and (h)(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 110 per centum of such amount or 110 per centum of such additional amount.] *shall be increased proportionately to such total amount, or such additional amount, plus 10 per centum of such total amount: Provided further, That if an annuity accrues to an individual for a part of a month, the amount payable for such part of a month under the preceding proviso shall be one-thirtieth of the amount payable under the proviso for an entire month, multiplied by the number of days in such part of a month.*

"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 para-

graph 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: *Provided further, That if an annuity accrues to an individual for a part of a month, the amount payable for such part of a month under the preceding proviso shall be one-thirtieth of the amount payable under the proviso for an entire month, multiplied by the number of days in such part of a month.*

"(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 * * *

* * * * * * *

(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, *as in effect before 1957,* are fulfilled.

* * * * * * *

"(g) No annuity shall accrue with respect to the calendar month in which an annuitant dies. *In cases where an individual entitled to an annuity under this Act disappears, no annuity shall accrue to him or to his spouse as such with respect to any month until and unless such individual is shown, by evidence satisfactory to the Board, to have continued in life throughout such month. Where an annuity would accrue for months under section 2(a) for such individual, and under section 2(e) for such individual's spouse, had he been shown to be alive during such months, he shall be deemed, for the purposes of benefits under section 5, to have died in the month in which he disappeared and to have been completely insured: Provided, however, That if he is later determined to have been alive during any of such months, recovery of any benefits paid on the basis of his compensation under section 5 for the months in which he was not known to be alive, minus the total of the amounts that would have been paid as a spouse's annuity during such months (treating the application for a widow's annuity as an application for a spouse's annuity), shall be made in accordance with the provisions of section 9.*

* * * * * * *

["(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.]

"*(i) If the amount of any annuity computed under this section (other than the proviso of subsection (e)), under section 2 (other than a spouse's annuity payable in the maximum amount), and under section 5, does*

not, after any adjustment, end in a digit denoting 5 cents, it shall be raised so that it will end in such a digit. If the amount of any annuity under this Act (other than an annuity ending in a digit denoting 5 cents pursuant to the next preceding sentence) is not, after any adjustment, a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

"MILITARY SERVICE

"SEC. 4(a). For the purposes of determining eligibility for an annuity and computing an annuity, * * *

* * * * * * *

"[(i)] (*h*) * * *

"[(j)] (*i*) * * *

"[(k)] (*j*) * * *

"[(l)] (*k*) An individual who, before the ninety-first day after the date on which this amendment of section 4 is enacted was awarded an annuity under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, but who had rendered military service which, if credited, would have resulted in an increase in his annuity, may, notwithstanding the previous award of an annuity, file with the Board an application for an increase in such annuity based on his military service. Upon the filing of such application, if the Board finds that the military service thus claimed is creditable and would result in an increase in the annuity, the Board, notwithstanding the previous award, shall recertify the annuity on an increased basis in the same manner as though the provisions making military service creditable had been in effect at the time of the original certification subject, however, to the provisions of [subsection (k)] *subsection (j)* of this section. * * *

"[(n)] (*l*) In addition to the amount authorized to be appropriated in subsection (a) of section 15 of this Act, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1941, (1) an amount sufficient to meet the additional cost of crediting military service rendered prior to January 1, 1937, and after June 30, 1963, and (2) an amount found by the Board to be equal to the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under Subchapter B of Chapter 9 of the Internal Revenue Code, as amended, with respect to the compensation, as defined in such Subchapter B, of all individuals entitled to credit under the Railroad Retirement Acts, as amended, for military service after December 31, 1936, and prior to January 1, 1957, if each of such individuals, in addition to compensation actually earned, had earned such compensation in the amount of $160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount earned by any individual in any one calendar month, and (3) an amount found by the Board to be equal to (A) the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under chapter 22 of the Internal Revenue Code of 1954 with respect to the compensation, as defined in such chapter, of all individuals entitled (without regard to subsection [(p)(1)] (*n*)(*l*) of this section) to credit under this Act

for military service after December 31, 1956, and before July 1, 1963, if each of such individuals, in addition to compensation actually paid, had been paid such compensation in the amount of $160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount paid to any individual in any one calendar month, less (B) the amount of the taxes which were paid with respect to such military service under sections 3101 and 3111 of the Internal Revenue Code of 1954. * * *

"[(o)] (*m*) * * *
"[(p)] (*n*) * * *
"[(q)] (*o*) * * *
"[(r)] (*p*) * * *

"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 preceeding 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)] *employee, which child (without regard to the provisions of subsection (l)(1)(ii)(B)) is 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] *no child of the deceased employee (without regard to the provisions of subsection (l)(1)(ii)(B)) 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.

* * * * * * *

"(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 there be no such widow or widower, such lump sum shall be paid—*

"(i) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remain unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least ninety days have elapsed after the date of death of such insured individual and prior to the expiration of such ninety days no person has assumed responsibility for the payment of any of such burial expenses;

"(ii) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (i)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses; or

"(iii) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (i) and (ii), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.

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 accured to survivors of the employee, by reason of his dealth 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.] *to the widow or widower to whom a lump sum would have been payable under this paragraph except for the fact that a monthly benefit under this section was payable for the month in which the employee died and who will not have died before receiving payment of such lump sum.* 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)] *upon attaining the age of eligibility* 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, 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, *and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by him or her after December 31, 1965, under the provisions of section 3201 of the Railroad Retirement Tax Act, plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service rendered after June 30, 1963, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of the Railroad Retirement Tax Act to be employee taxes payable under section 3201 of such Act* (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] *before June 1, 1959,* and

in excess of [$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, and in excess of $450 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this Act was so amended] *$400 for any month after May 31, 1959, and before November 1, 1963, and in excess of $450 for any month after October 31, 1963, and before October 1, 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965*, 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:] *amended (for this purpose, payments to providers of services under section 21 of this Act and the amount of the employee tax attributable to so much in tax rate as is derived from section 3101(b) of the Internal Revenue Code of 1954, shall be disregarded): 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)] *upon attaining the age of eligibility* 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. * * *

"(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.]

* * * * * * *

“(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 excess earnings under section 203(f) of the Social Security Act or, having engaged in any activity outside the United States, would be charged under such section 203(f) with any excess earnings derived from such activity if it has 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(h)(3) of the Social Security Act if the individuals to whom this subdivision applies were entitled to benefits under section 202 of such Act: *Provided, however, That in determining an individual's excess earnings for a year for the purposes of this section and section 3(e) there shall not be included his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity or ceases, without regard to the effect of excess earnings, to be included in the computation under section 3(e)*; 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 *as in effect before 1947* (other than a survivor annuity pursuant to an election); [and]

“(ii) any lump sum paid, with respect to the death of such employee *before 1947*, under title II of the Social Security Act[.]; *and*

"(iii) any lump-sum benefit, paid to the same person, with respect to the death of such employee under subsection (f)(2).

"(4) Any annuity for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.

"(5)[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 prescribes. 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: *Provided, however, That the annuity of a child qualified under subsection (1)(l)(ii)(C) of this section shall cease to be payable with the month preceding the third month following the month in which he ceases to be unable to engage in any regular employment by reason of a permanent physical or mental condition unless in the month herein first mentioned he qualifies for an annuity under one of the other provisions of this 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, section 15 of the Railroad Retirement Act of 1935, [section 210(a)(10)[(9)]] *section 210(a)(9)* 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.

* * * * * * *

"(l) 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) * * *

"(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 step parent, grand parent, aunt, [or uncle] *uncle, brother or sister*; 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] *and*—

"*(A) shall be less than eighteen years of age; or*

"*(B) shall be less than twenty-two years of age and a full-time student at an educational institution (determined as prescribed in this paragraph); or*

"*(C) shall, without regard to his age, be unable to engage in any regular employment by reason of a permanent physical or mental condition which began before he attained 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, *or if such widow or widower would be paid benefits, as such, under title II of the Social Security Act but for the fact that the employee died insured under this Act.* 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 *and subsection (f) of section 3* 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. *In determining for purposes of this section and subsection (f) of section 3 whether an applicant is the grandchild, brother or sister 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 the same as if such persons were included in such section 216(h)(1).* 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. Where a woman has qualified for an annuity under this section as a widow, and marries another employee who dies within one year after the marriage, she shall not be disqualified for an annuity under this section as the widow of the second employee by reason of not having been married to the employee for one [year;] *year. The provisions of paragraph (8) of section 202(d) of the Social Security Act (defining the terms 'full-time*

student' and 'educational institution') shall be applied by the Board in the administration of this section as if the references therein to the Secretary were references to the Board. For purposes of the last sentence of subsection (j) of this section, a child entitled to a child's insurance annuity only on the basis of being a full-time student described in clause (ii)(B) of this paragraph shall cease to be qualified therefor in the first month during no part of which he is a full-time student, or the month in which he attains age twenty-two, whichever first occurs. A child whose entitlement to a child's insurance annuity, on the basis of the compensation of an insured individual, terminated with the month preceding the month in which such child attained age eighteen, or with a subsequent month, may again become entitled to such an annuity (provided no event to disqualify the child has occurred) beginning with the first month thereafter in which he is a full-time student and has not attained the age of twenty-two, if he has filed an application for such reentitlement.

"(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;] *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;] *year.*

* * * * * *

"(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;] *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) * * *

"(ii) * * *

"(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;] *1948.*

* * * * * * *

"(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, 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] *before June 1, 1959,* any excess over [$400 for any calendar month after the month in which this Act was so amended and before the calendar month next following the month

in which this Act was amended in 1963, any excess over $450 for any calendar month after the month in which this Act was so amended and before the calendar month next following the calendar month in which this Act was amended in 1965, and any excess over (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended] *$400 for any month after May 31, 1959, and before November 1, 1963, any excess of $450 for any month after October 31, 1963, and before October 1, 1965, and any excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965,* 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 and before 1966 is less than $4,800, or for any calendar year after 1965 is less than an amount equal to the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, and the average monthly remuneration computed on compensation alone is less than (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, 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, $4,200 for years after 1954 and before 1959, $4,800 for years after 1958 and before 1966, and an amount equal to the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954 for years after 1965, 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. *In any case where credit is claimed for months of service within two years prior to the death of the employee who rendered such service, with respect to which the employer's return pursuant to section 8 of this Act has not been entered on the records of the Board before a benefit under this section could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the survivor) include the compensation for such months in the computation of the benefit without further verification and may consider the compensation for such months to be the average of*

the compensation for months in the last period for which the employer has filed a return of the compensation of such employee.

"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 [;].

* * * * * * *

"CONCLUSIVENESS OF RETURNS OF COMPENSATION AND OF FAILURE TO MAKE RETURNS OF COMPENSATION

"SEC. 8. Employers shall file with the Board, in such manner and form and at such times as the Board by rules and regulations may prescribe, returns [under oath] of compensation of employees, and, if the Board shall so require, shall furnish employees with statements of their compensation as reported to the Board. The Board's record of the compensation so returned shall be conclusive as to the amount of compensation paid to an employee during each period covered by the return, and the fact that the Board's records show that no return was made of the compensation [claimed to will have been paid] *claimed to have been paid* to an employee during a particular period shall be taken as conclusive that no compensation was paid to such employee during that period, unless the error in the amount of compensation returned in the one case, or the failure to make return of the compensation in the other case, is called to the attention of the Board within four years after the last date on which return of the compensation was required to be made.

"ERRONEOUS PAYMENTS

"SEC. 9. (a) If the Board finds that at any time more than the correct amount of annuities, pensions, or death benefits has been paid to any individual under this Act or the Railroad Retirement Act of 1935 or a payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940), recovery by adjustments in subsequent payments to which such individual *or, on the basis of the same compensation, any other individual,* is entitled under this Act or any other Act administered by the Board may, except as otherwise provided in this section, be made under regulations prescribed by the Board. If [such individual] *the individual to whom more than the correct amount has been paid* 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.

* * * * * * *

"RETIREMENT BOARD

"Personnel

"SEC. 10. (a) There is hereby established as an independent agency in the executive branch of the Government a Railroad Retirement Board, * * *

"Duties

"(b) 1. The Board shall have * * *

"2. If the Board finds that an applicant is entitled to an annuity under the provisions of this Act or the Railroad Retirement Act of 1935 then the Board shall make an award fixing the amount of the annuity and shall certify the payment thereof as hereinafter provided; otherwise the application shall be denied.

"3. The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursements of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.

"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. All rules, regulations, or decisions of the Board shall require the approval of at least two members, except as provided in subdivision 5 of this subsection and they shall be entered upon the records of the Board, which shall be a public record. Notice of a decision of the Board, or of an employee thereof, shall be communicated to the applicant in writing within thirty days after such decision shall have been made. The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary to assure proper administration of such Acts. *Subject to the provisions of this subsection, the Board may furnish information from such records and data to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the Railroad Retirement Account.* The Board shall have power to require all employers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as

shall be necessary for the administration of such Acts. The several district courts of the United States and the District Court of the United States for the District of Columbia shall have jurisdiction upon suit by the Board to compel obedience to any order of the Board issued pursuant to this section. The orders, writs, and processes of the District Court of the United States for the District of Columbia in such suits may run and be served anywhere in the United States. The Board shall make an annual report to the President of the United States to be submitted to Congress. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"5. The Board is authorized to delegate to any of its employees the power to make decisions on applications for annuities or death benefits in accordance with rules and regulations prescribed by the Board: *Provided, however,* That any person aggrieved by a decision so made shall have the right to appeal to the Board.

"6. In addition to the powers and duties expressly provided, the Board shall have and exercise with respect to the administration of this Act such of the powers, duties, and remedies provided in subsections (d), (m) and (n) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the express provisions of this Act.

* * * * * * *

"INCOMPETENCE

"SEC. 19. (a) Every individual receiving or claiming benefits, or to whom any right or privilege is extended, under this or any other Act of Congress now or hereafter administered by the Board shall be conclusively presumed to have been competent until the date on which the Board receives written notice, in a form and manner acceptable to the Board, that he is an incompetent, or a minor, for whom a guardian or other person legally vested with the care of his person or estate has been appointed: [*Provided, however,* That the Board may, in its discretion, validly, recognize actions by, and conduct transactions with, others acting, prior to receipt of, or in the absence of, such written notice, in behalf of an individual found by the Board to be an incompetent or a minor, if the Board finds such actions or transactions to be in the best interest of such individual.] *Provided, however, That, regardless of the legal competency or incompetency of an individual entitled to a benefit (under any Act administered by the Board), the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with and make payments to, such individual, or recognize actions by, and conduct transactions with and make payments to, a relative or some other person for such individual's use and benefit.*

"(b) Every guardian or other person legally vested with the care of the person or estate of an incompetent or minor who is receiving or claiming benefits, or to whom any right or privilege is extended, under this or any other Act of Congress now or hereafter administered by the Board shall have power everywhere, in the manner and to the extent prescribed by the Board, *but subject to the provisions of the preceding subsection,* to take any action necessary or appropriate to perfect any right or exercise any privilege of the incompetent or minor and to conduct all transactions on his behalf under this or any other Act of Congress now or hereafter administered by the Board. Any payment

made pursuant to the provisions of this or the preceding subsection shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

"(c) This section shall be effective as of August 29, 1935.

"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).

"HOSPITAL INSURANCE BENEFITS FOR THE AGED

"SEC. 21. * * *

PART II

SEC. 201. The Act entitled "An Act to establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes," * * *

SEC. 202. The claims of individuals (and the claims of spouses and next of kin of such individuals) who, prior to the date of the enactment of this Act, relinquished all rights to return to the service of a carrier as defined in the Railroad Retirement Act of 1935 or ceased to be employee representatives as defined therein, and became eligible for annuities under such Act, shall be adjudicated by the Board in the same manner and with the same effect as if this Act had not been enacted: *Provided, however,* That with respect to any such claims no reduction shall be made in any annuity certified after the date of the enactment of this Act because of continuance in service after age sixty-five: *And provided further,* That service rendered prior to August 29, 1935, to a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall be included in the service period in connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such company was a carrier as defined in the Railroad Retirement Act of 1935; and service rendered prior to August 29, 1935, to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which on that date was a carrier as defined in the Railroad Retirement Act of 1935, shall also be included in the service period in connection with any annuity certified in whole or in part by the Board after the date of the enactment of this Act, irrespective of whether at the time such service was rendered such predecessor was a carrier as defined in the Railroad Retirement Act of 1935: *And provided further,* That for the purposes of determining eligibility for an annuity and computing an annuity there shall also be included in an individual's service period, subject to and in accordance with the second proviso of subsection (a), subsections (b) to (e), inclusive, and subsections [(g) to (l)] *(g) to (k)*, inclusive, of section 4 of this Act, as amended, voluntary or involuntary military service of an individual within or without the United States during any war service period, including such military service prior to the date of enactment of this

amendment, if, prior to the beginning of his military service in a war service period and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to a carrier, or to a person, service to which is otherwise creditable, or was serving as a representative; but such military service shall be included only subject to and in accordance with the provisions of the Railroad Retirement Act of 1935, in the same manner as though military service were service rendered as an employee. This proviso, as herein amended, shall be effective as of October 8, 1940. No right shall be deemed to have accrued under this proviso which would not have accrued had this amendment thereof been enacted on October 8, 1940: *And provided further*, That annuity payments due an individual under the Railroad Retirement Act of 1935 but not yet paid at death shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of section 5 of such Act; otherwise they shall be paid to such person or persons as the decreased may have designated by a writing filed with the Board prior to his death, or if there be no designation, to the legal representative of the decreased.

* * * * * * *

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, 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. 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] *6 of this Act*, the period during which such compensation will have been earned.

* * * * * * *

(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 [$500] *$750*: *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 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.

* * * * * *

(s) The term "United States", when used in a geographical sense, means the [States, Alaska, Hawaii,] *States* and the District of Columbia.

(t) The term "State" means any of the [States, Alaska, Hawaii,] *States* or the District of Columbia.

* * * * * *

BENEFITS

SEC. 2. (a) Benefits shall be payable to any qualified employee (i) 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 sucy 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
[700] *$750* 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 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 $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.

(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.] *accrued annuities under section 3(f)(1) of the Railroad Retirement Act of 1937 are paid. In the event that no such accrued annuities are paid, and if application for such accrued benefits is filed prior to the expiration of two years after the death of the individual to whom such benefits accrued, such accrued benefits shall be paid, upon certification by the Board, to the individual or individuals who would be entitled thereto under section 3(f)(1) of the Railroad Retirement Act of 1937 if such accrued benefits were accrued annuities. If there is no individual to whom all or any part of such accrued benefits can be paid in accordance with the foregoing provisions, such benefits or part thereof shall escheat to the credit of the account.*

* * * * * * *

CONCLUSIVENESS OF RETURNS OF COMPENSATION AND OF FAILURE TO MAKE RETURNS OF COMPENSATION

SEC. 6. Employers shall file with the Board, in such manner and at such times as the Board by regulations may prescribe, returns [under oath] of compensation of employees, and, if the Board shall so require, shall distribute to employees annual statements of compensation: *Provided,* That no returns shall be required of employers which would duplicate information contained in similar returns required under any other Act of Congress administered by the Board. The Board's record of the compensation so returned shall, for the purpose of determining eligibility for and the amount of benefits, be conclusive as to the amount of compensation paid to an employee during the period covered by the return, and the fact that the Board's records show that no return was made of the compensation claimed to have been paid to an employee during a particular period shall, for the purposes of determining eligibility for and the amount of benefits, be taken as conclusive that no compensation was paid to such employee during that period, unless the error in the amount of compensation in the one case, or failure to make or record return of the compensation in the other case, is called to the attention of the Board within eighteen months after the date on which the last return covering any portion of the calendar year which includes such period is required to have been made.

* * * * * * *

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 June 1, 1959* [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 May 31, 1959* [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 June 1, 1959* [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 May 31, 1959* [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 June 1, 1959* [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 May 31, 1959* [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 the month in which this Act was amended in 1959] *after May 31, 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:
	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

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 [3¾ 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 June 1, 1959*] 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 May 31, 1959* [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.

* * * * * * *

(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] *the provisions of the Railroad Retirement Tax Act,* 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.

* * * * * * *

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 unemployment 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] *0.25 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 mounts 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. Notwithstand-

ing 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.[32]

* * * * * * *

RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

SEC. 11. (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 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] *0.25 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.

* * * * * * *

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, * * *

(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. *Subject to the provisions of this section, the Board may furnish such information to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the railroad unemployment insurance administration fund established pursuant to section 11(a) of this Act.*

* * * * * * *

(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 determining 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

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INTERNAL REVENUE CODE OF 1954

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CHAPTER 22—RAILROAD RETIREMENT TAX ACT

Subchapter A—Tax on Employees

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,]

(1) 6¼ percent of so much of the compensation paid to such employee for services rendered by him after September 30, 1965,

(2) 6½ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1965,

(3) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1966,

(4) 7 percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1967,

(5) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1968.

as is not in excess of [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965,

or (i) $450, (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended] *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965: 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] *after September 30, 1965,* 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(a) plus the rate imposed by section 3101(b) at such time exceeds 2¼ percent (the rate provided by paragraph (2) of 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 September 30, 1965* [after the month in which this provision was amended in 1959] by more than one employer for services rendered during any calendar month *after September 30, 1965* [after the month in which this provision was amended in 1959] and the aggregate of such compensation is in excess of *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended], 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 September 30, 1965* [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 September 30, 1965* [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 *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450

for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended], 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 September 30, 1965* [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 September 30, 1965* [after the month in which this provision was amended in 1959], to such employee for services rendered during such month. *An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (3) of section 3231(e) is applicable may deduct an amount equivalent to such tax with respect to such tips from any compensation of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than $20.*

(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.

(c) SPECIAL RULE FOR TIPS.—

(1) In the case of tips which constitute compensation, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2) as are under control of the employer.

(2) If the tax imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the compensation of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employers—

(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

(B) to determine the amount to be deducted upon each payment of compensation (exclusive of tips) during such quarter as if the tips so estimated constituted actual tips so reported, and

(C) to deduct upon any payment of compensation (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

(4) If the tax imposed by section 3201 with respect to tips which constitute compensation exceeds the portion of such tax which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.

Subchapter B—Tax on Employee Representatives

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,]

(1) 12½ percent of so much of the compensation paid to such employee representative for services rendered by him after September 30, 1965,

(2) 13 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1965,

(3) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1966,

(4) 14 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1967, and

(5) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1968,

as is not in excess of *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any

month after the month in which this provision was so amended]: *Provided,* That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered *after September 30, 1965* [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(a) plus the rate imposed by section 3101(b) at such time exceeds 2¾ percent (the rate provided by paragraph (2) of 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.

(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,]

(1) 6¼ percent of so much of the compensation paid by such employer for services rendered to him after September 30, 1965,

(2) 6½ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1965,

(3) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1966,

(4) 7 percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1967, and

(5) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1968,

as is, with respect to any employee for any calendar month, not in excess of [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended]; *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* except that if an employee is paid compensation [after the month in which this provision was amended in 1959], *after September 30, 1965* by more than one employer for services rendered during any calendar month [after the month in which this provision was amended in 1959], *after September 30, 1965* the tax imposed by this section shall apply to not more than [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963,

or $450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended] *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* of the aggregate compensation paid to such employee by all such employers [after the month in which this provision was amended in 1959], *after September 30, 1965* 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 the month in which this provision was amended in 1959], *after September 30, 1965* to the employee for services rendered during such month bears to the total compensation paid by all such employers [after the month in which this provision was amended in 1959], *after September 30, 1965* 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 [$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or $450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended], *(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965* 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 the month in which this provision was amended in 1959], *after September 30, 1965* to such employee for services rendered during such month bears to the total compensation paid by all such employers [after the month in which this provision was amended in 1959], *after September 30, 1965* to such employee for services rendered during such month. *Where compensation for services rendered in a month is paid an employee by two or more employers, one of the employers who has knowledge of such joint employment may, by proper notice to the Secretary of the Treasury, and by agreement with such other employer or employers as to settlement of their respective liabilities under this section and section 3202, elect for the tax imposed by section 3201 and this section to apply to all of the compensation paid by such employer for such month as does not exceed the maximum amount or compensation in respect to which taxes are imposed by such section 3201 and this section; and in such a case the liability of such other employer or employers under this section and section 3202 shall be limited to the difference, if any, between the compensation*

paid by the electing employer and the maximum amount of compensation to which section 3201 and this section apply.

"(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered [after December 31, 1964] *after September 30, 1965,* 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(a) plus the rate imposed by section 3111(b) at such time exceeds 2¾ percent (the rate provided by paragraph (2) of section 3111 as amended by the Social Security Amendments of 1956).

INDIVIDUAL VIEWS OF MR. DOMINICK

I support the bill the committee now reports as I feel it will eliminate several inequities now existing under the Railroad Retirement System.

I am particularly gratified that this measure provides benefits for surviving children of deceased railroad employees who are over the age of 18 and under the age of 22 and are full-time students in an educational institution.

This portion of the bill is important for two reasons. First, it is consistent with our policy of bringing railroad retirement benefits up to at least the level of similar social security benefits. Second, it is another means by which higher education can be encouraged among a group of young people who might otherwise find it impossible to achieve.

I introduced a bill on February 8, 1966 (S. 2889), which was designed to meet this same problem. I am pleased that the concept of S. 2889 has been incorporated into the bill the committee now reports.

PETER H. DOMINICK.

INDIVIDUAL VIEWS OF MR. JAVITS

Over a year ago I introduced a bill, S. 2579, which, like H.R. 14355, would amend the Railroad Retirement Act to provide benefits for children of deceased railroad employees who are between the ages of 18 and 22 and are attending an educational institution as full-time students.

As long ago as 1963, I originated a similar proposal under social security when I introduced S. 1770 in the 88th Congress, and that proposal was ultimately adopted as section 306 of the Medicare and Social Security Amendments, Public Law 89–97, enacted in July 1965.

It is therefore a source of considerable satisfaction to me, having introduced the first of the five Senate bills to provide these benefits in the railroad industry, that this measure is now on its way to enactment into law.

JACOB K. JAVITS.

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AMENDMENT OF THE RAILROAD RETIREMENT ACT OF 1957

The bill (H.R. 14355) to amend the Railroad Retirement Act of 1957 to make certain technical changes, to provide for survivor benefits to children, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Public Law 89-700
89th Congress, H. R. 14355
October 30, 1966

An Act

To amend the Railroad Retirement Act of 1937, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act to make certain technical changes, to provide for survivor benefits to children ages eighteen to twenty-one, inclusive, 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, Railroad Unemployment Insurance Act, and Railroad Retirement Tax Act, amendment.

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

SEC. 101. (a) Section 1(e) of the Railroad Retirement Act of 1937 is amended by striking out ", Alaska, Hawaii,".

(b) The third sentence of section 1(h)(1) of such Act is amended by striking out "subsections (a), (c), and (d) of section 2 and subsection (a) of section 5" and inserting in lieu thereof "sections 2 and 5"; and by striking out "(1)" and "(2)" and inserting in lieu thereof "(i)" and "(ii)", respectively.

50 Stat. 308.
45 USC 228a.

(c) Section 1(q) of such Act is amended by striking out "in 1965" and inserting in lieu thereof "from time to time".

79 Stat. 400.

SEC. 102. (a) Section 2(a) of the Railroad Retirement Act of 1937 is amended by striking out from the third sentence of the last paragraph thereof the phrase "the month" and inserting in lieu thereof the following: "the second month following the month".

60 Stat. 728.
45 USC 228b.
80 STAT. 1079
80 STAT. 1080.

(b) Section 2(e) of such Act is amended—

65 Stat. 683;
69 Stat. 715.

(1) by striking out from clause (ii) "who, if her husband were then to die, would be entitled to a child's annuity under subsection (c) of section 5" and inserting in lieu thereof "who meets the qualifications prescribed in section 5(l)(1) (without regard to the provisions of clause (ii)(B) thereof)"; and

Post, p. 1083.

(2) by striking out the words "from time to time" immediately before the colon preceding the first proviso.

(c) Section 2(g) of such Act is amended by striking out "who, if her husband were then to die, would be entitled to an annuity under subsection (c) of section 5" and inserting in lieu thereof "who meets the qualifications prescribed in section 5(l)(1) (without regard to the provisions of clause (ii)(B) thereof)".

(d) Section 2 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) In cases where an annuity awarded under subsection (a)(3) or (h) of this section is increased either by a recomputation or a change in the law, the reduction for the increase in the annuity shall be determined separately and the period with respect to which the reduction applies shall be determined as if such increase were a separate annuity payable for and after the first month for which such increase is effective."

75 Stat. 585;
73 Stat. 26.

SEC. 103. (a) Section 3(b)(1) of the Railroad Retirement Act of 1937 is amended by striking out the phrase "after January 1, 1937" wherever it appears in said section and inserting in lieu thereof "subsequent to December 31, 1936".

45 USC 228c.

(b) Section 3(c) of such Act is amended by inserting after the last sentence thereof the following new sentence: "Where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 8 of this Act has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the

45 USC 228h.

employee) include such months in the computation of the annuity without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board."

65 Stat. 685; 73 Stat. 26. 45 USC 228c.

(c) (1) Section 3(e) of such Act is amended by striking out from the first proviso in the first paragraph the following: "is less than 110 per centum of the amount, or 110 per centum of the additional amount", and inserting in lieu thereof the following: "is less than the total amount, or the additional amount, plus 10 per centum of the total amount"; by inserting the word "and" before "women entitled to spouses' annuities"; by striking out from such proviso "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 by striking out the last comma from such proviso and all that follows in such proviso and inserting in lieu thereof the following: "shall be increased proportionately to such total amount, or such additional amount, plus 10 per centum of such total amount."

80 STAT. 1080

80 STAT. 1081

(2) The said section 3(e) is further amended by striking out "entire"; and by inserting before the period at the end of the first paragraph ": *Provided further*, That if an annuity accrues to an individual for a part of a month, the amount payable for such part of a month under the preceding proviso shall be one-thirtieth of the amount payable under the proviso for an entire month, multiplied by the number of days in such part of a month".

72 Stat. 1779.

(d) Paragraph (5) of section 3(f) of such Act is amended by inserting after the phrase "the Social Security Act" the following: ", as in effect before 1957,".

50 Stat. 311.

(e) Section 3(g) of such Act is amended by adding at the end thereof the following: "In cases where an individual entitled to an annuity under this Act disappears, no annuity shall accrue to him or to his spouse as such with respect to any month until and unless such individual is shown, by evidence satisfactory to the Board, to have continued in life throughout such month. Where an annuity would accrue for months under section 2(a) for such individual, and under section 2(e) for such individual's spouse, had he been shown to be alive during such months, he shall be deemed, for the purposes of benefits under section 5, to have died in the month in which he disappeared and to have been completely insured: *Provided, however*, That if he is later determined to have been alive during any of such months, recovery of any benefits paid on the basis of his compensation under section 5 for the months in which he was not known to be alive, minus the total of the amounts that would have been paid as a spouse's annuity during such months (treating the application for a widow's annuity as an application for a spouse's annuity), shall be made in accordance with the provisions of section 9."

45 USC 228b.

45 USC 228e; Post, p. 1082.

54 Stat. 1100. 45 USC 228i. 72 Stat. 1779.

(f) Section 3(i) of such Act is amended to read as follows:

"(i) If the amount of any annuity computed under this section (other than the proviso of subsection (e)), under section 2 (other than a spouse's annuity payable in the maximum amount), and under section 5, does not, after any adjustment, end in a digit denoting 5 cents, it shall be raised so that it will end in such a digit. If the amount of any annuity under this Act (other than an annuity ending in a digit denoting 5 cents pursuant to the next preceding sentence) is not, after any adjustment, a multiple of $0.10, it shall be raised to the next higher multiple of $0.10."

54 Stat. 1014; 60 Stat. 729. 45 USC 228c-1.

SEC. 104. Section 4 of the Railroad Retirement Act of 1937 is amended by redesignating subsections "(i)", "(j)", "(k)", and "(l)"

as "(h)", "(i)", "(j)", and "(k)", respectively; by redesignating subsections "(n)", "(o)", "(p)", "(q)", and "(r)" as "(l)", "(m)", "(n)", "(o)", and "(p)", respectively; by striking out the phrase "subsection (k)" in subsection "(k)" as redesignated, and inserting in lieu thereof "subsection (j)"; and by striking out "(p)(1)" in subsection "(1)" as redesignated and inserting in lieu thereof "(n)(1)".

SEC. 105. (a) The first sentence of section 5(b) of the Railroad Retirement Act of 1937 is amended by striking out "employee entitled to receive an annuity under subsection (c)" and inserting in lieu thereof "employee, which child (without regard to the provisions of subsection (l)(1)(ii)(B)) is entitled to receive an annuity under subsection (c),". 60 Stat. 729. 45 USC 228e. Post, p. 1084.

(b)(1) The second sentence of such section 5(b) is amended by striking out "no child of the deceased employee is entitled" and inserting in lieu thereof "no child of the deceased employee (without regard to the provisions of subsection (l)(1)(ii)(B)) is entitled".

(2) The proviso in said section 5(b) and the proviso in section 5(a) are each amended by striking out the words "subsection (e) of". 65 Stat. 685.

(c) Section 5(f)(1) of such Act is amended (1) by striking out the second sentence thereof and inserting in lieu thereof the following: "If there be no such widow or widower, such lump sum shall be paid— 72 Stat. 1779.

"(i) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remain unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least ninety days have elapsed after the date of death of such insured individual and prior to the expiration of such ninety days no person has assumed responsibility for the payment of any of such burial expenses;

"(ii) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (i)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses; or

"(iii) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (i) and (ii), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.",

and (2) by striking out from the third sentence thereof all after the phrase "this paragraph" where it appears the second time in such sentence and inserting in lieu thereof the following: "to the widow or widower to whom a lump sum would have been payable under this paragraph except for the fact that a monthly benefit under this section was payable for the month in which the employee died and who will not have died before receiving payment of such lump sum."

(d)(1) Section 5(f)(2) of such Act is amended by inserting after "1961" the following: ", and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by him or her after 62 Stat. 577; 73 Stat. 27.

December 31, 1965, under the provisions of section 3201 of the Railroad Retirement Tax Act, plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service rendered after June 30, 1963, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of the Railroad Retirement Tax Act to be employee taxes payable under section 3201 of such Act". The said section 5(f)(2) is further amended by striking out the colon before the proviso and inserting in lieu thereof the following: "(for this purpose, payments to providers of services under section 21 of this Act and the amount of the employee tax attributable to so much in tax rate as is derived from section 3101(b) of the Internal Revenue Code of 1954, shall be disregarded):".

73 Stat. 28.
26 USC 3201.
26 USC 3211.
62 Stat. 577.
45 USC 228e.
79 Stat. 340.
45 USC 228s-2.
79 Stat. 395.
26 USC 3101.

(2) The said section 5(f)(2) is further amended by striking out the phrase "upon attaining retirement age (as defined in section 216(a) of the Social Security Act)" wherever it appears and inserting in lieu thereof "upon attaining the age of eligibility".

(e) Section 5(g) of such Act is amended by striking out paragraph (3) thereof.

65 Stat. 686.

(f) Section 5(i) of such Act is amended by inserting in paragraph 3(i) after "Retirement Acts" the following: "as in effect before 1947" and by striking out the word "and"; by inserting after "employee" in paragraph 3(ii) "before 1947", and by changing the period to a semicolon and inserting thereafter the word "and"; by inserting after paragraph 3(ii) the following: "(iii) any lump-sum benefit, paid to the same person, with respect to the death of such employee under subsection (f)(2)"; and by inserting after paragraph (3) thereof the following new paragraph:

60 Stat. 731; 72 Stat. 1780.

> "(4) Any annuity for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.";

and by changing "(4)" to "(5)" in the last paragraph thereof.

(g) Section 5(i)(1)(ii) of such Act is amended by inserting before "; or" the following: ": *Provided, however*, That in determining an individual's excess earnings for a year for the purposes of this section and section 3(e) there shall not be included his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity or ceases, without regard to the effect of excess earnings, to be included in the computation under section 3(e)".

68 Stat. 1098.
45 USC 228c.

(h) Section 5(j) of such Act is amended by inserting before the period at the end thereof the following: ": *Provided, however*, That the annuity of a child qualified under subsection (1)(1)(ii)(C) of this section shall cease to be payable with the month preceding the third month following the month in which he ceases to be unable to engage in any regular employment by reason of a permanent physical or mental condition unless in the month herein first mentioned he qualifies for an annuity under one of the other provisions of this Act".

Post, p. 1084.

(i) Section 5(k)(1) of such Act is amended by striking out "section 210(a)(10)" and inserting in lieu thereof "section 210(a)(9)".

(j)(1) Section 5(l)(1)(ii) of such Act is amended by striking out "or uncle" and inserting in lieu thereof "uncle, brother or sister".

65 Stat. 689; 68 Stat. 1039.

(2) The said section 5(l)(1)(ii) is further amended by striking out "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" and inserting in lieu thereof the following: "and—

"(A) shall be less than eighteen years of age; or

"(B) shall be less than twenty-two years of age and a full-time student at an educational institution (determined as prescribed in this paragraph); or

"(C) shall, without regard to his age, be unable to engage in any regular employment by reason of a permanent physical or mental condition which began before he attained age eighteen, and".

(3) Section 5(l)(1) of such Act is further amended (i) by inserting before the period at the end of the second sentence thereof the following: ", or if such widow or widower would be paid benefits, as such, under title II of the Social Security Act but for the fact that the employee died insured under this Act"; (ii) by inserting after "subsection (f) of section 2" in the fourth sentence thereof the following: "and subsection (f) of section 3"; (iii) by inserting after such fourth sentence the following new sentence: "In determining for purposes of this section and subsection (f) of section 3 whether an applicant is the grandchild, brother, or sister 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 the same as if such persons were included in such section 216(h)(1)."; (iv) by changing the semicolon at the end thereof to a period and inserting thereafter the following: "The provisions of paragraph (8) of section 202(d) of the Social Security Act (defining the terms 'full-time student' and 'educational institution') shall be applied by the Board in the administration of this section as if the references therein to the Secretary were references to the Board. For purposes of the last sentence of subsection (j) of this section, a child entitled to a child's insurance annuity only on the basis of being a full-time student described in clause (ii)(B) of this paragraph shall cease to be qualified therefor in the first month during no part of which he is a full-time student, or the month in which he attains age 22, whichever first occurs. A child whose entitlement to a child's insurance annuity, on the basis of the compensation of an insured individual, terminated with the month preceding the month in which such child attained age eighteen, or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month thereafter in which he is a full-time student and has not attained the age of twenty-two, if he has filed an application for such reentitlement."; and (v) by striking out the semicolon from the end of paragraphs "(2)", "(3)", "(5)", "(7)", and "(9)" and inserting in lieu thereof a period.

60 Stat. 733; 65 Stat. 689. 45 USC 228e. 72 Stat. 1778. 45 USC 228c. 42 USC 416. 79 Stat. 371. 42 USC 402. Supra.

(k) Section 5(l)(9) of such Act is amended by inserting after the last sentence of the first paragraph thereof the following new sentence: "In any case where credit is claimed for months of service within two years prior to the death of the employee who rendered such service, with respect to which the employer's return pursuant to section 8 of this Act has not been entered on the records of the Board before a benefit under this section could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the survivor) include the compensation for such months in the computation of the benefit without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee."

50 Stat. 313. 45 USC 228h.

50 Stat. 313; 60 Stat. 735. 45 USC 228h.

SEC. 106. Section 8 of the Railroad Retirement Act of 1937 is amended by striking out from the first sentence the phrase "under oath"; and by striking out from the second sentence the phrase "claimed to will have been paid" and inserting in lieu thereof "claimed to have been paid".

54 Stat. 1100. 45 USC 228i.

SEC. 107. (a) The first sentence of section 9(a) of the Railroad Retirement Act of 1937 is amended by inserting after "individual", where it appears the third time, the following: "or, on the basis of the same compensation, any other individual,".

(b) The second sentence of such section 9(a) is amended by striking out the phrase "such individual" where it first appears in such sentence, and inserting in lieu thereof "the individual to whom more than the correct amount has been paid".

45 USC 228j.

SEC. 108. Section 10 of the Railroad Retirement Act of 1937 is amended (i) by inserting after the seventh sentence of subsection (b)4 the following new sentence: "Subject to the provisions of this subsection, the Board may furnish information from such records and data to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the Railroad Retirement Account."; and (ii) by inserting after the end of such section 10 the following new paragraph:

"6. In addition to the powers and duties expressly provided, the Board shall have and exercise with respect to the administration of this Act such of the powers, duties, and remedies provided in subsections (d), (m), and (n) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the express provisions of this Act."

52 Stat. 1107; 60 Stat. 740. 45 USC 362. 56 Stat. 207. 45 USC 228s.

SEC. 109. (a) Section 19(a) of the Railroad Retirement Act of 1937 is amended by striking out the proviso and inserting in lieu thereof the following: "*Provided, however*, That, regardless of the legal competency or incompetency of an individual entitled to a benefit (under any Act administered by the Board), the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to, such individual, or recognize actions by, and conduct transactions with, and make payments to, a relative or some other person for such individual's use and benefit."

(b) The first sentence of section 19(b) of such Act is amended by inserting after "in the manner and to the extent prescribed by the Board," the following: "but subject to the provisions of the preceding subsection,".

45 USC 228s-1.

SEC. 110. Section 20 of the Railroad Retirement Act of 1937 is amended by striking out "(a)" after "SEC. 20.".

56 Stat. 207. 45 USC 215-228 notes.

SEC. 111. Section 202 of part II of such Act is amended by striking out "(g) to (l)" and inserting in lieu thereof "(g) to (k)".

EFFECTIVE DATES

SEC. 112. (a) The amendments made by the several sections of this title shall be effective on the enactment date of this Act except as otherwise provided herein.

(b) The amendments made by sections 102(a) and 105(h) shall be effective with respect to determinations of recovery from disability made on or after the enactment date of this Act.

(c) The amendments made by sections 102(b) and 102(c) shall be effective with respect to months after the month of enactment.

(d) The amendments made by section 102(d) shall be effective with respect to recomputations made, or changes in law enacted, on or after the enactment date of this Act.

(e) The amendments made by sections 103(b) and 105(k) shall be effective with respect to annuities awarded on or after the enactment date of this Act.

(f) The amendments made by section 103(c)(1) shall be effective with respect to annuities accruing in or after the month of enactment.

(g) The amendments made by sections 103(c)(2), 103(f), and 105(f) shall be effective with respect to awards made on or after the enactment date of this Act.

(h) The amendments made by section 103(e) shall be effective with respect to months after the month in which this Act is enacted.

(i) The amendments made by sections 105(a), 105(b)(1), and 105(j)(2) shall be effective with respect to annuities accruing for months after 1964 where, pursuant to the next sentence, no application for the annuity is required or, if required, such application is filed within one year after the month of enactment of this Act; otherwise, the twelve-month limitation on retroactivity, provided for in section 5(j) of the Railroad Retirement Act of 1937, shall apply. In the case of an individual who is not entitled to a child's insurance annuity under section 5(c) of the Railroad Retirement Act of 1937 for the month in which this Act is enacted, such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted; except that no application shall be required of a child age eighteen to twenty-one, inclusive, with respect to whom the Board has information on the date of enactment of this Act of his eligibility for an annuity under the amendments made by section 105(j)(2) of this Act through the application of section 3(e) of the Railroad Retirement Act of 1937.

60 Stat. 732.
68 Stat. 1097.
45 USC 228e.
45 USC 228c.

(j) The amendments made by section 105(c)(1) shall be effective with respect to lump-sum payments awarded on or after the enactment date of this Act.

(k) The amendments made by section 105(c)(2) shall be effective with respect to deaths occurring in or after the twelfth month preceding the month of enactment.

(l) The amendments made by section 105(d)(1) shall be effective with respect to deaths occurring on or after the enactment date of this Act.

(m) The amendments made by section 105(g) shall be effective with respect to deductions made in the calendar year 1966 and thereafter.

(n) The amendments made by section 105(j)(1) shall be effective with respect to annuities under section 5(c) of the Railroad Retirement Act for months after the month in which this Act is enacted; except that in the case of an individual who was not entitled to an annuity under section 5(c) of such Act for the month in which this Act was enacted, such amendment shall apply only on the basis of an application filed in or after the month in which this Act is enacted.

(o) The amendment made by section 105(j)(3)(i) shall be effective with respect to annuities for months after the month of enactment of this Act. No lump-sum benefit under section 5(f)(2) of the Railroad Retirement Act of 1937 shall be awarded after the date of enactment of this Act in any case in which an individual survives who would be entitled to an annuity under the amendment made by this section unless such individual executes an election in accordance with such section 5(f)(2) before attainment of age 60 to have such benefit paid in lieu of other benefits.

62 Stat. 577.
45 USC 228e.

TITLE II—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

SEC. 201. (a) Section 1(i) of the Railroad Unemployment Insurance Act is amended by striking out "section 8" and inserting in lieu thereof "section 6 of this Act".

60 Stat. 722.
45 USC 351.

(b) Section 1(k) of such Act is amended by striking out "$500" and inserting in lieu thereof "$750".

73 Stat. 30.

(c) Sections 1(s) and 1(t) of such Act are each amended by striking out ", Alaska, Hawaii,".

52 Stat. 1096.

SEC. 202. (a) Section 2(a) of the Railroad Unemployment Insurance Act is amended by striking out the first line from the table thereof and by substituting "$750" for "700" in the second line of such table.

73 Stat. 30.
45 USC 352.

(b) Section 2(g) of such Act is amended by striking out all of said section after "whom any" and inserting in lieu thereof the following: "accrued annuities under section 3(f)(1) of the Railroad Retirement Act of 1937 are paid. In the event that no such accrued annuities are paid, and if application for such accrued benefits is filed prior to the expiration of two years after the death of the individual to whom such benefits accrued, such accrued benefits shall be paid, upon certification by the Board, to the individual or individuals who would be entitled thereto under section 3(f)(1) of the Railroad Retirement Act of 1937 if such accrued benefits were accrued annuities. If there is no individual to whom all or any part of such accrued benefits can be paid in accordance with the foregoing provisions, such benefits or part thereof shall escheat to the credit of the account."

53 Stat. 848.
72 Stat. 1778.
45 USC 228c.

SEC. 203. The first sentence of section 6 of the Railroad Unemployment Insurance Act is amended by striking out the phrase "under oath".

54 Stat. 1099.
45 USC 356.

SEC. 204. (a) Section 8(b) of the Railroad Unemployment Insurance Act is amended by striking out "3¾ per centum" and inserting in lieu thereof "4 per centum".

73 Stat. 32.
45 USC 358.

(b) Section 8(h) of such Act is amended by striking out "section 1800 or 2700 of the Internal Revenue Code, and the provisions of section 3661 of such code" and inserting in lieu thereof "the provisions of the Railroad Retirement Tax Act".

60 Stat. 739.

SEC. 205. Sections 10(a) and 11(a) of the Railroad Unemployment Insurance Act are each amended by striking out "0.2 per centum" and inserting in lieu thereof "0.25 per centum".

62 Stat. 578.
45 USC 360, 361.

SEC. 206. Section 12 of the Railroad Unemployment Insurance Act is amended by adding at the end of subsection (d) thereof the following new sentence: "Subject to the provisions of this section, the Board may furnish such information to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the railroad unemployment insurance administration fund established pursuant to section 11(a) of this Act."; and by striking out "section 3(a)" from subsection (g) and inserting in lieu thereof "section 3".

52 Stat. 1107.
45 USC 362.

TITLE III—AMENDMENTS TO THE RAILROAD RETIREMENT ACT, THE RAILROAD UNEMPLOYMENT INSURANCE ACT, AND THE RAILROAD RETIREMENT TAX ACT

SEC. 301. Sections 3(c), 5(f)(2), and 5(l)(9) of the Railroad Retirement Act of 1937, sections 8(a) and 8(b) of the Railroad Unemployment Insurance Act, and sections 3201, 3202, 3211, and 3221 of the Railroad Retirement Tax Act are amended by— 45 USC 228c, 228e, 358. 26 USC 3201, 3202, 3211, 3221.

(i) striking out "before the calendar month next following the month in which this Act was amended in 1959", wherever such language appears in such sections 3(c), 5(f)(2), 5(l)(9), 8(a) and 8(b), and inserting in each instance in lieu thereof "before June 1, 1959"; 73 Stat. 26-32.

(ii) by striking out the language "after the month in which this Act was so amended" wherever such language appears in such sections 8(a) and 8(b) and inserting in each instance in lieu thereof "after May 31, 1959";

(iii) by striking out the language "after the month in which this provision was amended in 1959", wherever such language appears in such sections 3202 and 3221, and inserting in each instance in lieu thereof "after September 30, 1965";

(iv) by striking out from such sections 3(c), 5(f)(2), and 5(l)(9) the language beginning with "$400" down through the phrase "was so amended" where such phrase appears the third time and inserting in lieu thereof: 77 Stat. 219-221. 79 Stat. 860, 861.

(a) in such section 3(c) the following: "$400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965"; 26 USC 3121.

(b) in such section 5(f)(2) the following: "$400 for any month after May 31, 1959, and before November 1, 1963, and in excess of $450 for any month after October 31, 1963, and before October 1, 1965, and in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965"; and

(c) in such section 5(l)(9) the following: "$400 for any month after May 31, 1959, and before November 1, 1963, any excess of $450 for any month after October 31, 1963, and before October 1, 1965, and any excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965";

(v) by striking out from such sections 3201, 3202, 3211, and 3221 the language (wherever it appears in such sections) beginning with "$400" down through the phrase "was so amended" where such phrase appears the second time in such language and inserting in lieu thereof the following: "(i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual

80 STAT. 1089

taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965"; and

26 USC 3121.

(vi) by striking out from the proviso in such sections 3201 and 3211, from subsection (b) of such section 3221 the phrase "after December 31, 1964" and inserting in lieu thereof "after September 30, 1965".

73 Stat. 28-30.
26 USC 3201, 3211, 3221.

SEC. 302. Section 3221(a) of the Railroad Retirement Tax Act is amended by adding at the end thereof the following new sentence: "Where compensation for services rendered in a month is paid an employee by two or more employers, one of the employers who has knowledge of such joint employment may, by proper notice to the Secretary of the Treasury, and by agreement with such other employer or employers as to settlement of their respective liabilities under this section and section 3202, elect for the tax imposed by section 3201 and this section to apply to all of the compensation paid by such employer for such month as does not exceed the maximum amount of compensation in respect to which taxes are imposed by such section 3201 and this section; and in such a case the liability of such other employer or employers under this section and section 3202 shall be limited to the difference, if any, between the compensation paid by the electing employer and the maximum amount of compensation to which section 3201 and this section apply.

Approved October 30, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 2171 (Comm. on Interstate & Foreign Commerce).
SENATE REPORT No. 1719 (Comm. on Labor & Public Welfare).
CONGRESSIONAL RECORD, Vol. 112 (1966):
Oct. 3: Considered and passed House.
Oct. 14: Considered and passed Senate.

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 51 October 25, 1966

RECENT CONGRESSIONAL ACTIVITY ON SOCIAL SECURITY LEGISLATION

To Administrative, Supervisory, and Technical Employees

During the last several days before its adjournment, last Saturday, the 89th Congress had under consideration a number of changes in the social security program. Most of the proposals were put aside until next year, but the Congress did pass an amendment concerning the reimbursement of proprietary extended care facilities under the hospital insurance program. The following summarizes recent Congressional activity dealing with the most important of the social security changes. Two bills amending the Railroad Retirement Act are also discussed briefly.

President Johnson's Proposals

The Committee on Ways and Means of the House of Representatives considered a bill which was intended to put into effect the basic elements of what President Johnson indicated he would recommend to the Congress next year. Briefly, the bill would have provided the following:

1. A 10 percent across-the-board increase in social security benefits.

2. A special minimum benefit of up to $100--$4 for each year (up to a maximum of 25) for each "year of coverage" the worker had. For years prior to 1951, years of coverage (up to a maximum of 14) would be determined by dividing the worker's total credited earnings prior to 1951 by $900; for years after 1950, a year of coverage would be any year in which the worker earned at least 25 percent of the earnings base maximum in effect during such year.

3. A change in the retirement test under which the annual exempt amount of earnings would be increased from $1,500 to $1,620 and the monthly amount would be increased from $125 to $135; $1 in benefits would

be withheld for each $2 of earnings between $1, 620 and $2, 820 and for each $1 of earnings in excess of $2, 820.

4. An extension of health insurance protection to social security disability beneficiaries.

To finance the changes proposed, the bill would have increased both the earnings base and the social security tax rates. 1/ The Committee felt that public hearings should be held before action was taken on a bill that would increase the amount of social security taxes, and the bill was set aside. The Chairman said that the Committee's first priority when Congress convenes next year would be action on social security legislation.

Reimbursement for Proprietary Extended Care Facilities

On September 22, 1966, the Senate passed, as an amendment to H.R. 6958 (a tax bill dealing with the Internal Revenue Service's automatic data processing system), provisions sponsored by Senator Miller which would amend the definition of "reasonable cost" in Title XVIII as it applies to extended care facilities to include a return on the "fair market value" of such facilities. The return would be sufficient to attract capital investment and greater than that customarily paid to investors in public utilities or risk-free ventures. The amendment would permit proprietary and non-profit extended care facilities to be reimbursed differently.

On October 17, the conference committee on H. R. 6958 agreed to a modification of the Miller amendment. The amendment, as modified by the conference committee, changes the definition of "reasonable cost" under Title XVIII as it applies to proprietary extended care facilities to include a reasonable return on equity capital, including necessary working capital, invested in such facilities and used to furnish services to medicare beneficiaries. The rate of the return to be paid on such investment will equal 1-1/2 times the average rate earned by current investment of hospital insurance trust fund monies. (This formula yields about 7-1/2 percent return at the present time.)

1/ Recently revised long-range cost estimates for the cash benefits program show the program to have a substantial actuarial surplus. About three-fourths of the cost of the bill could have been met under the financing provisions in present law. Additional information on these new cost estimates will be sent to you soon.

Although the amendment refers only to proprietary extended care facilities, the report of the conference committee on H. R. 6958 indicates that the committee expects comparable treatment to be given to proprietary hospitals under the Social Security Administration's regulations on reimbursement for provider costs under Title XVIII. The conference committee also stated that it expects that, in the case of facilities that receive the return on equity capital under the amendment, the 2 percent allowance in lieu of specific allowance for "other costs" that is available under regulations will be reduced by one-fourth.

The amendment as modified by the conference committee was passed by the Senate on October 19, and by the House of Representatives on October 20.

Proposal to Cover Drugs under Supplementary Medical Insurance

An amendment introduced by Senator Douglas to include prescription drugs as a reimbursable expense under the supplementary medical insurance plan was adopted by the Senate as part of H. R. 13103, a bill primarily relating to treatment of foreign investments in the United States.

In general, under the Douglas proposal, a schedule of allowances would be developed specifying the amount of reimbursement for each covered prescribed drug based upon the cost of the lowest-priced generic equivalent plus a reasonable charge for preparation, handling, and distribution. The drugs which would be covered include those listed in a formulary to be established by a formulary committee consisting of the Surgeon General, the Commissioner of the Food and Drug Administration, and the Director of the National Institutes of Health. Reimbursement for drugs would not be subject to the 20 percent coinsurance applicable to other benefits under Part B. The beneficiary would have to meet the $50 deductible, and the cost of drugs as listed in the allowance schedule could be counted in meeting this deductible. The effective date of the proposal as passed by the Senate was January 1, 1968. The conference committee failed to reach agreement on the drug proposal as passed by the Senate, and the proposal was set aside with the understanding that the question of covering prescription drugs under medicare would receive consideration next year.

Railroad Retirement Bills

Two bills which would make changes in the Railroad Retirement Act were cleared for action by the President. H. R. 14355 provides for the payment of child annuities after age 18 and up to age 22, if the child is a full-time student, and would make several other changes in the beneficiary categories of the railroad retirement program to bring them more closely in

line with those of social security. This bill would make additional minor improvements in the benefit provisions of the Railroad Retirement Act. H. R. 17285 would provide a benefit increase of up to 7 percent for certain annuitants under the railroad retirement program--in general, for those who did not receive an increase, as a result of the 1965 social security amendments, through the operation of the social security minimum provision of the Railroad Retirement Act. H. R. 17285 would also establish a system of employer-financed supplemental annuities for long-service employees which would be in effect for the 60 months following enactment. More detailed information about these two bills will be sent out soon.

Robert M. Ball
Commissioner

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 52 October 31, 1966

NEW ACTUARIAL COST ESTIMATES FOR OASDI

To Administrative, Supervisory,
and Technical Employees

In Commissioner's Bulletin No. 51, I mentioned that the long-range cost estimates for the cash benefits part of the social security program had recently been revised and that additional information on the new estimates would be sent to you shortly. Enclosed is a memorandum from the Chief Actuary, Robert Myers, which discusses the revised estimates.

Robert M. Ball
Commissioner

Enclosure

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Robert M. Ball
Commissioner of Social Security

DATE: October 11, 1966

FROM : Robert J. Myers
Chief Actuary

SUBJECT: New Actuarial Cost Estimates for OASDI

In accordance with our past practice of keeping a continuous watch on the changes in the cost factors affecting the Social Security program, we have completed detailed revisions of the basic actuarial cost estimates which reflect recent changes in these cost factors.

The actuarial cost estimates upon which the 1965 Amendments to the Social Security Act were based were developed in 1963. The new cost estimates for the cash-benefits portion of the Social Security program indicate that it is in very sound financial condition. The financing of the Old-Age, Survivors, and Disability Insurance program is such that there is a favorable actuarial balance, on a long-range basis, of approximately $\frac{3}{4}$ of 1 percent of taxable payroll.

Continuing study is now in progress in regard to the long-range actuarial cost estimates for the Medicare program, but it is not anticipated that any substantial changes therein will be made until more actual operating experience becomes available.

Long-range estimates of the income and disbursements of the Old-Age and Survivors Insurance Trust Fund and of the Disability Insurance Trust Fund are made over the period of the next 75 years. The trust funds are said to be in close actuarial balance when, for this period, the estimated income from contributions and from interest on investments will be sufficient to cover both estimated benefit payments to all present and future beneficiaries and the administrative expenses of the system. For the two trust funds as a whole, the new long-range actuarial cost estimates indicate that the system has an extremely favorable positive actuarial balance--amounting to 0.74% of taxable payroll on a level-cost basis, according to the intermediate-cost estimate.

Although there is a significant positive (or favorable) actuarial balance for the Old-Age, Survivors, and Disability Insurance program as a whole, the actuarial balance for each of the two portions of the program--Old-Age and Survivors Insurance and Disability Insurance--is differently affected. The Old-Age and Survivors Insurance program has, according to the intermediate-cost estimate, a positive actuarial balance of 0.89% of taxable payroll, but the Disability Insurance program shows a negative actuarial balance of 0.15% of taxable payroll.

It would seem appropriate to increase the allocation of future contribution income to the Disability Insurance Trust Fund without, for this reason, changing the overall financing provisions of the program. The increased allocation to the Disability Insurance Trust Fund could restore it to a condition of close actuarial balance, while still leaving a very substantial positive actuarial balance in the Old-Age and Survivors Insurance Trust Fund. Such a reallocation of contribution income between the two trust funds would, of course, not affect the very sizable positive actuarial balance of the Old-Age, Survivors, and Disability Insurance system as a whole, but it would make for a more reasonable subdivision of the income between the two portions of the system.

The very favorable picture for the Old-Age, Survivors, and Disability Insurance system as a whole results from the effects of a number of factors. In the new cost estimates, the earnings assumptions are based on the levels of 1966, rather than 1963. A higher earnings assumption produces a more favorable actuarial balance because under such an assumption--due to the weighted nature of the benefit formula--contribution income increases more rapidly than benefit outgo.

In view of the trends in recent years, the assumption as to the future interest rate earned by the trust funds has been increased from 3½% to 3¾% (which is well below the rate of 5-1/8% that was obtained for new issues in August 1966). Although the financing of the program is not based on full-reserve principles, a higher interest rate results in increased income from this source and thus tends to reduce the required contribution rates.

Recent labor force participation experience has indicated a continually increasing trend of more and more women working in covered employment. This will result in more women obtaining eligibility for retirement and other benefits on the basis of their own earnings credits. Accordingly, there will be some decrease in the relative amount of wife's and widow's benefits paid on the basis of employment of husbands.

The mortality assumptions underlying the cost estimates have been significantly revised. The projected mortality assumptions in the previous cost estimates were based on the experience in the 1940's and early 1950's, when there was an accelerated reduction in mortality. However, as has been shown by the official United States Life Tables for 1959-61, based on the 1960 census, which have just recently become available, mortality has, in the past decade, shown more of a tendency to level off, particularly at the very old ages. The new cost estimates are based on a population projection that assumes some reductions in mortality, but these are much lower than the ones previously projected. Accordingly, the relative cost of the program is reduced, because there will be smaller numbers of retirement beneficiaries than had previously been estimated.

The assumptions as to future birth rates that underlie the cost estimates have also been significantly revised. These assumptions are important in

that they determine--after several decades--the size of the covered labor force that makes contributions under the program. The previous cost estimates assumed that fertility would decrease rapidly and would then level off after about 35 years so that the population would ultimately become stationary. Under the new cost estimates, when consideration is given only to the next 75 years, it is possible to make more realistic fertility assumptions. Under the new population projection, there has been taken into account the higher fertility experience during the late 1950's and early 1960's. Some decrease in fertility is assumed in the future--somewhat more than most demographers now believe likely--but less of a decline than in the previous estimates. As a result, the relative cost of the program is reduced because, during the 75-year period considered, there will be larger numbers of contributors than had previously been estimated.

Under the Disability Insurance program, there continue to be somewhat more beneficiaries on the roll than had been anticipated. This is not primarily the result of the minor liberalization of the definition of disability that was made in the 1965 Amendments (which appears to have a cost that is close to what was estimated). Not only are the beneficiaries remaining longer on the benefit roll than was anticipated under the previous estimates, but also somewhat more persons are qualifying for disability benefits. As a result of these factors, the relative cost of the Disability Insurance program is estimated to be significantly increased.

Many other factors enter into the calculations of the new actuarial cost estimates, such as retirement-rate assumptions and remarriage rates. Some of these factors are relatively small in importance. As for others, the recent experience has indicated that no change in the assumptions seems necessary.

Robert J. Myers

Robert J. Myers

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 53 November 7, 1966

ENACTMENT OF RAILROAD RETIREMENT LEGISLATION

To Administrative, Supervisory,
and Technical Employees

On October 30, 1966, the President signed H. R. 14355 (Public Law 89-700) and H. R. 17285 (Public Law 89-699), the two railroad retirement bills referred to in Commissioner's Bulletin No. 51, dated October 25.

Public Law 89-700 (H. R. 14355)

Public Law 89-700 makes improvements in the benefit provisions of the Railroad Retirement Act and improves the coordination of the benefits of the social security and railroad retirement programs by bringing the beneficiary categories of the railroad retirement program more closely in line with those of social security. A brief description of the more substantive provisions follows:

1. Child's annuities will be payable after age 18 and up to age 22, if the child is a full-time student. This is in line with the provisions added to the Social Security Act in 1965.

2. The residual payment provision of the Railroad Retirement Act is updated to take into account increases in the employee railroad retirement tax rates. Under this provision, if no monthly benefit is immediately payable, a survivor of a deceased railroad worker may receive a lump-sum payment equal to the employee's contributions plus an allowance for interest, less the amount of benefits previously paid.

3. A widow or widower will no longer be required to have been living with the worker at the time of his or her death to qualify for a monthly survivor annuity. The "living-with" requirement of the social security program was removed in 1957.

4. A wife under age 62 may now qualify for a spouse's annuity on the basis of having a minor or disabled child in her care even if the employee annuitant has no current connection with the railroad industry. Formerly a current connection was required.

5. Occasional small losses in total benefits will no longer occur because a railroad annuitant whose annuity was computed under the social security minimum provision later qualifies for a benefit (usually an old-age insurance benefit) under social security.

6. The earnings of a survivor annuitant under the railroad program for months after the survivor ceased to be entitled to an annuity (e.g., because of marriage), will no longer be included in annual earnings for the purpose of making deductions from the survivor's annuity under the retirement test of the railroad program. (The retirement test of the railroad program which applies in survivors cases and which is based on annual earnings was, before this change made by Public Law 89-700, the same as the retirement test of the social security program.)

7. The annuities of disabled workers and disabled children over age 18 will be continued for 2 months after the month of their recovery. This brings these provisions of the Railroad Retirement Act in line with the comparable provisions of the Social Security Act.

8. Adoption of a child by a brother or sister after the employee's death will not terminate a child's annuity. This is in line with one of the 1965 amendments to the Social Security Act.

9. An overpayment made to any person can be recovered by adjustment, during the lifetime of the overpaid individual, of the annuities of any other person entitled on the basis of the same earnings record. A somewhat similar but more comprehensive provision for recovering overpayments under the Social Security Act from other beneficiaries entitled on the same earnings record during the lifetime of the overpaid individual, or from his estate after his death, was added by the Senate Committee on Finance to the 1965 social security amendments. However, the provision was removed by the Conference Committee.

Public Law 89-699 (H. R. 17285)

Public Law 89-699 establishes a system of employer-financed supplemental annuities under the Railroad Retirement Act, and provides a benefit increase of up to 7 percent for certain annuitants under the railroad retirement system--in general, for those who did not receive an increase, as a result of the 1965 social security amendments, through the operation of the social security minimum provision of the Railroad Retirement Act. This 7-percent increase provided by Public Law 89-699 will not be paid to an annuitant for any month for which he receives a supplemental annuity. The benefit increase would be financed by an increase of one-fourth of 1 percent each in the railroad retirement contribution rates for both employers and employees, effective on January 1, 1967.

The supplemental annuities will range from $45 monthly to $70 monthly, and will be payable only to retired railroad workers with at least 25 years of service. They will be in effect for only 60 months, beginning with November 1966, and will be payable only to persons whose regular retirement annuities first become payable on or after July 1, 1966. The supplemental annuities will be financed by a tax, effective for 60 months, beginning with November 1966, on railroad employers of 2 cents per man-hour of work performed for such employers. Unlike the other annuities payable under the Railroad Retirement Act, supplemental annuities will be subject to income tax.

The supplemental annuities provided by Public Law 89-699 had been the subject of negotiation for several years by the carriers and unions, who on August 24, 1966, reached an agreement to request the Congress to enact legislation providing for the supplemental annuities under the railroad retirement law.

Robert M. Ball
Commissioner

LISTING OF REFERENCE MATERIALS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. *Technical Amendments to Railroad Retirement, Tax, and Unemployment Insurance Acts, and Providing Benefits for Students. Hearing . . . 89th Congress, 2d session.*

U.S. Congress. Senate. Committee on Labor and Public Welfare. *Amend Railway Retirement Legislation. Hearing . . . 89th Congress, 2d session.*

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 1139

MRS. EMILIE BOULAY

OCTOBER 12, 1965.—Committed to the Committee of the Whole House and ordered to be printed

Mr. KING of New York, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 3500]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3500) for the relief of Mrs. Emilie Boulay, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide that the marriage of Mrs. Emilie Boulay and Napoleon Boulay on May 15, 1905, is to be held and considered a valid marriage for the purposes of determining the entitlement of Mrs. Emilie Boulay to widow's benefits based upon the wages and self-employment income of her late husband.

STATEMENT

On May 15, 1905, Napoleon Boulay married Emilie Boulay in St. Anne Roman Catholic Church in Berlin, N.H. In 1956, after 51 years of marriage, Mr. Boulay applied for social security benefits and Mrs. Boulay applied for wife's benefits on his account. At that time, Mrs. Boulay was denied benefits and was informed that the social security law did not permit the payment of benefits to her, because that agency concluded that the marriage would not be considered valid under State law. This conclusion was based on the fact that her husband was the son of her brother. The memorandum accompanying the report of the Department of Health, Education, and Welfare points out that for the purposes of payment of benefits under the Social Security Act a marriage may be deemed valid where the parties entered into a ceremonial marriage believing it to be valid and where the couple were living together as man and wife at the time of the worker's death. In the case of Mr. and Mrs. Boulay, the

evidence presented to the committee establishes that they consulted their church authorities concerning their intended marriage and received special permission to enter into the marriage. They were granted a marriage license by New Hampshire State authorities. While Mr. and Mrs. Boulay therefore entered into marriage believing it valid because of the permission just referred to, the memorandum of the Department of Health, Education, and Welfare points out that the exception permitting payment of social security benefits relates only to certain specified technical impediments to marriage and not to a case such as Mr. and Mrs. Boulay's. However, it is clear that there are grounds recognized by the Department as the basis for exceptions even though they do not extend to the actual situation faced in this particular case.

In view of the position of the Department of Health, Education, and Welfare and the unusual nature of this case, the bill H.R. 3500 was scheduled for subcommittee hearing on September 15, 1965. The testimony presented at that hearing established that this marriage continued for a period of 55 years until Mr. Napoleon Boulay passed away. Four children were born to the couple and the family was a respected and recognized part of their community for all of those years. Now a widow of advanced age is denied benefits based upon her husband's contributions to the social security system. Those very benefits were meant to provide a degree of security for widows in Mrs. Boulay's circumstances. Relief in this instance is in line with this underlying purpose of the Social Security Act. The committee recognizes that this statement is made in the face of the fact that there was a legal objection to the marriage. The equities and individual circumstances of the case are such, however, that the committee has concluded that relief should be extended to this widow by legislative action. Accordingly, it is recommended that the bill be considered favorably.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
June 29, 1965.

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 10, 1965, for a report on H.R. 3500, a bill for the relief of Mrs. Emilie Boulay.

The facts upon which this private relief bill is based are stated in the accompanying memorandum. In substance, an application for wife's benefit under the social security program filed by Emilie Boulay based on the earnings record of Napoleon Boulay was disallowed on the ground that she did not meet the statutory requirements for entitlement to wife's benefits and because she could not be considered Mr. Boulay's wife under the laws of the State of New Hampshire—the State in which he was domiciled. To qualify for widow's insurance benefits under the social security program, a person must, in general, have the status of a widow under the laws of the State in which the insured worker was domiciled at the time of his death. H.R. 3500 would provide that for the purposes of determining Mrs. Bolay's entitlement to widow's benefits, her marriage to Napoleon Boulay would be considered to have been valid; as a result, widow's benefits would be payable to her for months after November 1960 if she filed

an application for benefits within 6 months after enactment of H.R. 3500.

Enactment of the bill, then, would extend to Emilie Boulay a special advantage that, under the law, must be denied to other people in similar situations. It should be noted in this connection that, as indicated in the enclosed memorandum, Congress has specifically addressed itself to the question whether and to what extent a legal impediment to the validity of a bona fide ceremonial marriage should be disregarded for purposes of the old-age and survivors insurance program, and has stopped short of doing so where, as here, the impediment is due to the close relationship of the parties. We believe that special legislation permitting one person to receive an advantage under conditions identical to those in which others are denied that advantage is undesirable, and we therefore recommend against enactment of the bill.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

WILBUR J. COHEN,
Under Secretary.

MEMORANDUM TO ACCOMPANY THE REPORT OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON H.R. 3500

In order to qualify for widow's benefits under the Social Security Act, a woman must have been validly married to the worker at the time of his death under the laws of the State in which he was domiciled at the time of his death or must have the same status as a widow with respect to the taking of interstate personal property. The Social Security Act provides that a marriage may be deemed valid where the person applying for benefits entered into a ceremonial marriage believing it to be valid and where the couple was living together at the time of the worker's death. This exception to the general rule applies, however, only to a marriage which was not valid because of an impediment arising from the dissolution or lack of dissolution of a prior marriage, or because of an impediment resulting from a defect in the procedure followed in connection with the marriage ceremony; it does not apply to marriages between persons related to each other within prohibited degrees of consanguinity.

Mr. and Mrs. Boulay were married in Berlin, N.H., on May 15, 1905. In 1956, Mr. Boulay applied for social security benefits and Mrs. Boulay applied for wife's benefits on his account. Mrs. Boulay's claim for benefits was disallowed because her marriage to Mr. Boulay was not valid under New Hampshire law; Mr. Boulay was the son of Mrs. Boulay's brother and New Hampshire law specifies that a marriage between a woman and her brother's son is void. Mrs. Boulay has stated that she knew of the relationship when they were married and that they had to get special permission from their church to be married because of this relationship, but that she did not realize that their marriage was invalid under civil law.

No application for widow's benefits was filed after Mr. Boulay died in 1960. However, Mrs. Boulay's attorney, James J. Burns, inquired on her behalf about the possibility of obtaining social security benefits

for her. Mr. Burns was advised that it was not possible to pay benefits to Mrs. Boulay on Mr. Boulay's account because she had not been validly married to him and could not be deemed to have been his wife. If H.R. 3500 were enacted, the marriage entered into by Emilie Boulay and Napoleon Boulay would be considered to have been a valid marriage for the purpose of paying widow's benefits to Mrs. Boulay, and she could become entitled to benefits for months after November 1960 if she filed an application for benefits within 6 months after enactment of the bill.

○

Private Calendar No. 338

89TH CONGRESS
1ST SESSION

H. R. 3500

[Report No. 1139]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1965

Mr. CLEVELAND introduced the following bill; which was referred to the Committee on the Judiciary

OCTOBER 12, 1965

Committed to the Committee of the Whole House and ordered to be printed

A BILL

For the relief of Mrs. Emilie Boulay.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of determining the entitlement of Mrs. Emilie Boulay, of Berlin, New Hampshire, to benefits under title II of the Social Security Act for months after November 1960 on the basis of the wages and self-employment income of the late Napoleon Boulay (social security account Numbered 001–12–7112), if the said Mrs. Emilie Boulay files application for such benefits within six months after the date of the enactment of this Act, the marriage entered into by the said Mrs. Emilie Boulay and Napoleon Boulay on

May 15, 1905, shall be held and considered to have been a valid marrige under the laws of the State in which the said Napoleon Boulay was domiciled at the time of his death.

Private Calendar No. 338

89TH CONGRESS
1ST SESSION

H. R. 3500

[Report No. 1139]

A BILL

For the relief of Mrs. Emilie Boulay.

By Mr. CLEVELAND

JANUARY 25, 1965
Referred to the Committee on the Judiciary

OCTOBER 12, 1965
Committed to the Committee of the Whole House and ordered to be printed

MRS. EMILIE BOULAY

The Clerk called the bill (H.R. 3500) for the relief of Mrs. Emilie Boulay.

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

H.R. 3500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of determining the entitlement of Mrs. Emilie Boulay, of Berlin, New Hampshire, to benefits under title II of the Social Security Act for months after November 1960 on the basis of the wages and self-employment income of the late Napoleon Boulay (social security account Numbered 001-12-7112), if the said Mrs. Emilie Boulay files application for such benefits within six months after the date of the enactment of this Act, the marriage entered into by the said Mrs. Emilie Boulay and Napoleon Boulay on May 15, 1905, shall be held and considered to have been a valid marriage under the laws of the State in which the said Napoleon Boulay was domiciled at the time of his death.

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. 1760

89TH CONGRESS
2d Session

SENATE

REPORT
No. 1791

MRS. EMILIE BOULAY

OCTOBER 18, 1966.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 3500]

The Committee on the Judiciary, to which was referred the bill (H.R. 3500) for the relief of Mrs. Emilie Boulay, 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 the marriage of Mrs. Emilie Boulay and Napoleon Boulay on May 15, 1905, is to be held and considered a valid marriage for the purposes of determining the entitlement of Mrs. Emilie Boulay to widow's benefits based upon the wages and self-employment income of her late husband.

STATEMENT

On May 15, 1905, Napoleon Boulay married Emilie Boulay in St. Anne Roman Catholic Church in Berlin, N.H. In 1956, after 51 years of marriage, Mr. Boulay applied for social security benefits and Mrs. Boulay applied for wife's benefits on his account. At that time, Mrs. Boulay was denied benefits and was informed that the social security law did not permit the payment of benefits to her, because that agency concluded that the marriage would not be considered valid under State law. This conclusion was based on the fact that her husband was the son of her brother. The memorandum accompanying the report of the Department of Health, Education, and Welfare points out that for the purposes of payment of benefits under the Social Security Act a marriage may be deemed valid where

the parties entered into a ceremonial marriage believing it to be valid and where the couple were living together as man and wife at the time of the worker's death. In the case of Mr. and Mrs. Boulay, the evidence presented to the committee establishes that they consulted their church authorities concerning their intended marriage and received special permission to enter into the marriage. They were granted a marriage license by New Hampshire State authorities. While Mr. and Mrs. Boulay therefore entered into marriage believing it valid because of the permission just referred to, the memorandum of the Department of Health, Education, and Welfare points out that the exception permitting payment of social security benefits relates only to certain specified technical impediments to marriage and not to a case such as Mr. and Mrs. Boulay's. However, it is clear that there are grounds recognized by the Department as the basis for exceptions even though they do not extend to the actual situation faced in this particular case.

In view of the position of the Department of Health, Education, and Welfare, and the unusual nature of this case, a subcommittee of the House Judiciary Committee scheduled a public hearing on this bill on September 15, 1965. The testimony presented at that hearing established that this marriage continued for a period of 55 years until Mr. Boulay passed away. Four children were born to the couple and the family was a respected and recognized part of their community for all of those years.

After the hearing, the Judiciary Committee concluded that this bill should be considered favorably and in its report set out the reasons therefor, as follows:

> Now a widow of advanced age is denied benefits based upon her husband's contributions to the social security system. Those very benefits were meant to provide a degree of security for widows in Mrs. Boulay's circumstances. Relief in this instance is in line with this underlying purpose of the Social Security Act. The committee recognizes that this statement is made in the face of the fact that there was a legal objection to the marriage. The equities and individual circumstances of the case are such, however, that the committee has concluded that relief should be extended to this widow by legislative action. Accordingly, it is recommended that the bill be considered favorably.

In view of the findings and conclusions arrived at by the House Committee on the Judiciary this committee is in agreement with those stated conclusions, and accordingly recommends favorable consideration of H.R. 3500, without amendment.

Attached hereto and made a part hereof is the report and memorandum addressed to the chairman of the House Judiciary Committee from the Department of Health, Education, and Welfare.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
June 29, 1965.

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 10, 1965, for a report on H.R. 3500, a bill for the relief of Mrs. Emilie Boulay.

The facts upon which this private relief bill is based are stated in the accompanying memorandum. In substance, an application for wife's benefit under the social security program filed by Emilie Boulay based on the earnings record of Napoleon Boulay was disallowed on the ground that she did not meet the statutory requirements for entitlement to wife's benefits and because she could not be considered Mr. Boulay's wife under the laws of the State of New Hampshire—the State in which he was domiciled. To qualify for widow's insurance benefits under the social security program, a person must, in general, have the status of a widow under the laws of the State in which the insured worker was domiciled at the time of his death. H.R. 3500 would provide that for the purposes of determining Mrs. Boulay's entitlement to widow's benefits, her marriage to Napoleon Boulay would be considered to have been valid; as a result, widow's benefits would be payable to her for months after November 1960 if she filed an application for benefits within 6 months after enactment of H.R. 3500.

Enactment of the bill, then, would extend to Emilie Boulay a special advantage that, under the law, must be denied to other people in similar situations. It should be noted in this connection that, as indicated in the enclosed memorandum, Congress has specifically addressed itself to the question whether and to what extent a legal impediment to the validity of a bona fide ceremonial marriage should be disregarded for purposes of the old-age and survivors insurance program, and has stopped short of doing so where, as here, the impediment is due to the close relationship of the parties. We believe that special legislation permitting one person to receive an advantage under conditions identical to those in which others are denied that advantage is undesirable, and we therefore recommend against enactment of the bill.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

WILBUR J. COHEN,
Under Secretary.

MEMORANDUM TO ACCOMPANY THE REPORT OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON H.R. 3500

In order to qualify for widow's benefits under the Social Security Act, a woman must have been validly married to the worker at the time of his death under the laws of the State in which he was domiciled at the time of his death or must have the same status as a widow with respect to the taking of interstate personal property. The Social Security Act provides that a marriage may be deemed valid where the person applying for benefits entered into a ceremonial marriage believing it to be valid and where the couple was living together at the time of the worker's death. This exception to the general rule applies, however, only to a marriage which was not valid because of an impediment arising from the dissolution or lack of dissolution of a prior marriage, or because of an impediment resulting from a defect in the procedure followed in connection with the marriage ceremony; it does not apply to marriages between persons related to each other within prohibited degrees of consanguinity.

Mr. and Mrs. Boulay were married in Berlin, N.H., on May 15, 1905. In 1956, Mr. Boulay applied for social security benefits and Mrs. Boulay applied for wife's benefits on his account. Mrs. Boulay's claim for benefits was disallowed because her marriage to Mr. Boulay was not valid under New Hamphsire law; Mr. Boulay was the son of Mrs. Boulay's brother and New Hampshire law specified that a marriage between a woman and her brother's son is void. Mrs. Boulay has stated that she knew of the relationship when they were married and that they had to get special permission from their church to be married because of this relationship, but that she did not realize that their marriage was invalid under civil law.

No application for widow's benefits was filed after Mr. Boulay died in 1960. However, Mrs. Boulay's attorney, James J. Burns, inquired on her behalf about the possibility of obtaining social security benefits for her. Mr. Burns was advised that it was not possible to pay benefits to Mrs. Boulay on Mr. Boulay's account because she had not been validly married to him and could not be deemed to have been his wife. If H.R. 3500 were enacted, the marriage entered into by Emilie Boulay and Napoleon Boulay would be considered to have been a valid marriage for the purpose of paying widow's benefits to Mrs. Boulay, and she could become entitled to benefits for months after November 1960 if she filed an application for benefits within 6 months after enactment of the bill.

O

MRS. EMILIE BOULAY

The bill (H.R. 3500) for the relief of Mrs. Emilie Boulay was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1791), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to provide that the marriage of Mrs. Emilie Boulay and Napoleon Boulay on May 15, 1905, is to be held and considered a valid marriage for the purposes of determining the entitlement of Mrs. Emilie Boulay to widow's benefits based upon the wages and self-employment income of her late husband.

STATEMENT

On May 15, 1905, Napoleon Boulay married Emilie Boulay in St. Anne Roman Catholic Church in Berlin, N.H. In 1956, after 51 years of marriage, Mr. Boulay applied for social security benefits and Mrs. Boulay applied for wife's benefits on his account. At that time, Mrs. Boulay was denied benefits and was informed that the social security law did not permit the payment of benefits to her, because that agency concluded that the marriage would not be considered valid under State law. This conclusion was based on the fact that her husband was the son of her brother. The memorandum accompanying the report of the Department of Health, Education, and Welfare points out that for the purposes of payment of benefits under the Social Security Act a marriage may be deemed valid where the parties entered into a ceremonial marriage believing it to be valid and where the couple were living together as man and wife at the time of the worker's death. In the case of Mr. and Mrs. Boulay, the evidence presented to the committee establishes that they consulted their church authorities concerning their intended marriage and received special permission to enter into the marriage. They were granted a marriage license by New Hampshire State authorities. While Mr. and Mrs. Boulay therefore entered into marriage believing it valid because of the permission just referred to, the memorandum of the Department of Health, Education, and Welfare points out that the exception permitting payment of social security benefits relates only to certain specified technical impediments to marriage and not to a case such as Mr. and Mrs. Boulay's. However, it is clear that there are grounds recognized by the Department as the basis for exceptions even though they do not extend to the actual situation faced in this particular case.

In view of the position of the Department of Health, Education, and Welfare, and the unusual nature of this case, a subcommittee of the House Judiciary Committee scheduled a public hearing on this bill on September 15, 1965. The testimony presented at that hearing established that this marriage continued for a period of 55 years until Mr. Boulay passed away. Four children were born to the couple and the family was a respected and recognized part of their community for all of those years.

After the hearing, the Judiciary Committee concluded that this bill should be considered favorably and in its report set out the reasons therefor, as follows:

"Now a widow of advanced age is denied benefits based upon her husband's contributions to the social security system. Those very benefits were meant to provide a degree of security for widows in Mrs. Boulay's circumstances. Relief in this instance is in line with this underlying purpose of the Social Security Act. The committee recognizes that this statement is made in the face of the fact that there was a legal objection to the marriage. The equities and individual circumstances of the case are such, however, that the committee has concluded that relief should be extended to this widow by legislative action. Accordingly, it is recommended that the bill be considered favorably."

In view of the findings and conclusions arrived at by the House Committee on the Judiciary this committee is in agreement with those stated conclusions, and accordingly recommends favorable consideration of H.R. 3500, without amendment.

Private Law 89-371
89th Congress, H. R. 3500
November 2, 1966

An Act

For the relief of Mrs. Emilie Boulay

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of determining the entitlement of Mrs. Emilie Boulay, of Berlin, New Hampshire, to benefits under title II of the Social Security Act for months after November 1960 on the basis of the wages and self-employment income of the late Napoleon Boulay (social security account Numbered 001–12–7112), if the said Mrs. Emilie Boulay files application for such benefits within six months after the date of the enactment of this Act, the marriage entered into by the said Mrs. Emilie Boulay and Napoleon Boulay on May 15, 1905, shall be held and considered to have been a valid marriage under the laws of the State in which the said Napoleon Boulay was domiciled at the time of his death.

Approved November 2, 1966.

Calendar No. 1816

89TH CONGRESS, 2d Session | SENATE | REPORT No. 1845

SUSAN JEANNE CLYNES

OCTOBER 19, 1966.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 2222]

The Committee on the Judiciary, to which was referred the bill (S. 2222) for the relief of Susan Jeanne Clynes, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the bill is that, for purposes of any application for child's insurance benefits under section 202(d) of the Social Security Act filed after the date of enactment of this act by or on behalf of Susan Jeanne Clynes, of Webster Springs, W. Va., on the basis of the wages and self-employment income of the late George I. Clynes (social security account numbered 114–30–3984), the said Susan Jeanne Clynes shall be held and considered to be the child of the said George I. Clynes and to have been dependent upon him at the time of his death.

STATEMENT

The facts of the case are contained in a memorandum from the Department of Health, Education, and Welfare as follows:

> The Social Security Act states in general that in order to qualify for child's benefits under the Social Security Act, an applicant must be the child, legally adopted child, or stepchild of the insured worker. To qualify as the child of an insured worker, the applicant must have the right under applicable State law to inherit intestate personal property from the insured worker as his child. The term "legally adopted child" includes a child who was living in the insured worker's household at the time of his death and was legally adopted by the worker's spouse within 2 years after he died, provided the child was not receiving regular contributions from someone other than the worker or his spouse.
>
> Susan Jeanne Clynes was born on November 13, 1957, and has lived with her paternal grandmother since December of

that year. On June 28, 1958, her grandmother married Mr. Clynes; he died, while domiciled in New York, on January 16, 1959. Mrs. Clynes obtained legal custody of Susan in February 1959, and adopted her on February 15, 1962, in West Virginia. Prior to the legal adoption Mrs. Clynes had made two unsuccessful attempts to adopt Susan in New York.

On January 26, 1962, Mrs. Clynes filed a claim for survivors' benefits on the earnings record of Mr. Clynes on behalf of Susan and herself; the claim was disallowed. On May 17, 1962, Mrs. Clynes asked for a reconsideration of the claim; upon reconsideration, the disallowance of the claim was affirmed. Since Susan had not been adopted within 2 years after Mr. Clynes died, reconsideration of the claim included consideration of whether, under New York law, she could inherit Mr. Clynes' intestate personal property. It was found that she could not.

Under New York law, a child may acquire inheritance rights to the intestate property of an individual if it can be established that, although the child had not actually been legally adopted by the individual, the individual had entered into a binding contract to adopt the child. The contract to adopt the child must be established by clear and convincing evidence, including complete and absolute surrender of the child to the adopting parents in exchange for a promise of legal adoption. In addition, the contract must be enforceable in a court of law.

Mrs. Clynes stated that during the 6 months of their marriage, her husband has supported the child and treated her as his own, and that she and her husband had planned to adopt Susan but had postponed the adoption because of her husband's serious illness. She said that before her husband's death she had talked with Susan's father (Mrs. Clynes' son) about adopting the child, but had not talked with the child's mother because she did not know where she was. However, she also stated that she took Susan into her home because she was her son's child and had been left uncared for by her mother, that she had originally agreed to take the child for 6 months, and that the son could have claimed Susan at any time. In addition, the record shows that she took Susan into her home 6 months before her marriage to Mr. Clynes and that she did not obtain legal custody of the child until after Mr. Clynes' death. Based on the evidence of record, it was found that there was no evidence showing that Susan was surrendered pursuant to a promise of legal adoption by Mr. Clynes. She therefore could not inherit his intestate personal property under New York law, and under the Social Security Act cannot become entitled to social security benefits as the child of Mr. Clynes.

The committee has considered the facts and equities of the case and believes that the bill should be reported favorably. Specifically, the committee has considered the fact that prior to the actual adoption, and presumably within 2 years after the death of Mr. Clynes, Mrs. Clynes made two attempts to adopt the child in New York, which were unsuccessful.

The committee has also considered a previous bill of the 85th Congress, which involved a similar case, and which became Private Law 85–337. At that time the law provided that, under the circumstances involved here, an adoption must be final prior to the death of the worker. In the previous case, after the child had been in the home some 6 months, the worker died. The widow then finally adopted the child. Child benefits were refused because the adoption had not been completed prior to the cutoff date, which was the time of death in that instance. In this case, the cutoff date is 2 years after the worker's death. The principle involved appears to be the same in each instance. Under these circumstances, the committee recommends that the bill, S. 2222, be considered favorably.

Attached hereto and made a part hereof is the letter from the Department of Health, Education, and Welfare, together with a memorandum [1] concerning the case, and a letter, dated January 13, 1966, from Senator Robert C. Byrd, of West Virginia.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, September 15, 1965.

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 July 1, 1965, for a report on S. 2222, a bill for the relief of Susan Jeanne Clynes.

The bill would make an exception to section 202(d) of the Social Security Act so that for the purpose of getting child's benefits on the basis of the wages and self-employment income of the late George I. Clynes, Susan Jeanne Clynes would be considered to be his child and to have been dependent upon him at the time of his death.

The facts upon which this private relief bill is based are stated in the accompanying memorandum. In substance, Susan's claim for child's insurance benefits based on the earnings of Mr. Clynes was disallowed because Susan, although she was adopted by Mr. Clynes' widow, was not adopted within the 2-year period prescribed under title II of the Social Security Act.

The reason why a time requirement is included in the law is so that benefits will be payable only where a child was in the worker's home for the purpose of adoption at the time of the worker's death. Since even with greater than normal delays it is reasonable to expect that a widow's adoption of a child who was in her and her husband's home for the purpose of adoption at the time of the husband's death could be completed in less than 2 years, the law provides benefits only where the adoption took place within 2 years after the worker's death.

Enactment of the bill would extend to Susan Jeanne Clynes a special advantage that, under the law, must be denied to other people in

similar situations. We believe that special legislation giving one person an advantage under conditions identical to those in which others are denied the advantage is undesirable, and we therefore recommend against enactment of the bill.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

WILBUR J. COHEN,
Under Secretary.

U.S. SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
January 13, 1966.

Re S. 2222.

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of the private bill, referred to above, for the relief of Susan Jeanne Clynes.

I understand that the report from the Social Security Administration, on this legislation, does not favor enactment. This legislation proposes to extend the 2-year time limit in which an adopted child may receive benefits of the deceased, under social security laws, but I feel that there are extenuating circumstances in this particular case. Under normal conditions, a person desirous of adopting a child would explore any obstacle that might prevent expedient action. Mrs. Clynes had kept the child prior to her marriage to Mr. Clynes and, according to information furnished to me, they planned to adopt the child immediately following their marriage. His illness and death within 6 months must have occupied her foremost thoughts, preventing her from taking immediate action on the adoption. Following his death, I feel confident that had she realized it would be impossible for her to adopt the child in the State of New York, as a widow, she would not have waited 8 months to learn this from the court, but would have returned to West Virginia where adoption could, in all probability, be processed within the 2-year time limitation.

I know that you will give this bill every proper consideration, commensurate with rules and regulations, but I wanted to express my personal feelings in this respect. Thank you for your kind attention and consideration.

Sincerely yours,

ROBERT C. BYRD, *U.S. Senator.*

( )

Calendar No. 1816

89TH CONGRESS
2D SESSION

S. 2222

[Report No. 1845]

IN THE SENATE OF THE UNITED STATES

JUNE 29, 1965

Mr. BYRD of West Virginia (by request) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 19, 1966

Reported by Mr. MCCLELLAN, without amendment

A BILL

For the relief of Susan Jeanne Clynes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of any application for child's insurance benefits under section 202 (d) of the Social Security Act filed after the date of enactment of this Act by or on behalf of Susan Jeanne Clynes, of Webster Springs, West Virginia, on the basis of the wages and self-employment income of the late George I. Clynes (social security account numbered 114-30-3984), the said Susan Jeanne Clynes shall be held and considered to be the child of the said George I. Clynes and to have been dependent upon him at the time of his death.

Calendar No. 1816

89TH CONGRESS
2D SESSION

S. 2222

[Report No. 1845]

A BILL

For the relief of Susan Jeanne Clynes.

By Mr. BYRD of West Virginia

JUNE 29, 1965
Read twice and referred to the Committee on the Judiciary

OCTOBER 19, 1966
Reported without amendment

SUSAN JEANNE CLYNES

The bill (S. 2222) for the relief of Susan Jeanne Clynes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of any application for child's insurance benefits under section 202(d) of the Social Security Act filed after the date of enactment of this Act by or on behalf of Susan Jeanne Clynes, of Webster Springs, West Virginia, on the basis of the wages and self-employment income of the late George I. Clynes (social security account numbered 114–30–3984), the said Susan Jeanne Clynes shall be held and considered to be the child of the said George I. Clynes and to have been dependent upon him at the time of his death.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1845), explaining the purposes of the bill.

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

PURPOSE

The purpose of the bill is that, for purposes of any application for child's insurance benefits under section 202(d) of the Social Security Act filed after the date of enactment of this act by or on behalf of Susan Jeanne Clynes, of Webster Springs, W. Va., on the basis of the wages and self-employment income of the late George I. Clynes (social security account numbered 114–30–3984), the said Susan Jeanne Clynes shall be held and considered to be the child of the said George I. Clynes and to have been dependent upon him at the time of his death.

STATEMENT

The facts of the case are contained in a memorandum from the Department of Health, Education, and Welfare as follows:

"The Social Security Act states in general that in order to qualify for child's benefits under the Social Security Act, an applicant must be the child, legally adopted child, or stepchild of the insured worker. To qualify as the child of an insured worker, the applicant must have the right under applicable State law to inherit intestate personal property from the insured worker as his child. The term "legally adopted child" includes a child who was living in the insured worker's household at the time of his death and was legally adopted by the worker's spouse within 2 years after he died, provided the child was not receiving regular contributions from someone other than the worker or his spouse.

"Susan Jeanne Clynes was born on November 13, 1957, and has lived with her paternal grandmother since December of that year. On June 28, 1958, her grandmother married Mr. Clynes; he died, while domiciled in New York, on January 16, 1959. Mrs. Clynes obtained legal custody of Susan in February 1959, and adopted her on February 15, 1962, in West Virginia. Prior to the legal adoption Mrs. Clynes had made two unsuccessful attempts to adopt Susan in New York.

"On January 26, 1962, Mrs. Clynes filed a claim for survivors' benefits on the earnings record of Mr. Clynes on behalf of Susan and herself; the claim was disallowed. On May 17, 1962, Mrs. Clynes asked for a reconsideration of the claim; upon reconsideration, the disallowance of the claim was affirmed. Since Susan had not been adopted within 2 years after Mr. Clynes died, reconsideration of the claim included consideration of whether, under New York law, she could inherit Mr. Clynes' intestate personal property. It was found that she could not.

"Under New York law, a child may acquire inheritance rights to the intestate property of an individual if it can be established that, although the child had not actually been legally adopted by the individual, the individual had entered into a binding contract to adopt the child. The contract to adopt the child must be estabilshed by clear and convincing evidence, including complete and absolute surrender of the child to the adopting parents in exchange for a promise of legal adoption. In addition, the contract must be enforceable in a court of law.

"Mrs. Clynes stated that during the 6 months of their marriage, her husband has supported the child and treated her as his own, and that she and her husband had planned to adopt Susan but had postponed the adoption because of her husband's serious illness. She said that before her husband's death she had talked with Susan's father (Mrs. Clynes' son) about adopting the child, but had not talked with the child's mother because she did not know where she was. However, she also stated that she took Susan into her home because she was her son's child and had been left uncared for by her mother, that she had originally agreed to take the child for 6 months, and that the son could have claimed Susan at any time. In addition, the record shows that she took Susan into her home 6 months before her marriage to Mr. Clynes and that she did not obtain legal custody of the child until after Mr. Clynes' death. Based on the evidence of record, it was found that there was no evidence showing that Susan was surrendered pursuant to a promise of legal adoption by Mr. Clynes. She therefore could not inherit his intestate personal property under New York law, and under the Social Security Act cannot become entitled to social security benefits as the child of Mr. Clynes."

The committee has considered the facts and equities of the case and believes that the bill should be reported favorably. Specifically, the committee has considered the fact that prior to the actual adoption, and presumably within 2 years after the death of Mr. Clynes, Mrs. Clynes made two attempts to adopt the child in New York, which were unsuccessful.

The committee has also considered a previous bill of the 85th Congress, which involved a similar case, and which became Private Law 85–337. At that time the law provided that, under the circumstances involved here, an adoption must be final prior to the death of the worker. In the previous case, after the child had been in the home some 6 months, the worker died. The widow then finally adopted the child. Child benefits were refused because the adoption had not been completed prior to the cutoff date, which was the time of death in that instance.

In this case, the cutoff date is 2 years after the worker's death. The principle involved appears to be the same in each instance. Under these circumstances, the committee recommends that the bill, S. 2222, be considered favorably.

The Clerk read the bill, as follows:

S. 2222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of any application for child's insurance benefits under section 203(d) of the Social Security Act filed after the date of enactment of this Act by or on behalf of Susan Jeanne Clynes, of Webster Springs, West Virginia, on the basis of the wages and self-employment income of the late George I. Clynes (social security account numbered 114-30-3984), the said Susan Jeanne Clynes shall be held and considered to be the child of the said George I. Clynes and to have been dependent upon him at the time of his death.

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

A motion to reconsider was laid on the table.

FOR THE RELIEF OF SUSAN JEANNE CLYNES

Mr. ASHMORE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2222) for the relief of Susan Jeanne Clynes.

The Clerk read the title of the bill.

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

There was no objection.

Private Law 89-454
89th Congress, S. 2222
November 6, 1966

An Act

For the relief of Susan Jeanne Clynes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of any application for child's insurance benefits under section 202(d) of the Social Security Act filed after the date of enactment of this Act by or on behalf of Susan Jeanne Clynes, of Webster Springs, West Virginia, on the basis of the wages and self-employment income of the late George I. Clynes (social security account numbered 114–30–3984), the said Susan Jeanne Clynes shall be held and considered to be the child of the said George I. Clynes and to have been dependent upon him at the time of his death.

Approved November 6, 1966.

November 6, 1966

STATEMENT BY THE PRESIDENT

As a rule, I am opposed to special legislation providing benefits to some people when others are being denied similar treatment. However, I am signing two private bills this morning because they show the need for a change in our Social Security Act.

Under that Act, a child can get social security benefits only if he has been legally adopted by the surviving spouse within 2 years after the worker's death.

Katherine M. Perakis was placed in the home of Mr. and Mrs. George Perakis on a conditional basis for the purpose of eventual adoption several months before Mr. Perakis' death. Because of factors beyond her control and through no fault of her own, Mrs. Perakis was not able to adopt Katherine legally until more than 2 years after the date of the death.

Susan Jeanne Clynes has lived with her paternal grandmother since shortly after her birth. Her grandmother married Mr. George I. Clynes on June 28, 1958, and he supported Susan until his death on January 16, 1959. Mrs. Clynes legally adopted Susan on February 15, 1962, 13 months after the 2-year eligibility period provided by law had expired. The death of Mr. Clynes deprived Susan of support which she had been receiving from him in the same manner as though she had been his own child.

In both these cases, the strict enforcement of the law has defeated the purpose of the program. I have asked Secretary Gardner to review these cases and to recommend an amendment to the Social Security Act so that similar hardships can be avoided in the future.

NOTE: The statement was released at Fredericksburg, Texas.

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2138

KATHERINE M. PERAKIS

SEPTEMBER 28, 1966.—Committed to the Committee of the Whole House and ordered to be printed

Mr. SMITH of New York, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 14749]

The Committee on the Judiciary, to whom was referred the bill (H.R. 14749) for the relief of Katherine M. Perakis, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide that in the determination of the entitlement of Katherine M. Perakis to child's insurance benefits under section 202(d) of the Social Security Act based on the wages and self-employment income of the late George Perakis of Peabody, Mass., she shall be deemed to have been the legally adopted child of George Perakis and to have been dependent upon him at the time of his death.

STATEMENT

In April of 1962, Katherine M. Perakis was placed in the home of Mr. and Mrs. George Perakis for adoption. The couple had begun their efforts to adopt a child in 1959 when they contacted the Boston Children's Service Association and indicated their desire to adopt a baby girl of Greek heritage. In cooperation with the International Social Service, arrangements were made to bring a child to the United States. This child is Katherine Perakis. Before Katherine Perakis left Greece, a preliminary adoption hearing was held in a Greek court and, in accordance with Greek law, the child's adoption by Mr. and Mrs. Perakis was to be completed in that court before she was adopted under Massachusetts law. The understanding that Mr. and Mrs. Perakis and the Boston Children's Service Association was that the

association would determine whether or not to sponsor the adoption in Massachusetts after the child had lived in the Perakis home for at least 1 year.

On August 20, 1962, Mr. Perakis died. Following his death, Mrs. Perakis indicated she still wished to adopt the child. Apparently it is unusual for a Massachusetts court to allow a widow to adopt a child, and the Boston Children's Service Association at first hesitated to give its consent. The association consented to the adoption in May of 1964. This date is significant because, as is noted in the report of the Department of Health, Education, and Welfare, the law provides that a child must be adopted by a worker's surviving spouse within 2 years of the date of the worker's death in order to qualify the child for child's benefits under the Social Security Act. The memorandum supplied to the commitee along with the Department's report states that there were several factors which served to delay the adoption until after the 2-year period had expired. The major reason for the delay was that the lawyer that had been handling the matter was appointed to a judgeship and the case had to be transferred to another lawyer. Further, it appears that the court in which the adoption was pending was not in session in August. Of course, the 2-year period expired in August 1964, because Mr. Perakis died on August 20, 1962. This committee notes that it is significant that the adoption was completed on December 3, 1964, a little over 3 months after the 2-year period had expired.

The facts outlined above and in the memorandum of the Department of Health, Education, and Welfare show that all of the requirements of Federal law which would have resulted in the child's entitlement to social security benefits were accomplished but for the fact that the adoption was completed some 3 months after the 2-year period had expired. The Department itself, while recommending against individual relief, states that it would not object to general legislation which would meet the problem faced by the widow and child in this case. The committee notes that the Department's statement in this connection serves to point up the fact that existing law is inadequate in this instance to accomplish essential justice. Private legislation is intended to remedy inequitable situations where the provisions of existing law are inadequate. While it may be that this case demonstrates the need for an amendment to existing law, such a circumstance should not be urged as a reason to deny justice to this child. Accordingly, it is recommended that the bill be considered favorably.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
September 6, 1966.

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 May 16, 1966, for a report on H.R. 14749, a bill "for the relief of Katherine M. Perakis."

The facts upon which this private relief bill is based are stated in the accompanying memorandum. In substance, an application for child's benefits was filed on behalf of Katherine M. Perakis as the legally adopted child of George Perakis, who died on August 20, 1962. The claim was disallowed because the child was not legally adopted

by the worker's surviving spouse within 2 years of the date of the worker's death. (Katherine had been placed for adoption with the Perakis family in April 1962 and for reasons beyond their control, the child was not adopted until December 1964.) The bill would deem Katherine M. Perakis to be the legally adopted child of Mr. Perakis and to have been dependent upon him at the time of his death. As a result, Katherine M. Perakis would be entitled to social security child's insurance benefits.

Enactment of the bill would extend to Katherine M. Perakis a special advantage that under the law must be denied to other children in similar situations. We believe that special legislation providing an advantage to some people under conditions identical to those in which others are denied similar treatment is undesirable. We therefore recommend against enactment of the bill. The Department would not, however, object to general legislation to provide for paying child's benefits where the surviving spouse adopts the child within a reasonable time after the worker's death if the deceased worker had taken positive steps to adopt the child and died before the adoption could be completed.

We are advised by the Bureau of the Budget that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

WILBUR J. COHEN,
Under Secretary.

MEMORANDUM TO ACCOMPANY THE REPORT OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON H.R. 14749

H.R. 14749 would provide that, for the purpose of qualifying for child's insurance benefits under the social security program, Katherine M. Perakis would be considered to have been the legally adopted child of George Perakis, and to have been dependent on him, at the time of his death. If the bill were enacted, the child could become entitled to monthly benefits beginning with August 30, 1962, the month in which an application for child's insurance benefits was filed on her behalf. However, because Mrs. Perakis and her son, James, are receiving the maximum amount of monthly benefit that can be paid to the family now, if Katherine were to be entitled to benefits, the total amount payable to the family could not be increased at this time. If either James or his mother ceases to be entitled to benefits, Katherine's entitlement to benefits would mean that there would be no decrease in the total amount paid to the family. Also, if Katherine were not living with her mother, her share of the benefits would be paid to whoever was responsible for her care.

Under the law, a child can get benefits based on the earnings record of a deceased worker if the child is adopted by the worker's surviving spouse within 2 years after the worker's death, and if he was living in the worker's household at the time of the worker's death and was not getting regular contributions toward his support from someone other than the worker or his spouse or from any public or private welfare organization which furnished services or assistance for children.

In 1959 Mr. and Mrs. Perakis contacted the Boston Children's Service Association for the purpose of adopting a baby girl of Greek heritage. In cooperation with the International Social Service,

arrangements were made to bring a baby girl to the United States in April of 1962. The child, Katherine Perakis, was placed in the Perakis home for adoption. Before Katherine Perakis left Greece, a preliminary adoption hearing was held in a Greek court, and in accordance with Greek law the child's adoption by Mr. and Mrs. Perakis was to be completed in the Greek court after she had been adopted under Massachusetts laws. Under an agreement between Mr. and Mrs. Perakis and the Boston Children's Service Association, the Association would determine whether or not to sponsor the adoption after the child had lived in the Perakis home for at least 1 year.

On August 20, 1962, Mr. Perakis died. Later Mrs. Perakis indicated that she still wished to adopt the child. The Boston Children's Service Association at first hesitated to give its consent, because it is unusual for a Massachusetts court to allow a widow to adopt a child. The association consented to the adoption in May 1964, but several events delayed the adoption. The major reason for the delay was that the Perakis' family lawyer was appointed to a judgeship and the case had to be transferred to another lawyer, and the court was not in session in August. The adoption was completed on December 3, 1964—over 2 years after Mr. Perakis' death.

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Private Calendar No. 607

89TH CONGRESS
2D SESSION

H. R. 14749

[Report No. 2138]

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 1966

Mr. BATES introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 28, 1966

Committed to the Committee of the Whole House and ordered to be printed

A BILL

For the relief of Katherine M. Perakis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of determining the entitlement of Katherine M. Perakis to child's insurance benefits under section 202 (d) of the Social Security Act on the basis of the wages and self-employment income of George Perakis (Social Security Account Number 011–16–8534), of Peabody, Massachusetts, the said Katherine M. Perakis shall be deemed to have been the legally adopted child of the said George Perakis, and to have been dependent upon him, at the time of his death on August 20, 1962.

Private Calendar No. 607

89TH CONGRESS
2D SESSION

H. R. 14749

[Report No. 2138]

A BILL

For the relief of Katherine M. Perakis.

By Mr. BATES

APRIL 28, 1966
Referred to the Committee on the Judiciary

SEPTEMBER 28, 1966
Committed to the Committee of the Whole House and ordered to be printed

KATHERINE M. PERAKIS

The Clerk called the bill (H.R. 14749) for the relief of Katherine M. Perakis.

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

H.R. 14749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of determining the entitlement of Katherine M. Perakis to child's insurance benefits under section 202(d) of the Social Security Act on the basis of the wages and self-employment income of George Perakis (Social Security Account Number 011-16-8534), of Peabody, Massachusetts, the said Katherine M. Perakis shall be deemed to have been the legally adopted child of the said George Perakis, and to have been dependent upon him, at the time of his death on August 20, 1962.

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. 1829

89TH CONGRESS
2d Session

SENATE

REPORT
No. 1858

KATHERINE M. PERAKIS

OCTOBER 19, 1966.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 14749]

The Committee on the Judiciary, to which was referred the bill (H.R. 14749) for the relief of Katherine M. Perakis, 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 in the determination of the entitlement of Katherine M. Perakis to child's insurance benefits under section 202(d) of the Social Security Act based on the wages and self-employment income of the late George Perakis of Peabody, Mass., she shall be deemed to have been the legally adopted child of George Perakis and to have been dependent upon him at the time of his death.

STATEMENT

The facts of the case as contained in the House Report 2138 are as follows:

> In April of 1962, Katherine M. Perakis was placed in the home of Mr. and Mrs. George Perakis for adoption. The couple had begun their efforts to adopt a child in 1959 when they contacted the Boston Children's Service Association and indicated their desire to adopt a baby girl of Greek heritage. In cooperation with the International Social Service, arrangements were made to bring a child to the United States. This child is Katherine Perakis. Before Katherine Perakis left Greece, a preliminary adoption hearing was held in a Greek court and, in accordance with Greek law, the child's adoption by Mr. and Mrs. Perakis was to be completed in that court before she was adopted under Massachusetts law.

The understanding that Mr. and Mrs. Perakis and the Boston Children's Service Association had was that the association would determine whether or not to sponsor the adoption in Massachusetts after the child had lived in the Perakis home for at least 1 year.

On August 20, 1962, Mr. Perakis died. Following his death, Mrs. Perakis indicated she still wished to adopt the child. Apparently it is unusual for a Massachusetts court to allow a widow to adopt a child, and the Boston Children's Service Association at first hesitated to give its consent. The association consented to the adoption in May of 1964. This date is significant because, as is noted in the report of the Department of Health, Education, and Welfare, the law provides that a child must be adopted by a worker's surviving spouse within 2 years of the date of the worker's death in order to qualify the child for child's benefits under the Social Security Act. The memorandum supplied to the committee along with the Department's report states that there were several factors which served to delay the adoption until after the 2-year period had expired. The major reason for the delay was that the lawyer that had been handling the matter was appointed to a judgeship and the case had to be transferred to another lawyer. Further, it appears that the court in which the adoption was pending was not in session in August. Of course, the 2-year period expired in August 1964, because Mr. Perakis died on August 20, 1962. This committee notes that it is significant that the adoption was completed on December 3, 1964, a little over 3 months after the 2-year period had expired.

The facts outlined above and in the memorandum of the Department of Health, Education, and Welfare show that all of the requirements of Federal law which would have resulted in the child's entitlement to social security benefits were accomplished but for the fact that the adoption was completed some 3 months after the 2-year period had expired. The Department itself, while recommending against individual relief, states that it would not object to general legislation which would meet the problem faced by the widow and child in this case. The committee notes that the Department's statement in this connection serves to point up the fact that existing law is inadequate in this instance to accomplish essential justice. Private legislation is intended to remedy inequitable situations where the provisions of existing law are inadequate. While it may be that this case demonstrates the need for an amendment to existing law, such a circumstance should not be urged as a reason to deny justice to this child. Accordingly, it is recommended that the bill be considered favorably.

In agreement with the views of the House, the committee recommends the bill favorably.

Attached hereto and made a part hereof is the report of the Department of Health, Education, and Welfare.

SEPTEMBER 6, 1966.

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 May 16, 1966, for a report on H.R. 14749, a bill for the relief of Katherine M. Perakis.

The facts upon which this private relief bill is based are stated in the accompanying memorandum. In substance, an application for child's benefits was filed on behalf of Katherine M. Perakis as the legally adopted child of George Perakis, who died on August 20, 1962. The claim was disallowed because the child was not legally adopted by the worker's surviving spouse within 2 years of the date of the worker's death. (Katherine had been placed for adoption with the Perakis family in April 1962 and for reasons beyond their control, the child was not adopted until December 1964.) The bill would deem Katherine M. Perakis to be the legally adopted child of Mr. Perakis and to have been dependent upon him at the time of his death. As a result, Katherine M. Perakis would be entitled to social security child's insurance benefits.

Enactment of the bill would extend to Katherine M. Perakis a special advantage that under the law must be denied to other children in similar situations. We believe that special legislation providing an advantage to some people under conditions identical to those in which others are denied similar treatment is undesirable. We therefore recommend against enactment of the bill. The Department would not, however, object to general legislation to provide for paying child's benefits where the surviving spouse adopts the child within a reasonable time after the worker's death if the deceased worker had taken positive steps to adopt the child and died before the adoption could be completed.

We are advised by the Bureau of the Budget that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

WILBUR J. COHEN,
Under Secretary.

MEMORANDUM TO ACCOMPANY THE REPORT OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON H.R. 14749

H.R. 14749 would provide that, for the purpose of qualifying for child's insurance benefits under the social security program, Katherine M. Perakis would be considered to have been the legally adopted child of George Perakis, and to have been dependent on him, at the time of his death. If the bill were enacted, the child could become entitled to monthly benefits beginning with August 30, 1962, the month in which an application for child's insurance benefits was filed on her behalf. However, because Mrs. Perakis and her son, James, are receiving the maximum amount of monthly benefit that can be paid

to the family now, if Katherine were to be entitled to benefits, the total amount payable to the family could not be increased at this time. If either James or his mother ceases to be entitled to benefits, Katherine's entitlement to benefits would mean that there would be no decrease in the total amount paid to the family. Also, if Katherine were not living with her mother, her share of the benefits would be paid to whoever was responsible for her care.

Under the law, a child can get benefits based on the earnings record of a deceased worker if the child is adopted by the worker's surviving spouse within 2 years after the worker's death, and if he was living in the worker's household at the time of the worker's death and was not getting regular contributions toward his support from someone other than the worker or his spouse or from any public or private welfare organization which furnished services or assistance for children.

In 1959 Mr. and Mrs. Perakis contacted the Boston Children's Service Association for the purpose of adopting a baby girl of Greek heritage. In cooperation with the International Social Service, arrangements were made to bring a baby girl to the United States in April of 1962. The child, Katherine Perakis, was placed in the Perakis home for adoption. Before Katherine Perakis left Greece, a preliminary adoption hearing was held in a Greek court, and in accordance with Greek law the child's adoption by Mr. and Mrs. Perakis was to be completed in the Greek court after she had been adopted under Massachusetts laws. Under an agreement between Mr. and Mrs. Perakis and the Boston Children's Service Association, the association would determine whether or not to sponsor the adoption after the child had lived in the Perakis home for at least 1 year.

On August 20, 1962, Mr. Perakis died. Later Mrs. Perakis indicated that she still wished to adopt the child. The Boston Children's Service Association at first hesitated to give its consent, because it is unusual for a Massachusetts court to allow a widow to adopt a child. The association consented to the adoption in May 1964, but several events delayed the adoption. The major reason for the delay was that the Perakis' family lawyer was appointed to a judgeship and the case had to be transferred to another lawyer, and the court was not in session in August. The adoption was completed on December 3, 1964—over 2 years after Mr. Perakis' death.

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KATHERINE M. PERAKIS

The bill (H.R. 14749) for the relief of Katherine M. Perakis was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1858), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to provide that in the determination of the entitlement of Katherine M. Perakis to child's insurance benefits under section 202(d) of the Social Security Act based on the wages and self-employment income of the late George Perakis of Peabody, Mass., she shall be deemed to have been the legally adopted child of George Perakis and to have been dependent upon him at the time of his death.

STATEMENT

The facts of the case as contained in the House Report 2138 are as follows:

In April of 1962, Katherine M. Perakis was placed in the home of Mr. and Mrs. George Perakis for adoption. The couple had begun their efforts to adopt a child in 1959 when they contacted the Boston Children's Service Association and indicated their desire to adopt a baby girl of Greek heritage. In cooperation with the International Social Service, arrangements were made to bring a child to the United States. This child is Katherine Perakis. Before Katherine Perakis left Greece, a preliminary adoption hearing was held in a Greek court and, in accordance with Greek law, the child's adoption by Mr. and Mrs. Perakis was to be completed in that court before she was adopted under Massachusetts law. The understanding that Mr. and Mrs. Perakis and the Boston Children's Service Association had was that the association would determine whether or not to sponsor the adoption in Massachusetts after the child had lived in the Perakis home for at least 1 year.

On August 20, 1962, Mr. Perakis died. Following his death, Mrs. Perakis indicated she still wished to adopt the child. Apparently it is unusual for a Massachusetts court to allow a widow to adopt a child, and the Boston Children's Service Association at first hesitated to give its consent. The association consented to the adoption in May of 1964. This date is significant because, as is noted in the report of the Department of Health, Education, and Welfare, the law provides that a child must be adopted by a worker's surviving spouse within 2 years of the date of the worker's death in order to qualify the child for child's benefits under the Social Security Act. The memorandum supplied to the committee along with the Department's report states that there were several factors which served to delay the adoption until after the 2-year period had expired. The major reason for the delay was that the lawyer that had been handling the matter was appointed to a judgeship and the case had to be transferred to another lawyer. Further, it appears that the court in which the adoption was pending was not in session in August. Of course, the 2-year period expired in August 1964, because Mr. Perakis died on August 20, 1962. This committee notes that it is significant that the adoption was completed on December 3, 1964, a little over 3 months after the 2-year period had expired.

"The facts outlined above and in the memorandum of the Department of Health, Education, and Welfare show that all of the requirements of Federal law which would have resulted in the child's entitlement to social security benefits were accomplished but for the fact that the adoption was completed some 3 months after the 2-year period had expired. The Department itself, while recommending against individual relief, states that it would not object to general legislation which would meet the problem faced by the widow and child in this case. The committee notes that the Department's statement in this connection serves to point up the fact that existing law is inadequate in this instance to accomplish essential justice. Private legislation is intended to remedy inequitable situations where the provisions of existing law are inadequate. While it may be that this case demonstrates the need for an amendment to existing law, such a circumstance should not be urged as a reason to deny justice to this child. Accordingly, it is recommended that the bill be considered favorably.

"In agreement with the views of the House, the committee recommends the bill favorably."

Private Law 89-470
89th Congress, H. R. 14749
November 6, 1966

An Act

For the relief of Katherine M. Perakis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of determining the entitlement of Katherine M. Perakis to child's insurance benefits under section 202(d) of the Social Security Act on the basis of the wages and self-employment income of George Perakis (Social Security Account Number 011-16-8534), of Peabody, Massachusetts, the said Katherine M. Perakis shall be deemed to have been the legally adopted child of the said George Perakis, and to have been dependent upon him, at the time of his death on August 20, 1962.

Approved November 6, 1966.

November 6, 1966

STATEMENT BY THE PRESIDENT

As a rule, I am opposed to special legislation providing benefits to some people when others are being denied similar treatment. However, I am signing two private bills this morning because they show the need for a change in our Social Security Act.

Under that Act, a child can get social security benefits only if he has been legally adopted by the surviving spouse within 2 years after the worker's death.

Katherine M. Perakis was placed in the home of Mr. and Mrs. George Perakis on a conditional basis for the purpose of eventual adoption several months before Mr. Perakis' death. Because of factors beyond her control and through no fault of her own, Mrs. Perakis was not able to adopt Katherine legally until more than 2 years after the date of the death.

Susan Jeanne Clynes has lived with her paternal grandmother since shortly after her birth. Her grandmother married Mr. George I. Clynes on June 28, 1958, and he supported Susan until his death on January 16, 1959. Mrs. Clynes legally adopted Susan on February 15, 1962, 13 months after the 2-year eligibility period provided by law had expired. The death of Mr. Clynes deprived Susan of support which she had been receiving from him in the same manner as though she had been his own child.

In both these cases, the strict enforcement of the law has defeated the purpose of the program. I have asked Secretary Gardner to review these cases and to recommend an amendment to the Social Security Act so that similar hardships can be avoided in the future.

NOTE: The statement was released at Fredericksburg, Texas.

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1285

TAX ADJUSTMENT ACT OF 1966

FEBRUARY 15, 1966.—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. 12752]

The Committee on Ways and Means, to whom was referred the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. SUMMARY

H.R. 12752, the tax adjustment bill of 1966, is designed to contribute revenues to aid in financing the increased costs of government associated with operations in Vietnam. It is designed to help finance these costs in a manner which will avoid the creation of serious inflationary pressures.

The provisions of the bill, which are based upon recommendations made by the President with certain important modifications, are grouped under two headings. Most important from a revenue standpoint are the provisions which affect the procedures for collecting tax, but which do not affect tax liabilities. They include graduated withholding on wage income, tightening up the filing requirements for declarations, the acceleration of corporate estimated tax payments, and quarterly payments of estimated self-employment social security tax. The remaining provisions superimpose a 2-year moratorium on rate reductions scheduled under existing law for the excise taxes on passenger automobiles and telephone service. When this moratorium ends, these tax rates will immediately fall to the levels which would otherwise have been applicable under present law at

that time, and will thereafter continue to be reduced as scheduled under existing law.

Revenue effect.—It is anticipated that these provisions will increase administrative budget revenues in the fiscal year 1966 by $1.2 billion and the revenues in the fiscal year 1967 by $4.8 billion relative to the levels that would be achieved under existing law. The temporary effects of the change in the timing of tax payments will be responsible for $1.1 billion of the added administrative budget revenues in the fiscal year 1966 and $3.6 billion of the increase in revenues in the fiscal year 1967. The quarterly payment of estimated self-employment tax will increase trust fund receipts, which are reflected in the consolidated cash budget but not in the administrative budget, by $200 million in the fiscal year 1967. The moratorium on excise tax reduction will retain $60 million in revenue which would otherwise be foregone in the fiscal year 1966 and $1.2 billion in revenue which would otherwise be foregone in the fiscal year 1967.

The provisions.—(1) *Graduated withholding.*—For wages paid after April 30, 1966, the bill replaces the present withholding tax rate with a series of six graduated rates ranging from 14 to 30 percent which are grouped in a system that takes account of the minimum standard deduction or deductions of 10 percent of wages and of the taxpayer's marital status as well as the statutory tax rates which apply to the first $12,000 of taxable income for single persons and $24,000 of taxable income for married persons.

Included in the bill is a provision, not a part of the President's recommendations, which is designed to reduce overwithholding. This provision, beginning in 1967, will permit taxpayers whose itemized deductions as a percentage of their wages are in excess of certain limits to claim withholding allowances. These allowances will have the effect of additional withholding exemptions. Withholding allowances will be based on the excess of estimated itemized deductions (which cannot exceed the deductions itemized in the previous year) over a prescribed amount of estimated wage income (which cannot be less than the wage income received in the previous year). The prescribed amount is a composite of 12 percent of the first $7,500 of estimated wages plus 17 percent of estimated wages in excess of $7,500. Beginning in 1967, withholding allowances may be claimed with respect to each full $700 of these excess itemized deductions. The Internal Revenue Service is authorized, and expected, to compile a table which will help taxpayers to determine the number of withholding allowances they may claim.

(2) *Quarterly payments of estimated self-employment tax.*—Effective for taxable years beginning after December 31, 1966, self-employed persons will be required to file declarations with respect to the total of their estimated income tax and self-employment tax and to make quarterly payments based on this declaration. The rules which now apply with regard to the requirement for filing a declaration of estimated income tax and the rules which govern the assessment of penalties for the underpayment of estimated tax will henceforth apply to the combined amount of estimated income tax and estimated self-employment tax.

(3) *Underpayment of estimated tax by individuals.*—Under existing law, a penalty may be incurred by a taxpayer when the total of the

amounts withheld from his wages and the amounts paid through quarterly payments of estimated tax are equal to less than 70 percent of the tax shown on his return. Effective for taxable years beginning after December 31, 1966, the present 70 percent provision is raised to 80 percent.

(4) *Acceleration of corporation income tax payments.*—The schedule bringing corporation payments of estimated income tax liabilities above $100,000 to a current basis will be accelerated so that the current payments basis will be reached in 1967 instead of 1970 as scheduled under present law. Calendar year corporations will pay 12 percent of their estimated tax liabilities in April and June 1966, instead of the presently scheduled 9 percent. In 1967 and in following years, they will pay 25 percent of estimated tax liabilities on each payment date.

(5) *Excise tax on passenger automobiles.*—The excise tax rate on passenger automobiles effective on the day after enactment of the bill will revert to 7 percent (the rate before January 1, 1966) from 6 percent, and there will be a moratorium until March 31, 1968, on further tax rate reductions scheduled under present law. At the expiration of the moratorium, the excise tax on passenger automobiles will fall to 2 percent, as presently scheduled for 1968, and then to 1 percent as presently scheduled for 1969. A tax of 1 percent will be imposed on dealer stocks of automobiles held on the day following the date of enactment. It will be collected from the dealers by the manufacturers.

(6) *Excise tax on telephone service.*—The excise tax rate on telephone service will revert to 10 percent (the rate before January 1, 1966), from 3 percent, on general and toll telephone and teletypewriter exchange services. It will be in effect until March 31, 1968, when it will decline to 1 percent and will be repealed on January 1, 1969, as scheduled under present law. Nonprofit hospitals will be exempt from the tax on telephone services. These provisions will be effective with respect to bills rendered on or after the first day of the month which begins 15 days after the effective date of this bill.

II. REVENUE EFFECTS

As indicated in table 1, your committee's bill is expected to increase fiscal year 1966 administrative budget receipts by $1,155 million and fiscal year 1967 receipts by $4,830 million. This latter figure is slightly above that recommended by the President. In addition, consolidated cash budget receipts will be further increased by $200 million in the fiscal year 1967. This increase differs from the recommendation of the President only in that the $200 million under his recommendation was spread over the fiscal years 1966 and 1967.

TABLE 1.—*Estimated revenue increase under H.R. 12752 for the fiscal years 1966 and 1967*

[In millions of dollars]

	Fiscal year 1966	Fiscal year 1967
Excises:		
Communication	----	785
Automobiles	60	420
Total excises	60	1,205
Corporate speed-up	1,000	3,200
Graduated withholding	95	275
Increase in declaration requirement under individual income tax from 70 to 80 percent	----	150
Total, administrative budget	1,155	4,830
Self-employment tax, social security, quarterly payments (goes into a trust fund)	----	200
Total, cash budget	1,155	5,030

The largest single source of additional revenue provided by your committee's bill is attributable to advancing the payment dates for corporate tax. This is expected to increase revenues in the fiscal year 1966 by $1 billion and revenues in fiscal year 1967 by $3.2 billion. The excise reduction moratorium with respect to the taxes on automobiles and communications represents the second major revenue source under the bill. It is estimated that this will raise revenues by $60 million in the fiscal year 1966 and by $1,205 million in the fiscal year 1967. The provisions with respect to graduated withholding and the increase in the declaration requirement under the individual income tax from 70 to 80 percent of actual tax liability are expected to increase revenues by $425 million in the fiscal year 1967. The provision with respect to graduated withholding is expected to increase revenues in the fiscal year 1966 by $95 million.

Table 2 shows the revenue impact of the graduated withholding system and the declaration requirement change approved by your committee. Only the six-rate graduated withholding system has an impact in the fiscal year 1966. As previously indicated, this is expected to increase revenues in that year by $95 million. In the fiscal year 1967 a six-rate graduated withholding system with no allowances for excess itemized deductions would increase revenues by $400 million. If two-thirds of those eligible decrease overwithholding due to itemized deductions under the provision approved by your committee, this gain will be reduced by $125 million in the fiscal year 1967, resulting in a net gain from graduated withholding of $275 million in the fiscal year 1967. However, your committee's action in raising the declaration requirement from 70 to 80 percent effective for the fiscal year 1967 is expected to increase revenues by $150 million. As a result these actions, taken together, give rise to an estimated revenue gain of $425 million for the fiscal year 1967, or slightly more than that recommended by the President. In the fiscal year 1968 the decrease in overwithholding attributable to allowances for itemized deductions will result in a loss of $190 million. This fiscal year 1968 loss of $190 million is a loss over and above any which would be incurred under the President's recommendations. However, there is a gain of $65 million in that year arising from extending the excise tax rates for passenger cars and communication

services until April 1, 1968, which also would not be realized under the President's recommendations.

TABLE 2.—*Revenue effect of provisions of H.R. 12752 relating to graduated withholding and declarations of estimated tax*

[In millions of dollars]

Provisions	Effective date	Full year effect	Change in receipts		
			Fiscal year 1966	Fiscal year 1967	Fiscal year 1968
6-rate graduated withholding	May 1, 1966	+1,240	+95	+400	
Extra withholding allowance for excess deductions [1]	Apr. 1, 1967	−770		−125	−190
Increase requirement for estimated tax from 70 to 80 percent	Apr. 15, 1967	+300		+150	
Total for individuals		+770	+95	+425	−190

[1] Assumes ⅔ utilization by eligible taxpayers.

III. REASONS FOR THE BILL

1. Fiscal and economic impact

The tax adjustment bill of 1966 will help provide the additional revenues which your committee is advised will be required by the conflict in Vietnam. This bill is designed to help finance the additional expenditures required for this purpose without generating serious inflationary pressures in the domestic economy. The additional revenues will be derived from two general types of provisions. The first consists of inprovements in tax collection procedures which, without affecting tax liabilities, involve a temporary increase in the amount of revenues by making payments more current. The remaining provisions restore rates in effect on December 31, 1965, and impose a 2-year moratorium on presently scheduled reductions in the excise taxes on passenger automobiles and telephone service.

Were it not for special Vietnam costs, administration testimony before your committee has informed us, the increase in Federal revenue attributable to the growth of the economy—growth largely in response to the tax reductions enacted in recent years—would be sufficient not only to meet the regular requirements of Federal operations but also to provide a surplus. The President's budget message indicates that special Vietnam expenses will account for an estimated $10.5 billion of administrative budget expenditures for the fiscal year 1967. These expenses account for $5.8 billion of the $6.4 billion increase in expenditures in the fiscal year 1967 over those for the fiscal year 1966. It is estimated that revenues would increase by $7.5 billion between the 2 fiscal years if no change were made in existing tax laws, an amount that would be sufficient to produce a substantial budget surplus were it not for the extraordinary defense requirements. It will be recalled that when the House was considering what became the Revenue Act of 1964—which provided a reduction of $11.5 billion, the largest reduction ever provided—the then Secretary of the Treasury Douglas Dillon indicated that despite this reduction, it might be possible to balance the budget in the fiscal year 1967. It should be noted that this objective of a balanced budget in the fiscal year 1967 would be obtained were it not for the extraordinary defense expendi-

tures arising from the conflict in Vietnam. Thus, were it not for the special Vietnam expenses of $10.5 billion, there would be no need at this time for the 2-year excise tax reduction moratorium or for an advancement of the corporate tax payments at a more rapid rate then originally planned.

As a result of these extraordinary defense requirements, this bill provides additional temporary revenues designed to improve the budgetary outlook for both the fiscal years 1966 and 1967 as indicated in table 3.

Its provisions will increase revenues over present law yields in the current fiscal year by an estimated $1.2 billion on an administrative budget basis and by $4.8 billion in the following fiscal year. As a result, the deficit in the administration's budget expected for fiscal 1966 will be reduced from $7.6 to $6.4 billion, and will fall sharply to $1.8 billion in fiscal 1967. Viewed from the basis of the consolidated cash budget, the results of the bill will be even more significant. The anticipated consolidated cash budget deficit for the fiscal year 1966 is expected to be $6.9 billion. In the fiscal year 1967, this deficit will be eliminated and a small surplus achieved as a consequence of the $5 billion that will be added to cash receipts by this bill in that year. Moreover, the bill will increase fiscal 1966 cash receipts by $1.2 billion.

The modifications in collection procedures enacted in this bill—that is, graduated withholding, tighter declaration requirements, quarterly self-employment tax payments, and faster corporate income tax payments—will have a significant effect on revenues even though they will not increase tax liabilities. These changes in timing will result in the collection of some revenues in fiscal 1966 and fiscal 1967 which would otherwise not be collected until the following years. Once the transition to the new collection procedures is completed, however, tax payments by individuals and corporations during each fiscal year will (apart from the effect of growth in the economy) be no greater than under present law.

TABLE 3.—*Comparison of administrative budget receipts and expenditures with and without H.R. 12752, fiscal years 1966 and 1967*

[In billions of dollars]

	Fiscal year 1966	Fiscal year 1967	Change fiscal year 1967 over fiscal year 1966
Expenditures	106.4	112.8	+6.4
Receipts without bill	98.8	106.2	+7.3
Deficit without bill	7.6	6.7	−0.9
Increase in receipts under bill	+1.2	+4.8	+3.7
Tota lreceipts (including those under this bill)	100.0	111.0	+11.0
Deficit after taking account of revenues under this bill	6.4	1.8	−4.6

NOTE. Figures are based on President's budget message, and therefore totals include estimated effects of proposed legislation other than H.R. 12752. Figures are rounded and will not necessarily add to totals.

It is expected that the increased tax collections that result from this bill will have a moderating influence on the expenditures of individuals and business firms. This influence will tend to offset the expansionary effects of increased defense expenditures. Such a policy is appropriate in view of the near capacity levels of output and employment

at which the economy is now operating. In the absence of the moderating influence of increased tax collections, the total of private demand and Government requirements would threaten to exceed the present capacity of the Nation's productive resources, and in that manner constitute a threat to price stability.

The Nation has enjoyed 5 years of uninterrupted economic expansion, the longest period of peacetime expansion in U.S. business cycle annals. In 1961, at the start of the expansion, civilian labor force unemployment reached 7 percent and 22 percent of manufacturing capacity remained idle. The Revenue Acts of 1962 and 1964 and the Excise Tax Reduction Act of 1965 were in large part directed at the removal of restraints to growth in the private sector of the economy arising from tax rates that were too high. Largely as a result of these measures, the rate of unemployment fell to 4 percent of the labor force in January 1966, and the capacity utilization index in manufacturing rose to 91 percent in the fourth quarter of 1965.

Today the gap between potential and actual output has thus been greatly narrowed. This is suggested by the recent behavior of the consumer and wholesale prices indexes. After 4 years of virtual stability, the index of wholesale prices increased 2 percent from 1964 to 1965. The percentage increases in the consumer price index from 1960 to 1964 averaged 1.2 percent a year. In 1965 the percentage increase was 1.7 percent and would have been 1.9 or 2 percent but for the effect of excise tax reductions enacted in the Excise Tax Reduction Act of 1965.

Evidence of the approach to the full use of our capacity is also indicated in statistics on capacity utilization rates in various industries. In December 1965, several important industries were operating at or above their preferred operating rates and the overall utilization index was only 1 point below the average preferred operating rate.

As pointed out to your committee by the Secretary of the Treasury, the various provisions of the bill will have a restraining influence on demands on available capacity. Following the enactment of this bill, the amounts withheld from individual wages will increase by $1.24 billion at annual rates under the six-rate graduated withholding system. While these increased collections of $1.24 billion will be reflected in reduced amounts of tax due when final returns are filed in the spring of 1967 and, to a limited extent, in increased tax refunds, they will tend to reduce consumer purchases during the remaining portion of 1966 and during the early months of 1967.

The fiscal effect of more accurate withholding will be reinforced by the requirement that taxpayers pay at least 80 percent of their liability for the year through withholding, payments of estimated tax, or both, to avoid penalties for underpayments of estimated tax. This, too, will tend to lessen consumer spending during this period of extraordinary military expenditures. Presently only 70 percent of the final liability need be paid to avoid the application of penalties. (As under present law, however, penalties will not be imposed where payments equal the prior year's tax or are based on the prior year's income, or certain other conditions are met).

The postponement of some corporate investment expenditures, as will occur as a result of the acceleration of corporate tax payments for the larger corporations will be favorable to continued economic

stability. Current levels of corporate investment in new plant and equipment are high. Outlays for business fixed investment rose by 11.5 percent in 1964 and by 15.4 percent in 1965 as compared with an average annual rate of increase of 7.5 percent in 1962 and 1963. Present announced plans indicate that investment will again increase at a rapid rate in the first half of 1966. Mild restraint, therefore, may well promote better balance between the rate of growth of output and investment in expanded capacity. It will also support our effort to reduce the deficit in our balance of payments to manageable levels. A source of strength in the balance-of-payments outlook in recent years has been the comparative stability in the prices of U.S. goods as compared to rising prices of the goods of other nations.

2. Correlating withholding with tax liabilities

Apart from their beneficial budgetary and economic effects, improved collection techniques will mean important benefits to taxpayers. Under graduated withholding, amounts withheld will more nearly approximate final liabilities. In particular, fewer taxpayers will have substantial amounts of tax to pay when they file their final return for the year. Last year for many taxpayers the fact that such bills remained to be paid in the spring of 1965 caused a measure of financial hardship and considerable resentment which tended to blunt the very substantial benefits provided by the Revenue Act of 1964. Unless graduated withholding is enacted, this experience is likely to be repeated in future years. Thus, this is a desirable improvement in collection procedures wholly apart from the temporary revenue increase.

Your committee's bill incorporates a special withholding allowance which provides relief for those taxpayers who itemize deductions and would otherwise find that withholding resulted in substantial unwanted overpayment of tax. This feature will also promote more accurate withholding as is shown subsequently in table 4 in this report.

3. Change in corporate payments merely an advance in timing

The proposal regarding corporate tax payments accomplishes by 1967 what would otherwise be accomplished by 1970. The Revenue Act of 1964 provided that corporations were to estimate and pay currently that portion of their tax liability expected to exceed $100,000, but the transition to current payment was scheduled over a period which was to end in 1970. This bill simply achieves that transition by 1967. Instead of paying 9 percent of their estimated liabilities in excess of $100,000 in April and June of 1966, calendar-year corporations will be required to pay 12 percent. In the final two quarters of 1966, these corporations will pay the same percentage, 25 percent, of these estimated liabilities as they are required to pay under present law. In 1967, these corporations will be required to pay in each quarter amounts equal to 25 percent of their estimated liabilities in excess of $100,000. Under existing law, they would pay installments of 14 percent of this estimated liability in April and June 1967 and installments of 25 percent in September and December 1967. Tables 9 and 10, presented subsequently in this report, show the schedules of payments under present law and under the bill.

4. Self-employment social security tax placed on current basis

This bill makes provision, for the first time, for the declaration and quarterly payment of estimated social security tax liabilities with re-

spect to self-employment income. This bill places self-employed persons on the same current payment basis for social security tax purposes as they are on now for income tax purposes, and does so with a minimum degree of added complication. The declaration and estimated taxpayment system now in effect is simply broadened to include estimated self-employment social security tax.

5. Two-year moratorium for auto and telephone excise reductions

The excise tax rate reductions scheduled under present law for 1966 and later years in the case of telephone service and passenger automobiles are not rescinded by this bill. They are merely postponed for 2 years. This bill makes explicit provision for reduction on April 1, 1968, of these rates to the levels which would prevail under existing law, emphasizing the fact that the moratorium on rate reduction, while necessary in view of current budgetary and economic conditions, is not intended to cancel the eventual reductions of the 1965 act. Thus, the bill as reported by your committee in this respect differs to a significant degree from the proposals of the administration: the administration would have postponed the auto and telephone excise tax reductions for 2 years—not only the reductions occurring in the next 2 years, but also the reductions occurring after that time. Your committee's bill, on the other hand, merely provides a moratorium for the reductions which would under present law occur in the next 2 years. Under the bill, the rates will fall at the end of the 2-year period to the level they would have been at under present law at that time, and subsequent reductions under present law are not further postponed.

The excises on telephone service and passenger automobiles are selected for a number of reasons in addition to the fact that they yield substantial revenues. They are currently in effect, so that a moratorium on rate reduction is a much simpler matter administratively for business firms and the Government (since the payment and collection machinery is still in effect) than the reinstitution of excises previously repealed. The fact that these excises were not repealed outright by the Excise Tax Reduction Act of 1965 but were scheduled for gradual reduction also is indicative of the order of priorities in excise tax reduction established by the Congress in 1965. Moreover, the burden of these taxes is widely dispersed over the population, and, therefore, a disproportionate burden will not be imposed on a narrow segment of the population as a result of the moratorium.

IV. GENERAL EXPLANATION

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2. Payments of estimated social security and hospital insurance taxes by self-employed persons. (Sec. 102 of the bill and sec. 6015 of the code.)

Present law.—Under existing law, self-employed persons are required to pay their social security tax and their tax for the hospital insurance program when they file their final income tax return for a given year. However, they may pay this tax quarterly with their estimated income tax payments.

The tax, which, beginning in 1966, is based on the initial $6,600 of net earnings from self-employment, is imposed on self-employed individuals who have net earnings from self-employment which total $400 or more. When an individual also has covered wage income,

this is subtracted from the $6,600 maximum earnings base, and the self-employment tax is computed on the lesser of this amount or net earnings from self-employment. A taxpayer who has $400 of net self-employment income must file a final return and pay self-employment tax even if he is not required to file an income tax return.

General explanation.—Your committee's bill places self-employed persons on the same current payment basis with respect to the payment of their self-employment tax that they are now on for income tax purposes. It does so by requiring quarterly payments of estimated self-employment tax. It will place self-employed persons on more nearly the same payments basis for social security purposes as that of employed persons, whose social security tax is withhold from their wages by employers.

The adoption of current payment for self-employment tax is accomplished with a minimum of difficulty for the self-employed taxpayers who currently file declarations of estimated income tax, since the payment of estimated self-employment tax will be integrated with the payment of estimated income tax. For the estimated 1 million self-employed persons who do not now file declarations of estimated income tax but who will be required to file such declarations as a result of this bill, the advantages of current payment will outweigh the added compliance requirements.

The payments of the self-employment tax will, as a result of this bill, be received on a quarterly basis instead of generally on an annual basis as under present law. It is understood that the amounts received on a quarterly basis will be estimated and paid over from the general fund to the OASI, DI, and HI trust funds on a current basis.

Tables 7 and 8 show the maximum dollar amount of self-employment tax and tax liability since 1951.

TABLE 7.—*Maximum dollar amount of self-employment tax for individuals, 1951 to 1987*

Year	Maximum net earnings base [1]	Tax rate	Maximum tax per person
		Percent	
1951–53	$3,600	2.25	$81.00
1954	3,600	3.0	108.00
1955–56	4,200	3.0	126.00
1957–58	4,200	3.375	141.75
1959	4,800	3.75	180.00
1960–61	4,800	4.5	216.00
1962	4,800	4.7	225.60
1963–65	4,800	5.4	259.20
1966	6,600	[2] 6.15	405.90
1967–68	6,600	6.40	422.40
1969–72	6,600	7.10	468.60
1973–75	6,600	7.55	498.30
1976–79	6,600	7.60	501.60
1980–86	6,600	7.70	508.20
1987+	6,600	7.80	514.80

[1] The minimum net earnings subject to the self-employment rate has been $400 since 1951.
[2] Includes OASDI (social security) tax rates and HI (hospital insurance) tax rate of 1966 and all following years.

TABLE 8.—*Self-employment tax liability, 1951 to 1966*

Year	Self-employment tax		
	Number of income tax returns reporting self-employment tax	Amount of self-employment tax	Average tax per return [1]
	Millions	*Millions*	
1951	4.1	$211.3	$51.90
1952	4.1	217.5	53.60
1953	4.2	226.6	53.70
1954	4.2	301.5	71.60
1955	6.6	463.2	69.70
1956	7.4	533.1	72.50
1957	7.0	581.2	83.10
1958	7.0	589.2	84.00
1959	7.0	701.5	99.70
1960	6.9	833.5	121.00
1961	6.7	840.1	124.50
1962	6.7	887.2	132.90
1963	6.5	1,002.2	154.60
1964 (preliminary)	6.3	1,009.0	160.00
1965 (estimate) [2]	6.2	1,050.0	169.00
1966 (estimate) [2]	6.3	1,500.0	238.00

[1] Average computed from unrounded figures.
[2] Includes doctors of medicine newly covered by the Social Security Amendments Act of 1965.

Explanation of provisions.—Under the bill, a self-employed person generally will be required to file a declaration of estimated tax whenever the combined total of his estimated income tax liability and his estimated social security and hospital insurance tax liability exceeds $40. Payments of estimated tax will be made as at present with the exception that the amount paid will include both the estimated income tax and the estimated self-employment tax. That is, for calendar-year taxpayers the declaration will have to be filed by April 15 and quarterly payments will be required on April 15, June 15, and September 15 of the current year and on January 15 of the succeeding year.

Persons whose gross income derived from farming and fishing activities will be at least two-thirds of their estimated gross income from all sources will not be required to make quarterly payments of estimated self-employment tax. This treatment conforms to the present provisions for the payment of estimated income tax for farmers and fishermen. Further in conformity with present law regarding estimated income tax, such persons will have until January 15 of the year following the taxable year to file a declaration of estimated tax, and need not file a declaration at all if they choose to file their final tax return by February 15.

A penalty for underpayment of estimated tax will be imposed if amounts paid by the quarterly payment dates equal less than the amounts that would be due on those dates if the estimated tax for the year equaled 80 percent of the combined liability for income and self-employment taxes. The penalty is computed with respect to each installment separately. However, even if the above 80 percent rule is not met, no penalty is imposed with respect to an installment if the estimated tax paid to date equals the amount that would be required to be paid if the estimated tax were the least of the following:

(1) The sum of the income tax and the self-employment tax shown on the return for the prior year;

(2) The sum of the income tax and the self-employment tax that would be due on the prior year's income under current rates and current exemptions;

(3) An amount equal to 80 percent (66⅔ percent for farmers and fishermen) of the combined income and self-employment taxes due computed by annualizing the taxable income received in the months in the year prior to the month a particular installment is due. Self-employment income for this purpose is only the amount received to date with the maximum of $6,600 reduced by employee social security wage income placed on an annualized basis; or

(4) An amount equal to 90 percent or more of the combined tax payable on the income actually received from the beginning of the year up to the month in which the installment is due.

Effective date.—This provision is effective for taxable years beginning after December 31, 1966.

Revenue effect.—This provision is expected to increase fiscal year 1967 trust fund revenues, which are not reflected in the administrative budget, by $200 million. It will have no effect on revenues in the fiscal year 1966.

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SECTION 102. ESTIMATED TAX IN CASE OF INDIVIDUALS

(*a*) *Inclusion of self-employment tax in estimated tax.*—Subsection (a) of section 102 of the bill amends section 6015(c) of the code (relating to definition of estimated tax in the case of an individual). Section 6015(c) of the code presently defines the term "estimated tax" to mean the amount which an individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, minus the amount estimated as the sum of any credits against tax provided by part IV of subchapter A of chapter 1. Section 6015(c) as amended provides that for purposes of the code the term "estimated tax" also

includes the amount which an individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year.

This section of the bill makes no change in the language of the existing provisions of the code which specify the time when a declaration of estimated tax must be filed (sec. 6073), the number of installment payments of estimated tax to be made for the taxable year and the time for payment of each installment (sec. 6153), which individuals must file a declaration (sec. 6015(a)), and the circumstances under which failure to pay estimated tax constitutes a criminal offense (sec. 7203). However, the amendment made by section 102(a) of the bill adds estimated self-employment tax under chapter 2 to estimated income tax under chapter 1 for purposes of these provisions of the code. Thus, for example, individuals whose combined estimated income tax (if any) and estimated self-employment tax (if any) can reasonably be expected to be $40 or more are required to file a declaration if they otherwise meet the requirements of section 6015(a).

In determining the amount of an installment payment of estimated tax under sections 6015 and 6153, the computation includes both the income and self-employment tax. For example, assume that self-employed individual (other than a farmer or fisherman) estimates that his income and self-employment tax liability for the calendar year 1967 will be $1,600 and $400, respectively. He is required to pay his estimated tax of $2,000 in four equal installments of $500.

(*b*) *Addition to tax for underpayment of estimated tax.*—Subsection (b) of section 102 of the bill amends section 6654 (a), (d), and (f), section 7701(a), and section 1403(b) of the code.

ADDITION TO THE TAX

Paragraph (1) of section 102(b) of the bill amends section 6654(a) of the code (relating to addition to the tax for underpayment of estimated tax by an individual). Section 6654(a) of the code presently provides for an addition to the income tax under chapter 1 in the case of an underpayment of estimated tax by an individual, except as provided in subsection (d). Section 6654(a), as amended, provides that such addition is to be imposed with respect to the sum of the income tax under chapter 1 (if any) and the self-employment tax under chapter 2 (if any) for the taxable year.

EXCEPTION FROM ADDITION TO THE TAX

Paragraph (2) of section 102(b) of the bill amends section 6654(d) of the code (relating to exception from the addition to the tax for underpayment of estimated tax by individuals). Section 6654(d) presently provides that the addition to the tax is not imposed with respect to any installment where the installment payment of estimated tax is not less than an amount based on (1) the previous year's tax (sec. 6654(d)(1)(A)); or (2) the tax based on the facts shown on the previous year's return but computed on the basis of current rates and current exemptions (sec. 6654(d)(1)(B)); or (3) 70 percent (66⅔ percent in the case of farmers and fishermen) of the tax computed on the basis of annualized taxable income for the months of the taxable year preceding the month in which the installment is due (sec. 6654(d)(1)(C)); or (4) 90 percent of the tax computed on the actual taxable income (not annualized) for the months of the taxable year

preceding the month in which the installment is due as if such months constituted the taxable year (sec. 6654(d)(2)).

LAST YEAR'S TAX

Paragraph (1) of section 6654(d), as amended, is identical with existing section 6654(d)(1)(A). However, by reason of the change in the meaning of the word "tax" made by section 102(b)(3) of the bill, effective with respect to declarations for taxable years beginning after 1966, the tax shown on the return for the preceding taxable year will be the combined chapters 1 and 2 taxes.

ANNUALIZATION

Paragraph (2) of section 6654(d), as amended, is a modification of existing section 6654(d)(1)(C). Section 6654(d)(1)(C) of existing law provides an exception where the estimated tax payments equal at least 70 percent (66⅔ percent in the case of farmers and fishermen) of the tax computed on the basis of annualized taxable income for the months in the taxable year preceding the month in which the installment is due. Under the provisions of paragraph (2) of section 6654(d), as amended, the tax on adjusted self-employment income is included for purposes of this exception if net earnings from self-employment for the taxable year equal or exceed $400.

The method by which taxable income is annualized is set forth in subparagraph (A) of section 6654(d)(2) and is identical with existing law. The term "adjusted self-employment income" is defined in subparagraph (B) of section 6654(d)(2) to mean—

(1) the net earnings from self-employment (as defined in sec. 1402(a)) for the months in the taxable year preceding the month in which the installment is due, as if such months constituted the taxable year, but not more than

(2) the excess of (A) $6,600, over (B) the amount of the wages (within the meaning of section 1402(b)) for the months in the taxable year preceding the month in which the installment is due placed on an annualized basis. For this purpose wages are annualized in a manner consistent with clauses (i) and (ii) of subparagraph (A); that is, by multiplying by 12 (or the number of months in the taxable year in the case of a taxable year of less than 12 months) the wages for the months in the taxable year preceding the month in which the installment is due, and dividing the resulting amount by the number of such months.

The application of this provision is illustrated by the following examples:

Example 1.—Assume that X, a calendar year taxpayer who is self-employed (other than as a farmer or fisherman), has annualized taxable income of $6,900 for the period January 1, 1967, through August 31, 1967, the income tax on which is $1,171. For the same period his net earnings from self-employment are $5,000 and his wages are $1,000. The adjusted self-employment income is $5,000, computed as follows:

(1) Net earnings from self-employment	$5,000
(2) But not more than $6,600 minus annualized wages ($6,600—$1,500 ($1,000×12÷8))	5,100
(3) Lesser of (1) or (2)	5,000

The tax on X's adjusted self-employment income is $320 ($5,000×6.4 percent). X's total estimated tax payments required to be paid by September 15, 1967, for purposes of this exception, must equal or exceed $1,192.80; that is, 80 percent[1] of $1,491 ($1,171+$320).

Example 2.—Assume the same facts as in example 1, except that X's wages for the period January 1, 1967, through August 31, 1967, are $2,000. The adjusted self-employment income is $3,600, computed as follows:

(1) Net earnings from self-employment	$5,000
(2) But not more than $6,600 minus annualized wages ($6,600—$3,000 ($2,000×12÷8))	3,600
(3) Lesser of (1) or (2)	3,600

The tax on X's adjusted self-employment income is $230.40 ($3,600×6.4 percent). X's total estimated tax payments required to be paid by September 15, 1967, for purposes of this exception, must equal or exceed $1,121.12; that is, 80 percent of $1,401.40 ($1,171+$230.40).

THE 90 PERCENT TEST

Paragraph (3) of section 6654(d), as amended, is a modification of existing section 6654(d)(2). Section 6654(d)(2) presently provides an exception where the total amount of estimated tax payments is at least 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year preceding the month in which the installment is due as if such months constituted the taxable year. Under the provisions of paragraph (3) of section 6654(d), the tax on actual self-employment income is included for purposes of this exception. Actual self-employment income means the net earnings from self-employment (as defined in sec. 1402(a)) for the months in the taxable year preceding the month in which the installment is due as if such months constituted the taxable year, but not more than $6,600 minus the wages (within the meaning of sec. 1402(b)) for such months. Section 6654(d)(3) provides, consistent with existing law, that the months of the taxable year for which the determination of actual taxable income and actual self-employment income is made for purposes of this exception are treated as constituting the taxable year. The application of this provision is illustrated by the following example:

Example.—Assume that X, a calendar year taxpayer who is self-employed (other than as a farmer or fisherman), has actual taxable income of $3,800 for the period January 1, 1967, through August 31, 1967, the income tax on which is $586. For the same period his net earnings from self-employment are $5,000 and his wages are $2,000. His actual self-employment income for such period is $4,600, computed as follows:

(1) Net earnings from self-employment, $5,000.

(2) But not more than $6,600 minus wages ($6,600 —$2,000), $4,600.

(3) Lesser of (1) or (2), $4,600.

The tax on X's actual self-employment income is $294.40 ($4,600 times 6.4 percent). X's total estimated tax payments required to be paid by September 15, 1967, for purposes of this exception, must

[1] The 70 percent referred to in sec. 6654(d)(2) is changed to 80 percent by sec. 103 of the bill.

equal or exceed $792.36; that is, 90 percent of $880.40 ($586 plus $294.40).

TAX BASED ON LAST YEAR'S INCOME

Paragraph (4) of section 6654(d) as amended is identical with existing section 6654(d)(1)(B). By reason of the change in the meaning of the word "tax" made by section 102(b)(3) of the bill, the tax includes the tax (computed at the rates applicable to the taxable year) on the self-employment income shown on the return for the preceding taxable year.

DEFINITION OF TAX

Paragraph (3) of section 102(b) of the bill amends section 6654(f) of the code (relating to definition of tax for purposes of subsections (b) and (d) of section 6654). Section 6654(f) presently provides that, for purposes of subsections (b) and (d) of section 6654, the term "tax" means the income tax imposed by chapter 1 reduced by certain credits. Section 6654(f) as amended provides that the term "tax" also includes the self-employment tax imposed by chapter 2, for purposes of such subsections.

DEFINITION OF ESTIMATED INCOME TAX

Paragraph (4) of section 102(b) of the bill amends section 7701(a) (relating to definitions) by adding a new paragraph (34) which defines the term "estimated income tax" as used in the code to mean, in the case of an individual, the estimated tax as defined in section 6015(c), or, in the case of a corporation, the estimated tax as defined in section 6016(b).

CROSS REFERENCE

Paragraph (5) of section 102(b) of the bill amends section 1403(b) of the code (relating to cross references) to provide a cross reference to section 6015 of the code.

(c) *Ministers, members of religious orders, and Christian Science practitioners.*—Section 102(c) of the bill amends section 1402(e)(3) of the code (relating to effective date of waiver certificates) to provide a special rule in the case of ministers, members of religious orders, and Christian Science practitioners who file waiver certificates (as described in sec. 1402(e)(1)).

Section 1402(e)(3) as amended contains a new subparagraph (E) which provides that, for purposes of sections 6015 and 6654, a waiver certificate described in section 1402(e)(1) is treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed. Thus, for example, if a minister who is a calendar year taxpayer files a waiver certificate (pursuant to sec. 1402(e)) on April 15, 1968, such certificate will not be effective for purposes of sections 6015 and 6654 until the taxable year 1969. Accordingly, although such minister may be liable for self-employment tax for 1967 and 1968, he is not required to include an estimate of such liability in his declaration of estimated tax for such years and is not subject to an addition to the tax (under sec. 6654(a)) with respect to his self-employment tax liability for such years.

(d) *Effective date.*—Subsection (d) of section 102 of the bill provides that the amendments made by subsections (a), (b), and (c) of section

102 of the bill shall apply with respect to taxable years beginning after December 31, 1966.

* * * * *

Union Calendar No. 545

89TH CONGRESS
2D SESSION

H. R. 12752

[Report No. 1285]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1966

Mr. MILLS introduced the following bill; which was referred to the Committee on Ways and Means

FEBRUARY 15, 1966

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

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A BILL

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Adjustment Act of 1966".

* * * * *

* * * * *

SEC. 102. ESTIMATED TAX IN CASE OF INDIVIDUALS.

(a) INCLUSION OF SELF-EMPLOYMENT TAX IN ESTIMATED TAX.—Section 6015(c) (relating to definition of estimated tax in the case of an individual) is amended to read as follows:

"(c) ESTIMATED TAX.—For purposes of this title, in the case of an individual, the term 'estimated tax' means—

"(1) the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, plus

"(2) the amount which the individual estimates

as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

"(3) the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1."

(b) ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX.—

(1) Section 6654(a) (relating to addition to the tax for underpayment of estimated tax by an individual) is amended by inserting after "chapter 1" the following: "and the tax under chapter 2".

(2) Section 6654(d) is amended to read as follows:

"(d) EXCEPTION.—Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

"(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a

liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

"(2) An amount equal to 70 percent (66⅔ percent in the case of individuals referred to in section 6073 (b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402 (a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

"(A) The taxable income shall be placed on an annualized basis by—

"(i) multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

"(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

"(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment).

"(B) The term 'adjusted self-employment income' means—

"(i) the net earnings from self-employment (as defined in section 1402(a)) for the months in the taxable year ending before the month in which the installment is required to be paid, but not more than

"(ii) the excess of $6,600 over the amount determined by placing the wages (within the meaning of section 1402(b)) for the months in the taxable year ending before the month in which the installment is required to be paid on an annualized basis in a manner consistent with clauses (i) and (ii) of subparagraph (A).

"(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income and the actual self-employment income for the months in the taxable year ending before the month in which the installment is required to be paid as if such months constituted the taxable year.

"(4) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year."

(3) Section 6654 (f) (relating to definition of tax for purposes of subsections (b) and (d) of section 6654) is amended to read as follows:

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term 'tax' means—

"(1) the tax imposed by this chapter 1, plus

"(2) the tax imposed by chapter 2, minus

"(3) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)."

(4) Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(34) ESTIMATED INCOME TAX.—The term 'estimated income tax' means—

"(A) in the case of an individual, the estimated tax as defined in section 6015(c), or

"(B) in the case of a corporation, the estimated tax as defined in section 6016(b)."

(5) Section 1403(b) (cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to declarations of estimated tax on self-employment income, see section 6015."

(c) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Section 1402(e)

(3) (relating to effective date of waiver certificates) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of sections 6015 and 6654, a waiver certificate described in paragraph (1) shall be treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1966.

* * * * *

Union Calendar No. 545

89TH CONGRESS
2D SESSION

H. R. 12752

[Report No. 1285]

A BILL

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

By Mr. MILLS

FEBRUARY 10, 1966

Referred to the Committee on Ways and Means

FEBRUARY 15, 1966

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

No debate on social security issues.

The Committee rose, and the Speaker pro tempore, Mr. ALBERT, having resumed the chair, Mr. HANSEN of Iowa, 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. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, pursuant to House Resolution 736, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. 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 pro tempore. The question is on the passage of the bill.

For what purpose does the gentleman from California [Mr. UTT] rise?

Mr. UTT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. UTT. I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. UTT moves to recommit the bill (H.R. 12752) to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

Page 2, strike out lines 7 and 8.

Page 47, strike out line 4 and all that follows through line 9 on page 51.

Mr. MILLS. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that in the opinion of the Chair, the "noes" had it.

Mr. UTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 187, nays 207, not voting 38, as follows:

[Roll No. 19]

YEAS—187

Abbitt	Foley	Morse
Abernethy	Ford, Gerald R.	Morton
Adair	Ford, William D.	Mosher
Anderson, Ill.	Fountain	Nedzi
Andrews, George W.	Fulton, Pa.	Nelsen
Andrews, Glenn	Fulton, Tenn.	O'Hara, Mich.
Andrews, N. Dak.	Fuqua	O'Neal, Ga.
Arends	Gettys	Ottinger
Ashbrook	Giaimo	Passman
Ashmore	Goodell	Pirnie
Bandstra	Griffin	Poff
Baring	Griffiths	Quie
Belcher	Gross	Quillen
Bell	Grover	Race
Berry	Gurney	Randall
Betts	Haley	Reid, Ill.
Bolton	Hall	Reid, N.Y.
Bow	Halleck	Reifel
Bray	Halpern	Reinecke
Broomfield	Hanley	Rhodes, Ariz.
Brown, Calif.	Hansen, Idaho	Robison
Brown, Ohio	Hardy	Rogers, Fla.
Broyhill, N.C.	Harsha	Roncalio
Buchanan	Henderson	Rooney, Pa.
Burton, Utah	Hicks	Roybal
Cabell	Horton	Rumsfeld
Callaway	Hosmer	Satterfield
Cameron	Hull	Saylor
Carter	Hungate	Schisler
Chamberlain	Hutchinson	Schmidhauser
Clancy	Jarman	Schweiker
Clark	Jennings	Secrest
Clausen, Don H.	Johnson, Pa.	Selden
Clawson, Del	Jonas	Shipley
Clevenger	Jones, Mo.	Shriver
Collier	Jones, N.C.	Sikes
Conable	Kastenmeier	Skubitz
Conte	Keith	Smith, Calif.
Conyers	King, N.Y.	Smith, N.Y.
Cooley	Kornegay	Springer
Corman	Kunkel	Stalbaum
Craley	Landrum	Stanton
Cunningham	Langen	Stephens
Curtin	Latta	Taylor
Dague	Leggett	Thomson, Wis.
Davis, Ga.	Lennon	Tuck
Davis, Wis.	Lipscomb	Tupper
Derwinski	Long, La.	Tuten
Devine	McClory	Utt
Dickinson	McCulloch	Vivian
Diggs	McDade	Waggonner
Dole	McEwen	Walker, Miss.
Dulski	McMillan	Walker, N. Mex.
Duncan, Tenn.	MacGregor	Watkins
Dwyer	Mackie	Watson
Edwards, Ala.	Marsh	Weltner
Ellsworth	Martin, Nebr.	Whalley
Erlenborn	Mathias	Whitener
Findley	Michel	Whitten
Fino	Minshall	Williams
	Mize	Wilson, Bob
	Moore	Wyatt
		Wydler
		Younger

NAYS—207

Adams	Corbett	Garmatz
Addabbo	Culver	Gathings
Albert	Curtis	Gibbons
Anderson, Tenn.	Daddario	Gilbert
Annunzio	Daniels	Gilligan
Ashley	Dawson	Gonzalez
Aspinall	de la Garza	Grabowski
Ayres	Delaney	Gray
Barrett	Dent	Green, Oreg.
Bates	Denton	Green, Pa.
Battin	Dingell	Greigg
Beckworth	Donohue	Grider
Bennett	Dorn	Hagen, Calif.
Bingham	Dow	Hamilton
Boggs	Downing	Hanna
Boland	Duncan, Oreg	Hansen, Iowa
Bolling	Dyal	Hansen, Wash.
Brademas	Edmondson	Harvey, Mich.
Brock	Edwards, Calif.	Hathaway
Brooks	Evans, Colo.	Hawkins
Broyhill, Va.	Everett	Hays
Burke	Evins, Tenn.	Hechler
Burton, Calif.	Farbstein	Helstoski
Byrne, Pa.	Farnum	Herlong
Byrnes, Wis.	Fascell	Holifield
Cahill	Feighan	Holland
Callan	Flood	Howard
Carey	Flynt	Huot
Casey	Fogarty	Ichord
Celler	Fraser	Irwin
Cleveland	Frelinghuysen	Jacobs
Colmer	Friedel	Joelson
	Gallagher	Johnson, Calif

Johnson, Okla.	Multer	Ryan
Jones, Ala.	Murphy, Ill.	St Germain
Karsten	Murphy, N.Y.	Scheuer
Karth	Murray	Schneebeli
Kelly	Natcher	Senner
Keogh	Nix	Sickles
King, Utah	O'Brien	Sisk
Kirwan	O'Hara, Ill.	Smith, Va.
Kluczynski	O'Konski	Stafford
Krebs	Olsen, Mont.	Staggers
Laird	Olson, Minn.	Steed
Long, Md.	O'Neill, Mass.	Stratton
Love	Patman	Stubblefield
McCarthy	Patten	Sullivan
McDowell	Pelly	Sweeney
McFall	Pepper	Teague, Calif.
McGrath	Perkins	Tenzer
McVicker	Philbin	Thompson, N.J.
Macdonald	Pickle	Thompson, Tex.
Machen	Pike	Todd
Mackay	Poage	Trimble
Madden	Powell	Tunney
Mahon	Price	Udall
Mailliard	Pucinski	Ullman
Martin, Mass.	Purcell	Van Deerlin
Matsunaga	Rees	Vanik
May	Reuss	Vigorito
Meeds	Rhodes, Pa.	Watts
Mills	Rivers, Alaska	White, Tex.
Minish	Roberts	Widnall
Mink	Rodino	Wilson,
Moeller	Rogers, Colo.	Charles H.
Monagan	Ronan	Wolff
Morgan	Rooney, N.Y.	Wright
Morris	Rosenthal	Yates
Morrison	Rostenkowski	Young
Moss	Roush	

NOT VOTING—38

Baldwin	Hagan, Ga.	Rogers, Tex.
Blatnik	Harvey, Ind.	Roudebush
Burleson	Hébert	St. Onge
Cederberg	Kee	Scott
Chelf	King, Calif.	Slack
Cohelan	Martin, Ala.	Smith, Iowa
Cramer	Matthews	Talcott
Dowdy	Miller	Teague, Tex.
Edwards, La.	Moorhead	Toll
Fallon	Pool	White, Idaho
Farnsley	Redlin	Willis
Fisher	Resnick	Zablocki
Gubser	Rivers, S.C.	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Cramer for, with Mr. Hébert against.

Mr. Harvey of Indiana for, with Mr. Miller against.

Mr. Roudebush for, with Mr. White of Idaho against.

Mr. Martin of Alabama for, with Mr. Toll against.

Mr. Fisher for, with Mr. Cohelan against.

Mr. Cederberg for, with Mr. Farnsley against.

Mr. Scott for, with Mr. King of California against.

Mr. Talcott for, with Mr. St. Onge against.

Until further notice:

Mr. Teague of Texas with Mr. Smith of Iowa.

Mr. Rogers of Texas with Mr. Willis.

Mr. Slack with Mr. Moorhead.

Mr. Blatnik with Mr. Fallon.

Mr. Hogan of Georgia with Mr. Redlin.

Mr. Rivers of South Carolina with Mr. Matthews.

Mr. Pool with Mr. Kee.

Mr. Zablocki with Mr. Baldwin.

Mr. Resnick with Mr. Gubser.

Mr. Chelf with Mr. Edwards of Louisiana.

Mr. DE LA GARZA changed his vote from "yea" to "nay."

Mr. POAGE changed his vote from "yea" to "nay."

Mr. KUNKEL changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

The SPEAKER pro tempore. The question is on passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 246, nays 146, not voting 41, as follows:

[Roll No. 20]

YEAS—246

Adams	Gilbert	Moss
Addabbo	Gilligan	Multer
Albert	Gonzalez	Murphy, Ill.
Anderson, Ill.	Grabowski	Murphy, N.Y.
Anderson, Tenn.	Gray	Murray
Annunzio	Green, Oreg.	Natcher
Ashley	Green, Pa.	Nix
Aspinall	Greigg	O'Brien
Ayres	Grider	O'Hara, Ill.
Barrett	Hagen, Calif.	Olsen, Mont.
Bates	Hamilton	Olson, Minn.
Battin	Hanley	O'Neill, Mass.
Beckworth	Hanna	Patten
Belcher	Hansen, Iowa	Pelly
Bell	Hansen, Wash.	Pepper
Bennett	Hardy	Perkins
Bingham	Harvey, Mich.	Philbin
Boggs	Hathaway	Pickle
Boland	Hawkins	Pike
Bolling	Hays	Pirnie
Bow	Hechler	Poage
Brademas	Helstoski	Powell
Brock	Herlong	Price
Brooks	Holifield	Pucinski
Broyhill, Va.	Holland	Purcell
Burke	Hosmer	Redlin
Burton, Calif.	Howard	Rees
Byrne, Pa.	Hull	Reid, N.Y.
Byrnes, Wis.	Hungate	Reuss
Cabell	Huot	Rhodes, Pa.
Cahill	Ichord	Rivers, Alaska
Callan	Irwin	Roberts
Callaway	Jacobs	Rodino
Carey	Jarman	Rogers, Colo.
Carter	Joelson	Rogers, Fla.
Casey	Johnson, Calif.	Ronan
Celler	Johnson, Okla.	Rooney, N.Y.
Clark	Jones, Ala.	Rooney, Pa.
Cleveland	Karsten	Rosenthal
Collier	Karth	Rostenkowski
Colmer	Keith	Roush
Corbett	Kelly	Ryan
Corman	Keogh	St Germain
Culver	King, Utah	Scheuer
Curtis	Kirwan	Schisler
Daddario	Kluczynski	Schmidhauser
Daniels	Krebs	Schneebeli
Davis, Wis.	Kunkel	Schweiker
Dawson	Kupferman	Sickles
de la Garza	Laird	Sisk
Delaney	Leggett	Smith, Va.
Dent	Lipscomb	Springer
Denton	Long, Md.	Stafford
Dingell	Love	Staggers
Donohue	McCarthy	Steed
Dorn	McClory	Stratton
Dow	McDade	Stubblefield
Downing	McDowell	Sullivan
Dwyer	McFall	Sweeney
Dyal	McGrath	Teague, Calif.
Edmondson	McVicker	Tenzer
Edwards, Calif.	Macdonald	Thompson, N.J.
Evans, Colo.	Machen	Thompson, Tex.
Everett	Mackay	Todd
Evins, Tenn.	Madden	Trimble
Farbstein	Mahon	Tunney
Farnum	Mailliard	Tupper
Fascell	Marsh	Udall
Feighan	Martin, Mass.	Ullman
Findley	Martin, Nebr.	Van Deerlin
Flood	Mathias	Vanik
Flynt	Matsunaga	Vigorito
Fogarty	May	Vivian
Foley	Meeds	Watts
Fraser	Mills	White, Tex.
Frelinghuysen	Minish	Widnall
Friedel	Mink	Wilson,
Gallagher	Moeller	Charles H.
Garmatz	Monagan	Wolff
Gathings	Morgan	Wright
Giaimo	Morris	Yates
Gibbons	Morrison	Young
	Morse	

NAYS—146

Abbitt	Andrews, Glenn	Ashbrook
Abernethy	Andrews, N. Dak.	Ashmore
Adair	Arends	Baring
Andrews, George W.	Bolton	Berry
	Bray	Betts
	Broomfield	Quillen
	Brown, Calif.	Race
	Brown, Ohio	Randall
	Broyhill, N.C.	Reid, Ill.
	Buchanan	Reifel
	Burton, Utah	Reinecke
	Cameron	Rhodes, Ariz.
	Chamberlain	Robison
	Clancy	Roncalio
	Clausen, Don H.	Roybal
	Clawson, Del	Rumsfeld
	Clevenger	Satterfield
	Conable	Saylor
	Conte	Secrest
	Conyers	Selden
	Cooley	Shipley
	Craley	Shriver
	Cunningham	Sikes
	Curtin	Skubitz
	Dague	Smith, Calif.
	Davis, Ga.	Smith, N.Y.
	Derwinski	Stalbaum
	Devine	Stanton
	Dickinson	Stephens
	Diggs	Talcott
	Dole	Taylor
	Dulski	Thomson, Wis.
	Duncan, Tenn.	Tuck
	Edwards, Ala.	Tuten
	Ellsworth	Utt
	Erlenborn	Waggonner
	Fino	Walker, Miss.
	Ford, Gerald R.	Walker, N. Mex.
	Ford, William D.	Watkins
	Fountain	Watson
	Fulton, Pa.	Weltner
	Fulton, Tenn.	Whalley
	Fuqua	Whitener
	Gettys	Whitten
	Goodell	Williams
	Griffin	Wilson, Bob
	Griffiths	Wyatt
	Gross	Wydler
	Grover	Younger
	Gurney	
	Haley	
	Hall	
	Halleck	
	Halpern	
	Hansen, Idaho	
	Harsha	
	Henderson	
	Hicks	
	Horton	
	Hutchinson	
	Jennings	
	Johnson, Pa.	
	Jonas	
	Jones, Mo.	
	Jones, N.C.	
	Kastenmeier	
	King, N.Y.	
	Kornegay	
	Landrum	
	Langen	
	Latta	
	Lennon	
	Long, La.	
	McCulloch	
	McEwen	
	McMillan	
	MacGregor	
	Mackie	
	Michel	
	Minshall	
	Mize	
	Moore	
	Morton	
	Mosher	
	Nedzi	
	Nelsen	
	O'Hara, Mich.	
	O'Konski	
	O'Neal, Ga.	
	Ottinger	
	Passman	
	Poff	
	Quie	

NOT VOTING—41

Baldwin	Gubser	Rogers, Tex.
Bandstra	Hagan, Ga.	Roudebush
Blatnik	Harvey, Ind.	St. Onge
Burleson	Hébert	Scott
Cederberg	Kee	Senner
Chelf	King, Calif.	Slack
Cohelan	Martin, Ala.	Smith, Iowa
Cramer	Matthews	Teague, Tex.
Dowdy	Miller	Toll
Duncan, Oreg.	Moorhead	White, Idaho
Edwards, La.	Patman	Willis
Fallon	Pool	Zablocki
Farnsley	Resnick	
Fisher	Rivers, S.C.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Harvey of Indiana against.

Mr. Miller for, with Mr. Roudebush against.

Mr. King of California for, with Mr. Martin of Alabama against.

Mr. St. Onge for, with Mr. Fisher against.

Mr. Fallon for, with Mr. Cramer against.

Mr. Patman for, with Mr. Cederberg against.

Mr. Edwards of Louisiana for, with Mr. Scott against.

Until further notice:

Mr. Cohelan with Mr. Gubser.

Mr. Senner with Mr. Baldwin.

Mr. Matthews with Mr. Teague of Texas.

Mr. Toll with Mr. Rogers of Texas.

Mr. Farnsley with Mr. Slack.

Mr. Moorhead with Mr. Bandstra.

Mr. White of Idaho with Mr. Willis.

Mr. Zablocki with Mr. Duncan of Oregon.

Mr. Smith of Iowa with Mr. Kee.

Mr. Blatnik with Mr. Chelf.

Mr. Pool with Mr. Resnick.

Mr. Hagan of Georgia with Mr. Rivers of South Carolina.

Mr. HALPERN changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Calendar No. 985

89TH CONGRESS
2d Session

SENATE

REPORT
No. 1010

TAX ADJUSTMENT ACT OF 1966

MARCH 2, 1966.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

together with

SUPPLEMENTAL VIEWS

[To accompany H.R. 12752]

The Committee on Finance, to which was referred the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. SUMMARY

Your committee has reported H.R. 12752, the tax adjustment bill of 1966, with four substantive amendments in addition to other technical amendments. Your committee's amendments will increase slightly the revenue to be obtained under this bill.

H.R. 12752 is designed to contribute revenues to aid in financing the increased cost of Government associated with operations in Vietnam. It is designed to help finance these costs in a manner which will avoid the creation of serious inflationary pressures.

Two of the amendments made by your committee relate to matters in the House version of the bill and two deal with separate measures not included in the House bill. One of the provisions relating to material in the House bill concerns the withholding allowances provided in connection with graduated withholding and is discussed below with the discussion of that provision. The second amendment relates to a House measure which deals with the floor stocks tax of 1 percent on dealers' inventories of passenger cars (provided in connec-

tion with the 1 percentage point restored to the manufacturer's excise tax rate on passenger automobiles). Your committee's amendment deletes this floor stocks tax.

One of the two provisions added to the bill by your committee requires the Department of Agriculture to send to farmers copies of information returns they send to the Internal Revenue Service with respect to payments of over $600 a year. The second new provision added by an amendment made by your committee denies any deduction for amounts paid for advertising in a convention program of a political party, or in any other publication if any part of the proceeds inures to a political party or candidate. Deduction is also denied for payments for admission to dinners or programs if any part of the proceeds inures to a political party or candidate. In addition, deduction is denied for payments for admission to an inaugural ball or a similar event.

The provisions of the bill, which are based upon recommendations made by the President with certain important modifications, are grouped under two headings. Most important from a revenue standpoint are the provisions which affect the procedures for collecting tax, but which do not affect tax liabilities. They include graduated withholding on wage income, strengthening the payment requirements for declarations, the acceleration of corporate estimated tax payments, and quarterly payments of estimated self-employment social security tax. The remaining provisions superimpose a 2-year moratorium on rate reductions scheduled under existing law for the excise taxes on passenger automobiles and telephone service. When this moratorium ends, these tax rates will immediately fall to the levels which would otherwise have been applicable under present law at that time, and will thereafter continue to be reduced as scheduled under existing law.

Revenue effect.—It is anticipated that these provisions will increase administrative budget revenues in the fiscal year 1966 by $1.1 billion and the revenues in the fiscal year 1967 by $4.8 billion relative to the levels that would be achieved under existing law. The temporary effects of the change in the timing of taxpayments will be responsible for almost all of the $1.1 billion of the added administrative budget revenues in the fiscal year 1966 and $3.4 billion of the increase in revenues in the fiscal year 1967. The quarterly payment of estimated self-employment tax will increase trust fund receipts, which are reflected in the consolidated cash budget but not in the administrative budget, by $200 million in the fiscal year 1967. The moratorium on excise tax reduction will retain $35 million in revenue which would otherwise be foregone in the fiscal year 1966 and $1.2 billion in revenue which would otherwise be foregone in the fiscal year 1967.

The provisions.—(1) *Graduated withholding.*—For wages paid after April 30, 1966, the bill replaces the present withholding tax rate with a series of six graduated rates ranging from 14 to 30 percent which are grouped in a system that takes account of the minimum standard deduction or deductions of 10 percent of wages and of the taxpayer's marital status as well as the statutory tax rates which apply to the first $12,000 of taxable income for single persons and $24,000 of taxable income for married persons. The 30-percent rate also will apply to all higher levels of taxable income.

Included in the bill is a provision, not a part of the President's recommendations, which is designed to reduce overwithholding. This provision, beginning in 1967, will permit taxpayers whose itemized deductions as a percentage of their wages are in excess of certain limits to claim withholding allowances. These allowances will have the effect of additional withholding exemptions. Withholding allowances will be based on the excess of estimated itemized deductions (which cannot exceed the deductions itemized in the previous year) over a prescribed amount of estimated wage income (which cannot be less than the wage income received in the previous year). The prescribed amount under the House bill would be a composite of 12 percent of the first $7,500 of estimated wages plus 17 percent of estimated wages in excess of $7,500. Under your committee's bill the prescribed amount is to be a composite of 10 percent of the first $7,500 of estimated wages plus 17 percent of estimated wages in excess of $7,500. Under the House bill, beginning in 1967, withholding allowances could be claimed with respect to each full $700 of itemized deductions above the prescribed percentage amounts, except that the first allowance could be claimed if this excess amount equaled $350 or more. Under your committee's amendments withholding allowances may be claimed only with respect to full units of $700 of itemized deductions above the prescribed percentage limitation, whether it is the first or a subsequent withholding allowance which is involved. Under both versions of the bill the Internal Revenue Service is authorized, and expected, to compile a table which will help taxpayers to determine the number of withholding allowances they may claim.

(2) *Quarterly payments of estimated self-employment tax.*—Effective for taxable years beginning after December 31, 1966, self-employed persons will be required to file declarations with respect to the total of their estimated income tax and self-employment tax and to make quarterly payments based on this declaration. The rules which now apply with regard to the requirement for filing a declaration of estimated income tax and the rules which govern the assessment of penalties for the underpayment of estimated tax will henceforth apply to the combined amount of estimated income tax and estimated self-employment tax.

(3) *Underpayment of estimated tax by individuals.*—Under existing law, a penalty may be incurred by a taxpayer when the total of the amounts withheld from his wages and the amounts paid through quarterly payments of estimated tax are equal to less than 70 percent of the tax shown on his return. Effective for taxable years beginning after December 31, 1966, the present 70 percent provision is raised to 80 percent.

(4) *Acceleration of corporation income tax payments.*—The schedule bringing corporation payments of estimated income tax liabilities above $100,000 to a current basis will be accelerated so that the current payments basis will be reached in 1967 instead of 1970 as scheduled under present law. Calendar year corporations will pay 12 percent of their estimated tax liabilities in April and June 1966, instead of the presently scheduled 9 percent. In 1967 and in following years, they will pay 25 percent of estimated tax liabilities on each payment date.

(5) *Excise tax on passenger automobiles.*—The excise tax rate on passenger automobiles effective on the day after enactment of the

bill will revert to 7 percent (the rate before January 1, 1966) from 6 percent, and there will be a moratorium through March 31, 1968, on further tax rate reductions scheduled under present law. At the expiration of the moratorium, the excise tax on passenger automobiles will fall to 2 percent, as presently scheduled for 1968, and then to 1 percent as presently scheduled for 1969. Under your committee's amendments no floor stocks tax is to be imposed on the inventories of dealers and distributors.

(6) *Excise tax on telephone service.*—The excise tax rate on telephone service will revert to 10 percent (the rate before January 1, 1966), from 3 percent, on general and toll telephone and teletypewriter exchange services. It will be in effect through March 31, 1968, when it will decline to 1 percent and will be repealed on January 1, 1969, as scheduled under present law. Nonprofit hospitals will be exempt from the tax on telephone services. These provisions will be effective with respect to bills rendered on or after the first day of the first month which begins more than 15 days after the effective date of this bill.

(7) *Indirect political contributions.*—No deduction from income is to be allowed to an individual or a business for advertising, admissions to dinners, programs, or any similar events, if any part of the net proceeds inures to the benefit of a political party or political candidate. In addition, no deduction is to be allowed for payments for admissions to inaugural balls, etc., identified with a political party or a political candidate. The provision is to be applicable to taxable years beginning after December 31, 1965, but only with respect to amounts paid after the date of enactment of the bill.

(8) *Information returns supplied to farmers.*—The Department of Agriculture will be required to supply farmers with copies of information returns which now are sent to the Internal Revenue Service with respect to all payments of $600 or more made in any 1 year to an individual. The statements may be made through the national office of the Department of Agriculture, any of its State or local offices, or any of its agencies. The provision will be effective for rereports sent out after the date of enactment of the bill.

II. REVENUE EFFECTS

As indicated in table 1, the bill is expected to increase fiscal year 1966 administrative budget receipts by $1,130 million and fiscal year 1967 receipts by $4,800 million. This latter figure is about the same as that recommended by the President. In addition, consolidated cash budget receipts will be further increased by $200 million in the fiscal year 1967. This increase differs from the recommendation of the President only in that the $200 million under his recommendation was spread over the fiscal years 1966 and 1967.

TABLE 1.—*Estimated revenue increase under H.R. 12752 as reported by the Senate Committee on Finance, for the fiscal years 1966 and 1967*

[In millions of dollars]

	Fiscal year 1966	Fiscal year 1967
Excises:		
Communications		785
Automobiles	35	420
Total excises	35	1,205
Corporate speed-up	1,000	3,200
Graduated withholding	95	245
Increase in declaration requirement under individual income tax from 70 to 80 percent		150
Total, administrative budget	1,130	4,800
Self-employment tax, social security, quarterly payments (goes into a trust fund)		200
Total, cash budget	1,130	5,000

The largest single source of additional revenue provided by the bill is attributable to advancing the payment dates for corporate tax. This is expected to increase revenues in the fiscal year 1966 by $1 billion and revenues in fiscal year 1967 by $3.2 billion. The excise reduction moratorium with respect to the taxes on automobiles and communications represents the second major revenue source under the bill. It is estimated that this will raise revenues by $35 million in the fiscal year 1966 and by $1,205 million in the fiscal year 1967. The provisions with respect to graduated withholding and the increase in the declaration requirement under the individual income tax from 70 to 80 percent of actual tax liability are expected to increase revenues by $395 million in the fiscal year 1967. The provision with respect to graduated withholding is expected to increase revenues in the fiscal year 1966 by $95 million.

Table 2 shows the revenue impact of the graduated withholding system and the declaration requirement change approved by your committee. Only the six-rate graduated withholding system has an impact in the fiscal year 1966. As previously indicated, this is expected to increase revenues in that year by $95 million. In the fiscal year 1967 a six-rate graduated withholding system with no allowances for excess itemized deductions would increase revenues by $400 million. If two-thirds of those eligible decrease overwithholding due to itemized deductions under the version of the provision approved by your committee, this gain will be reduced by $155 million in the fiscal year 1967, resulting in a net gain from graduated withholding of $245 million in the fiscal year 1967. However, the provision in raising the declaration requirement from 70 to 80 percent effective for the fiscal year 1967 is expected to increase revenues by $150 million. As a result these actions, taken together, give rise to an estimated revenue gain of $395 million for the fiscal year 1967, or about the same as that recommended by the President. In the fiscal year 1968 the decrease in overwithholding attributable to allowances for itemized deductions will result in a loss of $230 million. This fiscal year 1968 loss of $230 million is a loss over and above any which

would be incurred under the President's recommendations. However, there is a net gain of $65 million in that year arising from extending the excise tax rates for passenger cars and communication services until April 1, 1968, which also would not be realized under the President's recommendations.

TABLE 2.—*Revenue effect of provisions of H.R. 12752 as reported by the Senate Committee on Finance, relating to graduated withholding and declarations of estimated tax*

[In millions of dollars]

Provisions	Effective date	Full year effect	Change in receipts		
			Fiscal year 1966	Fiscal year 1967	Fiscal year 1968
6-rate graduated withholding	May 1, 1966	+1,240	+95	+400	----------
Extra withholding allowance for excess deductions [1]	Jan. 1, 1967	−935	----------	−155	−230
Increase requirement for estimated tax from 70 to 80 percent	Jan. 1, 1967	+300	----------	+150	----------
Total for individuals	----------	+605	+95	+395	−230

[1] Assumes ⅔ utilization by eligible taxpayers.

III. REASONS FOR THE BILL

1. Fiscal and economic impact

The tax adjustment bill of 1966 will help provide the additional revenues which your committee is advised will be required by the conflict in Vietnam. This bill is designed to help finance the additional expenditures required for this purpose without generating serious inflationary pressures in the domestic economy. The additional revenues will be derived from two general types of provisions. The first consists of improvements in tax collection procedures which, without affecting tax liabilities, involve a temporary increase in the amount of revenues by making payments more current. The remaining provisions restore excise rates in effect on December 31, 1965, and impose a 2-year moratorium on presently scheduled reductions in the excise taxes on passenger automobiles and telephone service.

Were it not for special Vietnam costs, your committee has been informed the increase in Federal revenue attributable to the growth of the economy—growth largely in response to the tax reductions enacted in recent years—would be sufficient not only to meet the regular requirements of Federal operations but also to provide a surplus. The President's budget message indicates that special Vietnam expenses will account for an estimated $10.5 billion of administrative budget expenditures for the fiscal year 1967. These expenses account for $5.8 billion of the $6.4 billion increase in expenditures in the fiscal year 1967 over those for the fiscal year 1966. It is estimated that revenues would increase by $7.3 billion between the 2 fiscal years if no change were made in existing tax laws, an amount that would be sufficient to produce a substantial budget surplus were it not for the extraordinary defense requirements. It will be recalled that when the Senate was considering the Revenue Act of 1964—which provided a reduction of $11.5 billion, the largest reduction ever provided—the then Secretary of the Treasury Douglas Dillon indicated that despite this reduction, it might be possible to balance the budget in the fiscal

year 1967. It should be noted that this objective of a balanced budget in the fiscal year 1967 would be obtained were it not for the extraordinary defense expenditures arising from the conflict in Vietnam. Thus, were it not for the special Vietnam expenses of $10.5 billion, there would be no need at this time for the 2-year excise tax reduction moratorium or for an advancement of the corporate tax payments at a more rapid rate then originally planned.

As a result of these extraordinary defense requirements, this bill provides additional temporary revenues designed to improve the budgetary outlook for both the fiscal years 1966 and 1967 as indicated in table 3.

Its provisions will increase revenues over present law yields in the current fiscal year by an estimated $1.1 billion on an administrative budget basis and by $4.8 billion in the following fiscal year. As a result, the deficit in the administration's budget expected for fiscal 1966 without the bill will be reduced from $7.6 to $6.5 billion, and will fall sharply to $1.7 billion in fiscal 1967. Viewed from the basis of the consolidated cash budget, the results of the bill will be even more significant. The anticipated consolidated cash budget deficit for the fiscal year 1966 is expected to be $7.0 billion. In the fiscal year 1967, this deficit will be eliminated and a small surplus achieved as a consequence of the $5.0 billion that will be added to cash receipts by this bill in that year. Moreover, the bill will increase fiscal 1966 cash receipts by $1.1 billion.

The modifications in collection procedures enacted in this bill—that is, graduated withholding, tighter declaration requirements, quarterly self-employment tax payments, and faster corporate income tax payments—will have a significant effect on revenues even though they will not increase tax liabilities. These changes in timing will result in the collection of some revenues in fiscal 1966 and fiscal 1967 which would otherwise not be collected until the following years. Once the transition to the new collection procedures is completed, however, tax payments by individuals and corporations during each fiscal year will (apart from the effect of growth in the economy) be no greater than under present law.

TABLE 3.—*Comparison of administrative budget receipts and expenditures with and without H.R. 12752 as reported by the Senate Committee on Finance, fiscal years 1966 and 1967*

[In billions of dollars]

	Fiscal year 1966	Fiscal year 1967	Change fiscal year 1967 over fiscal year 1966
Expenditures	106.4	112.8	+6.4
Receipts without bill	98.8	106.2	+7.3
Deficit without bill	7.6	6.7	−.9
Increase in receipts under bill	+1.1	+4.8	+3.7
Total receipts (including those under this bill)	100.0	111.0	+11.0
Deficit after taking account of revenues under this bill	6.5	1.9	−4.6

NOTE.—Figures are based on President's budget message and therefore totals include estimated effects of proposed legislation other than H.R 12752. Figures are rounded and will not necessarily add to totals.

It is expected that the increased tax collections that result from this bill will have a moderating influence on the expenditures of individuals and business firms. This influence will tend to offset the expansionary effects of increased defense expenditures. Such a policy is appropriate in view of the near capacity levels of output and employment at which the economy is now operating. In the absence of the moderating influence of increased tax collections, the total of private demand and Government requirements would threaten to exceed the present capacity of the Nation's productive resources, and in that manner constitute a threat to price stability.

The Nation has enjoyed 5 years of uninterrupted economic expansion, the longest period of peacetime expansion in U.S. business cycle annals. In 1961, at the start of the expansion, civilian labor force unemployment reached 7 percent and 22 percent of manufacturing capacity remained idle. The Revenue Acts of 1962 and 1964 and the Excise Tax Reduction Act of 1965 were in large part directed at the removal of restraints to growth in the private sector of the economy arising from tax rates that were too high. Largely as a result of these measures, the rate of unemployment fell to 4 percent of the labor force in January 1966, and the capacity utilization index in manufacturing rose to 91 percent in the fourth quarter of 1965.

Today the gap between potential and actual output has thus been greatly narrowed. This is suggested by the recent behavior of the consumer and wholesale prices indexes. After 4 years of virtual stability, the index of wholesale prices increased 2 percent from 1964 to 1965. The percentage increases in the Consumer Price Index from 1960 to 1964 averaged 1.2 percent a year. In 1965 the percentage increase was 1.7 percent and would have been 1.9 or 2 percent but for the effect of excise tax reductions enacted in the Excise Tax Reduction Act of 1965.

Evidence of the approach to the full use of our capacity is also indicated in statistics on capacity utilization rates in various industries. In December 1965, several important industries were operating at or above their preferred operating rates and the overall utilization index was only 1 point below the average preferred operating rate.

As pointed out to your committee by the Secretary of the Treasury, the various provisions of the bill will have a restraining influence on demands on available capacity. Following the enactment of this bill, the amounts withheld from individual wages will increase by $1.24 billion at annual rates under the six-rate graduated withholding system. While these increased collections of $1.24 billion will be reflected in reduced amounts of tax due when final returns are filed in the spring of 1967 and, to a limited extent, in increased tax refunds, they will tend to reduce consumer purchases during the remaining portion of 1966 and during the early months of 1967.

The fiscal effect of more accurate withholding will be reinforced by the requirement that taxpayers pay at least 80 percent of their liability for the year through withholding, payments of estimated tax, or both, to avoid penalties for underpayments of estimated tax. This, too, will tend to lessen consumer spending during this period of extraordinary military expenditures. Presently only 70 percent of the final liability need be paid to avoid the application of penalties. (As under

present law, however, penalties will not be imposed where payments equal the prior year's tax or are based on the prior year's income, or certain other conditions are met.)

The postponement of some corporate investment expenditures, as will occur as a result of the acceleration of corporate tax payments for the larger corporations, will be favorable to continued economic stability. Current levels of corporate investment in new plant and equipment are high. Outlays for business fixed investment rose by 11.5 percent in 1964 and by 15.4 percent in 1965 as compared with an average annual rate of increase of 7.5 percent in 1962 and 1963. Present announced plans indicate that investment will again increase at a rapid rate in the first half of 1966. Mild restraint, therefore, may well promote better balance between the rate of growth of output and investment in expanded capacity. It will also support our effort to reduce the deficit in our balance of payments to manageable levels. A source of strength in the balance-of-payments outlook in recent years has been the comparative stability in the prices of U.S. goods as compared to rising prices of the goods of other nations.

2. Correlating withholding with tax liabilities

Apart from their beneficial budgetary and economic effects, improved collection techniques will mean important benefits to taxpayers. Under graduated withholding, amounts withheld will more nearly approximate final liabilities. In particular, fewer taxpayers will have substantial amounts of tax to pay when they file their final return for the year. Last year for many taxpayers the fact that such bills remained to be paid in the spring of 1965 caused a measure of financial hardship and considerable resentment which tended to blunt the very substantial benefits provided by the Revenue Act of 1964. Unless graduated withholding is enacted, this experience is likely to be repeated in future years. Another result of the graduated withholding is that fewer employees will have overwithholding. Thus, this is a desirable improvement in collection procedures wholly apart from the temporary revenue increase.

The bill incorporates a special withholding allowance which provides relief for those taxpayers who itemize deductions and would otherwise find that withholding resulted in substantial unwanted overpayment of tax. This feature will also promote more accurate withholding as is shown subsequently in table 4 in this report.

3. Change in corporate payments merely an advance in timing

The proposal regarding corporate tax payments accomplishes by 1967 what would otherwise be accomplished by 1970. The Revenue Act of 1964 provided that corporations were to estimate and pay currently that portion of their tax liability expected to exceed $100,000, but the transition to current payment was scheduled over a period which was to end in 1970. This bill simply achieves that transition by 1967. Instead of paying 9 percent of their estimated liabilities in excess of $100,000 in April and June of 1966, calendar-year corporations will be required to pay 12 percent. In the final two quarters of 1966, these corporations will pay the same percentage, 25 percent, of these estimated liabilities as they are required to pay under present law. In 1967, these corporations will be required to pay in each quarter amounts equal to 25 percent of their estimated liabilities in

excess of $100,000. Under existing law, they would pay installments of 14 percent of this estimated liability in April and June 1967 and installments of 25 percent in September and December 1967. Tables 9 and 10, presented subsequently in this report, show the schedules of payments under present law and under the bill.

4. Self-employment social security tax placed on current basis

This bill makes provision, for the first time, for the declaration and quarterly payment of estimated social security tax liabilities with respect to self-employment income. This bill places self-employed persons on the same current payment basis for social security tax purposes as they are on now for income tax purposes, and does so with a minimum degree of added complication. The declaration and estimated tax payment system now in effect is simply broadened to include estimated self-employment social security tax.

5. Two-year moratorium for auto and telephone excise reductions

The excise tax rate reductions scheduled under present law for 1966 and later years in the case of telephone service and passenger automobiles are not rescinded by this bill. They are merely postponed for 2 years. This bill makes explicit provision for reduction on April 1, 1968, of these rates to the levels which would prevail under existing law, emphasizing the fact that the moratorium on rate reduction, while necessary in view of current budgetary and economic conditions, is not intended to cancel the eventual reductions of the 1965 act. Thus, the bill in this respect differs to a significant degree from the proposals of the administration: the administration would have postponed the auto and telephone excise tax reductions for 2 years—not only the reductions occurring in the next 2 years, but also the reductions occurring after that time. The bill, on the other hand, merely provides a moratorium for the reductions which would under present law occur in the next 2 years. Under the bill, the rates will fall at the end of the 2-year period to the rates scheduled to be in effect at that time under present law, and subsequent reductions under present law are not further postponed.

The excises on telephone service and passenger automobiles are selected for a number of reasons in addition to the fact that they yield substantial revenues. They are currently in effect, so that a moratorium on rate reduction is a much simpler matter administratively for business firms and the Government (since the payment and collection machinery is still in effect) than the reinstitution of excises previously repealed. The fact that these excises were not repealed outright by the Excise Tax Reduction Act of 1965 but were scheduled for gradual reduction also is indicative of the order of priorities in excise tax reduction established by the Congress in 1965. Moreover, the burden of these taxes is widely dispersed over the population, and, therefore, a disproportionate burden will not be imposed on a narrow segment of the population as a result of the moratorium.

IV. GENERAL EXPLANATION

* * * * *

* * * * *

2. Payments of estimated social security and hospital insurance taxes by self-employed persons (sec. 102 of the bill and sec. 6015 of the code)

Present law.—Under existing law, self-employed persons are required to pay their social security tax and their tax for the hospital insurance program when they file their final income tax return for a given year. However, they may voluntarily pay this tax quarterly with their estimated income tax payments.

The tax, now based on the initial $6,600 of net earnings from self-employment, is imposed on self-employed individuals who have net earnings from self-employment which total $400 or more. When an individual also has covered wage income, this is subtracted from the $6,600 maximum earnings base, and the self-employment tax is computed on the lesser of this amount or net earnings from self-employment. A taxpayer who has $400 of net self-employment income must file a final return and pay self-employment tax even if he is not required to file an income tax return.

General explanation.—The bill places self-employed persons on the same current payment basis with respect to the payment of their self-employment tax that they are now on for income tax purposes. It does so by requiring quarterly payments of estimated self-employment tax. It will place self-employed persons on more nearly the same payments basis for social security purposes as that of employed persons, whose social security tax is withheld from their wages by employers.

The adoption of current payment for self-employment tax is accomplished with a minimum of difficulty for the self-employed taxpayers who currently file declarations of estimated income tax, since the payment of estimated self-employment tax will be integrated with the payment of estimated income tax. For the estimated 1 million self-employed persons who do not now file declarations of estimated income tax but who will be required to file such declarations as a result of this bill, the advantages of current payment will outweigh the added compliance requirements.

The payments of the self-employment tax will, as a result of this bill, be received on a quarterly basis instead of generally on an annual basis as under present law. It is understood that the amounts received on a quarterly basis will be estimated and paid over from the general fund to the OASI, DI, and HI trust funds on a current basis.

Tables 7 and 8 show the maximum dollar amount of self-employment tax and tax liability since 1951.

TABLE 7.—*Maximum dollar amount of self-employment tax for individuals, 1951 to 1987*

Year	Maximum net earnings base [1]	Tax rate	Maximum tax per person
		Percent	
1951–53	$3,600	2.25	$81.00
1954	3,600	3.0	108.00
1955–56	4,200	3.0	126.00
1957–58	4,200	3.375	141.75
1959	4,800	3.75	180.00
1960–61	4,800	4.5	216.00
1962	4,800	4.7	225.60
1963–65	4,800	5.4	259.20
1966	6,600	[2] 6.15	405.90
1967–68	6,600	6.40	422.40
1969–72	6,600	7.10	468.60
1973–75	6,600	7.55	498.30
1976–79	6,600	7.60	501.60
1980–86	6,600	7.70	508.20
1987+	6,600	7.80	514.80

[1] The minimum net earnings subject to the self-employment rate has been $400 since 1951.
[2] Includes OASDI (social security) tax rates and HI (hospital insurance) tax rate of 1966 and all following years.

TABLE 8.—*Self-employment tax liability, 1951 to 1966*

Year	Self-employment tax		
	Number of income tax returns reporting self-employment tax	Amount of self-employment tax	Average tax per return [1]
	Millions	*Millions*	
1951	4.1	$211.3	$51.90
1952	4.1	217.5	53.60
1953	4.2	226.6	53.70
1954	4.2	301.5	71.60
1955	6.6	463.2	69.70
1956	7.4	533.1	72.50
1957	7.0	581.2	83.10
1958	7.0	589.2	84.00
1959	7.0	701.5	99.70
1960	6.9	833.5	121.00
1961	6.7	840.1	124.50
1962	6.7	887.2	132.90
1963	6.5	1,002.2	154.60
1964 (preliminary)	6.3	1,009.0	160.00
1065 (estimated) [2]	6.2	1,050.0	169.00
1966 (estimate) [2]	6.3	1,500.0	238.00

[1] Average computed from unrounded figures.
[2] Includes doctors of medicine newly covered by the Social Security Amendments Act of 1965.

Explanation of provision.—Under the bill, a self-employed person generally will be required to file a declaration of estimated tax whenever the combined total of his estimated income tax liability and his estimated social security and hospital insurance tax liability exceeds $40. Payments of estimated tax will be made as at present with the exception that the amount paid will include both the estimated income tax and the estimated self-employment tax. That is, for calendar-year taxpayers the declaration will have to be filed by April 15 and quarterly payments will be required on April 15, June 15, and September 15 of the current year and on January 15 of the succeeding year.

Persons whose gross income derived from farming and fishing activities will be at least two-thirds of their estimated gross income from all sources will not be required to make quarterly payments of estimated self-employment tax. This treatment conforms to the present provisions for the payment of estimated income tax for farmers and fishermen. Further in conformity with present law regarding estimated income tax, such persons will have until January 15 of the year following the taxable year to file a declaration of estimated tax, and need not file a declaration at all if they choose to file their final tax return by February 15.

A penalty for underpayment of estimated tax will be imposed when amounts paid by the quarterly payment dates are less than the amounts that would be due on those dates if the estimated tax for the year equaled 80 percent of the combined liability for income and self-employment taxes. The penalty is computed with respect to each installment separately. However, even if the above 80-percent rule is not met, no penalty is imposed with respect to an installment if the estimated tax paid to date equals the amount that would be required to be paid if the estimated tax were the least of the following:

(1) The sum of the income tax and the self-employment tax shown on the return for the prior year;

(2) The sum of the income tax and the self-employment tax that would be due on the prior year's income under current rates and current exemptions;

(3) An amount equal to 80 percent (66⅔ percent for farmers and fishermen) of the combined income and self-employment taxes due computed by annualizing the taxable income received in the months in the year prior to the month a particular installment is due. Self-employment income for this purpose is only the amount received to date with the maximum of $6,600 reduced by employee social security wage income placed on an annualized basis; or

(4) An amount equal to 90 percent or more of the combined tax payable on the income actually received from the beginning of the year up to the month in which the installment in due.

Effective date.—This provision is effective for taxable years beginning after December 31, 1966.

Revenue effect.—This provision is expected to increase fiscal year 1967 trust fund revenues, which are not reflected in the administrative budget, by $200 million. It will have no effect on revenues in the fiscal year 1966.

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SECTION 102. ESTIMATED TAX IN CASE OF INDIVIDUALS

This section has been approved by your committee except for a technical change which amends subsection (b)(1) of section 6211 (relating to definition of a deficiency) to take account, in the computation of a deficiency, of the inclusion of self-employment tax in the estimated tax. For the technical explanation of this section of the bill see page 40 of the report of the Committee on Ways and Means on the bill.

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Calendar No. 985

89TH CONGRESS
2D SESSION

H. R. 12752

[Report No. 1010]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 1966
Read twice and referred to the Committee on Finance

MARCH 2, 1966
Reported by Mr. LONG of Louisiana, with amendments

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

AN ACT

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Adjustment Act of 1966".

* * * * *

* * * * *

SEC. 102. ESTIMATED TAX IN CASE OF INDIVIDUALS.

(a) INCLUSION OF SELF-EMPLOYMENT TAX IN ESTIMATED TAX.—Section 6015(c) (relating to definition of

estimated tax in the case of an individual) is amended to read as follows:

"(c) ESTIMATED TAX.—For purposes of this title, in the case of an individual, the term 'estimated tax' means—

"(1) the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, plus

"(2) the amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

"(3) the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1."

(b) ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX.—

(1) Section 6654(a) (relating to addition to the tax for underpayment of estimated tax by an individual) is amended by inserting after "chapter 1" the following: "and the tax under chapter 2".

(2) Section 6654(d) is amended to read as follows:

"(d) EXCEPTION.—Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be

imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

"(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

"(2) An amount equal to 70 percent ($66\frac{2}{3}$ percent in the case of individuals referred to in section 6073 (b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402 (a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

"(A) The taxable income shall be placed on an annualized basis by—

"(i) multiplying by 12 (or, in the case

of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

"(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

"(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment).

"(B) The term 'adjusted self-employment income' means—

"(i) the net earnings from self-employment (as defined in section 1402 (a)) for the months in the taxable year ending before the month in which the installment is required to be paid, but not more than

"(ii) the excess of $6,600 over the amount determined by placing the wages (within the meaning of section 1402 (b)) for the months in

the taxable year ending before the month in which the installment is required to be paid on an annualized basis in a manner consistent with clauses (i) and (ii) of subparagraph (A).

"(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income and the actual self-employment income for the months in the taxable year ending before the month in which the installment is required to be paid as if such months constituted the taxable year.

"(4) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year."

(3) Section 6654(f) (relating to definition of tax for purposes of subsections (b) and (d) of section 6654) is amended to read as follows:

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term 'tax' means—

"(1) the tax imposed by this chapter 1, plus

"(2) the tax imposed by chapter 2, minus

"(3) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)."

(4) Section 6211(b)(1) (relating to definition of a deficiency) is amended by striking out "chapter 1" and inserting in lieu thereof "subtitle A".

~~(4)~~ *(5)* Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(34) ESTIMATED INCOME TAX.—The term 'estimated income tax' means—

"(A) in the case of an individual, the estimated tax as defined in section 6015(c), or

"(B) in the case of a corporation, the estimated tax as defined in section 6016(b)."

~~(5)~~ *(6)* Section 1403(b) (cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to declarations of estimated tax on self-employment income, see section 6015."

(c) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Section 1402(e)

(3) (relating to effective date of waiver certificates) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of sections 6015 and 6654, a waiver certificate described in paragraph (1) shall be treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1966.

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Calendar No. 985

89TH CONGRESS
2D SESSION

H. R. 12752

[Report No. 1010]

AN ACT

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

FEBRUARY 24, 1966
Read twice and referred to the Committee on Finance
MARCH 2, 1966
Reported with amendments

TAX ADJUSTMENT ACT OF 1966

Mr. LONG of Louisiana. Mr. President, my task today is not a pleasant one, for I rise in support of a bill, H.R. 12752, which will increase the tax payments of most American taxpayers. The members of the Finance Committee recall with nostalgia the years 1962, 1964, and 1965, years in which they were able to recommend significant tax reductions—reductions which had so much to do with the attainment of the current high levels of employment and production. Al-

though it was not a pleasant duty, there was general support for the bill when the committee voted to report it to the full Senate, for we realize that additional revenues must be raised to finance the expenditures required by the conflict in Vietnam.

The increase in expenditures attributable to our operations in Vietnam is responsible for this bill. When the Excise Tax Reduction Act of 1965 was before Congress last June, we could not anticipate that the situation in Vietnam would require the expenditure of an added $4.7 billion in the fiscal year 1966. Nor could we anticipate that the emergency requirements of the struggle would add $10.5 billion to Federal expenditures in the fiscal year 1967. These sharp increases have exceeded the significant increases in Federal revenues caused by the growth of the economy—increases in revenues which now approach $7.5 billion a year.

ALTERNATIVES TO H.R. 12752

Some Senators may ask why the increased expenditures needed for Vietnam must be paid for by increased tax collections. They may argue, for example, that these expenditures could be made by reducing expenditures for the civilian needs of the Government. I am as much in favor of reducing wasteful or unnecessary expenditures as any other Senator. But the President had already trimmed civilian budget expenditures to essential minimums before he submitted the budget.

This is indicated by the fact that the 1967 budget provides for an increase in expenditures in areas not related to Vietnam of only $600 million.

This is so despite increased interest costs for the Federal debt and the impact of pay raises for civilian employees and military personnel that the Congress approved last year, and also in spite of the fact that the Federal Reserve Board increased the cost of carrying that Federal debt by increasing interest rates.

He has achieved this result by offsetting increases in expenditures approved by Congress and normal expenditure increases under existing programs with dramatic savings in many areas. I do not believe that Congress will be able to trim expenditures under this tight budget to the extent necessary to finance the war in Vietnam. In fact, Congress has already approved a new GI bill which will increase budget expenditures.

I can only conclude that it is unrealistic to expect Congress to be able to match increased Vietnam expenditures with reductions in other areas of the Federal budget.

Of course, we could borrow to pay for expenditures in Vietnam. This approach, however, would encourage inflation. From 1961 to mid-1965, we could safely approve bills, such as the tax reduction bills, that would initially create the need for Government borrowing because there was slack in the economy. During those years some doubted whether the rate of unemployment in the civilian labor force would ever again be as low as 4 percent. Under those circumstances, the stimulus of tax reductions resulted in an increase in employment rather than an increase in prices.

The situation is different now. The policies of the past several years have achieved their objective. The slack in the economy has been taken up. In January the rate of unemployment in the civilian labor force dropped to 4 percent for the first time since 1957. Capacity utilization figures indicate that industry is now using almost as much of its available plant and equipment as it prefers to use. We have reached the point in which sharp increases in Government expenditiures must be met by increased revenues if we are to avoid the risk of inflationary price increases.

WHAT THE BILL WILL ACHIEVE

Let me now turn to the bill itself. It is designed to raise revenues for both the fiscal years 1966 and 1967. The provisions of the bill increase revenues in the current fiscal year by $1.1 billion. They will add $4.8 billion to receipts in fiscal year 1967 over and above the amount that would be generated under existing tax rates.

These amounts differ only slightly from the effect of the provisions recommended by the President, which would have increased administrative budget receipts by $1.2 billion in fiscal 1966 and $4.8 billion in fiscal 1967.

These revenues will be sufficient to reduce the anticipated administrative-budget deficit for the fiscal year 1966 from $7.6 to $6.5 billion. In the fiscal year 1967, the added revenues provided by this bill will reduce the administrative-budget deficit to $1.9 billion. In the absence of the bill, the 1967 deficit would be $6.7 billion, or only slightly less than the 1966 deficit.

When the revenues and expenditures of the trust funds are considered, the results of this bill will be even more significant. The consolidated cash budget deficit anticipated for the current fiscal year will be reduced from $8.1 to $7.0 billions. In the fiscal year 1967, the deficit will be eliminated entirely and a small surplus achieved as a result of a $5.0 billion increase in cash receipts under this bill.

The increase in tax payments required by this bill will moderate the expenditures of households and business firms. The most important provision affecting tax collections is one which accelerates the transition to full current payment of estimated corporate tax liabilities in excess of $100,000. Some 16,000 large corporations are affected.

Many of these corporations set aside funds to meet tax liabilities as those liabilities accrue, often by purchasing tax-anticipation notes. Some corporations, however, will have to postpone investment outlays or forego dividends to provide the cash to meet their tax payments. Such postponements will not impair economic stability, since business expenditures for fixed investment are currently at very high levels. These levels are so high in fact that some economists are concerned about the possibility of a repeat of the experience in 1956 and 1957.

The postponement of some planned investment, therefore, may well be conducive to the maintenance of the proper balance between investment in expanded capacity and growth in the demand for the goods produced by that capacity.

The graduated withholding procedure contained in the bill will moderate consumer expenditures. After May 1, the amount of tax withheld from wages and salaries will be increased by about $100 million a month during the rest of 1966 and in the first few months of 1967. The additional amounts withheld will be offset as far as individual taxpayers are concerned by lower tax payments due in the spring of 1967 or through tax refunds. Some consumer spending, however, will have to be postponed during the rest of 1966 and in the early part of 1967.

The bill is also important to our balance of payments. It is essential to the success of our efforts to eliminate the persistent deficit in the U.S. balance of payments that inflation be prevented. Inflationary increases in the prices of the goods the U.S. exports would discourage export sales. This development would narrow or close our favorable trade balance. A serious outflow of gold would be the result.

EFFECT ON TAX LIABILITIES

The bill will accomplish the effects I have outlined without requiring significant increases in tax liabilities. The various changes in collection procedures proposed in the bill will speed up the collection of existing liabilities. In other words, the timing of tax collections will be changed so that some revenues will be collected in fiscal year 1966 that would not otherwise be collected until fiscal 1967. Even larger amounts will be collected in fiscal 1967 that would not otherwise be collected until fiscal 1968 and later years.

The changes in collection procedures include graduated withholding, quarterly payments of estimated social security taxes by the self-employed, tighter requirements regarding payments on declarations, and an earlier completion of the transition to full current payment of corporate tax liabilities in excess of $100,000.

The excise tax provisions of the bill will restore the tax rates on telephone service and passenger automobiles which were in effect at the end of 1965. The bill simply freezes these rates for 2 years, or until April 1, 1968. At that time the excise tax rates will fall to the levels that would have been reached at that time if the provisions of the Excise Tax Reduction Act of 1965 remained in effect.

The revenue impact of the bill is largely temporary in the sense that the changes in collection procedures will produce only a temporary increase in revenues rather than a continuing increase. Such an effect is appropriate at this time. While there has been much speculation about it, we do not know what the financial requirements of the war in Vietnam will be beyond the relatively near term. Therefore, it is appropriate that we should plan our taxes at this time on the basis of the figures in the President's budget.

As for fiscal 1968, it is important to remember that Federal revenues will in-

crease as a result of the growth of the economy. At the near full employment levels at which we are now operating, this increase amounts to $7 or $8 billion a year, or an amount significantly greater than the addition to revenue provided by this bill in fiscal 1967. As the temporary revenues attributable to changes in the timing of tax collections taper off, they will be replaced by increased revenues due to economic expansion.

It may very well turn out that the growth in revenues due to growth will be sufficient to meet the future costs of the defense of Vietnam, even if our efforts there must be continued for several additional years.

THE BILL IS FAIR

The provisions of this bill spread the cost of defense expenditures over a broad cross section of the population in an equitable manner. The provisions which will raise the most revenue—those concerning corporate tax payments—will affect the Nation's largest corporations and their stockholders.

Graduated withholding will affect a majority of the over 60 million taxpaying wage earners who do not file declarations of estimated tax. Self-employed persons, who are not subject to wage withholding, will be affected by the revised requirement for payments of estimated tax and by the provision for the quarterly payment of estimated self-employment social security tax.

Restoring the December 1965 rates for the manufacturer's excise on passenger automobiles and for the tax on telephone service will affect a very broad group of American consumers. These consumers, furthermore, are ones who, by and large, have been accustomed to paying these tax rates ever since the Korean emergency.

PROVISIONS OF THE BILL

Let me now take up the individual provisions of the bill in more detail. As reported by your committee, H.R. 12752 incorporates the essential features of the bill approved by the House, which in turn reflected the President's proposals of January 13.

Your committee made four substantive amendments to the House bill and a number of technical amendments. Two of the substantive amendments, which I will describe shortly, amend provisions of the House bill. The others, which I will also describe, add new provisions to the bill.

The provisions of the bill may be divided into two categories. In the first category are those provisions which are intended solely to raise revenues. These provisions, which account for the bulk of the revenue in this bill, include the acceleration of corporate income tax payments and the excise tax proposals. The second category includes desirable changes in collection procedures, which, because they entail a temporary increase in tax collections, can only be introduced when an increase in revenue is appropriate. The measures in this category include graduated withholding, quarterly payments of estimated social security tax by the self-employed, and tighter regulations on payments of estimated tax.

GRADUATED WITHHOLDING

The first provision of the bill relates to graduated withholding. It replaces the present 14 percent, flat-rate withholding system with a more accurate system which will aline the amounts withheld from wages more closely to the final liability of most wage earners.

Under the present system, taxpayers rarely find that the amount of tax withheld from their wages comes close to the amount which they actually owe at the end of the year. This is important because more than 9 out of 10 wage earners depend on withholding alone to make current payments on their income tax.

When tax withheld falls short of the final liability, as it would on nearly 13 million returns this year if no change were made in the withholding system, the taxpayer has a bill to pay when he files his final return. If this balance-due amount is unexpected or large, as it was for many taxpayers in the spring of 1965, it can cause financial hardship.

When the amount withheld exceeds the tax liability, as it would on nearly 40 million returns filed this year if the present system were not changed, the taxpayer must wait until he files his final return to receive the appropriate refund.

The bill substitutes six graduated withholding rates, ranging from 14 to 30 percent, for the present single rate of 14 percent. The rates reflect the tax rates which apply to the first $12,000 of a single person's taxable income and the first $24,000 of a married couple's taxable income.

Two separate schedules and sets of withholding tables are provided, one for single persons and heads of households, and the other—with wider brackets to reflect the split-income provisions—for married persons and surviving spouses.

The graduated withholding system also incorporates the minimum standard deduction, a feature not now reflected in the withholding system. The graduated system does so by increasing the amount of a withholding exemption to $700 and by providing that the first $200 of annual wages is to be exempted from withholding. This treatment parallels the minimum standard deduction, which is equivalent to a basic $200 amount for married couples, heads of households, and single persons, plus an additional $100 for each exemption.

The graduated rates will apply to wages paid on or after May 1 of this year. Individuals will want to file new withholding exemption certificates with their employers at that time. This will especially be true of the many persons who now deliberately understate their eligible exemptions so that more will be withheld from their wages. If this bill is enacted, these voluntary adjustments to increase withholding will not be necessary in most cases.

Under the present withholding system, persons who itemize their deductions, and have deductions in excess of 10 percent of their income, are likely to be overwithheld in the sense that the amounts withheld from their wages exceed their final liability. This is the case because the present withholding system provides only a 10-percent allowance for deductions while many of those who itemize have deductions which are a larger proportion of their income.

Under the graduated withholding rates, which provide the same allowance for deductions, overwithholding due to itemized deductions would be increased, in some cases very substantially. Therefore, this bill contains a provision which will permit persons with relatively large itemized deductions to adjust their withholding by claiming special withholding allowances. These allowances, which can be claimed beginning in 1967, will be treated like additional exemptions for withholding purposes.

The committee has amended the House bill to modify the procedure for claiming withholding allowances. Under the House bill, withholding allowances would be based on the amount by which estimated itemized deductions exceeded a base level equivalent to 12 percent of estimated wage income of $7,500 or less and 17 percent of estimated wage income above this level. One withholding allowance would have been given under the House bill with respect to each full $700 of such excess with the exception that the first withholding allowance could have been claimed if excess itemized deductions exceeded $350.

As amended by your committee, the bill now provides that withholding allowances will be based on the excess of estimated itemized deductions over 10 percent of wages up to $7,500 and 17 percent of wages over this amount. Furthermore, no withholding allowance can be claimed unless such excess is equal to a full $700.

This amendment by your committee is supported by the Treasury. Under the House bill, some individuals could have corrected their overwithholding by filing for withholding allowances only to find that they owed money at the end of the year.

Your committee feels that this result would be undesirable. Thus, it has required that excess itemized deductions must equal a full $700 before a withholding allowance can be claimed. The purpose of the provision in the House bill was to make it easier for persons with incomes of less than $10,000 to claim withholding allowances.

Your committee's amendment achieves much of this purpose by reducing the limit above which excess itemized deductions are computed from 12 percent of income below $7,500 to 10 percent.

As a safeguard, estimated itemized deductions will not be permitted to exceed the deductions claimed on the last return filed, nor will estimated wage income be permitted to be less than that earned in the past year.

ESTIMATED SELF-EMPLOYMENT TAX

The second provision of this bill requires self-employed persons to pay their estimated self-employment social security tax quarterly in the manner in which they are now paying their estimated income tax. Under present law, wage and salary earners covered by the social security system pay their annual social security tax currently through withholding. Self-employed persons do not pay

their tax currently, however, but are permitted instead to delay payment until the following year.

This bill places self-employed persons on the same current-payment basis with respect to their social security tax liability which employees are now on. It does so by requiring them to make quarterly payments of estimated self-employment tax beginning in 1967.

The quarterly payments of social security tax will be combined with quarterly payments of income tax. The rules presently applicable to the declaration and quarterly payment of estimated income tax will, beginning in 1967, apply to the total of estimated income tax and estimated self-employment social security tax.

UNDERPAYMENTS OF INSTALLMENTS OF ESTIMATED TAX

The third provision in the bill relates to the provisions for filing declarations of estimated tax. Prior to 1954, taxpayers who failed to pay at least 80 percent of their final liability currently, either through withholding, quarterly payments, or both, unless certain exceptions applied, were subject to a penalty equal to 6 percent interest calculated on the difference between the amount paid currently and 80 percent of the liability. In 1954, the percentage limit for defining underpayments of installments of estimated income tax was reduced from 80 to 70 percent.

Your committee's bill restores the percentage to 80 percent. It also makes a comparable increase in the percentage applying when a taxpayer, for one or more quarters, computes his estimated tax by annualizing his income received to date.

ACCELERATION OF CORPORATE TAX PAYMENTS

The fourth provision in the bill relates to the acceleration of corporate income tax payments. Corporations with an estimated tax liability in excess of $100,000 presently are required to pay a part of their estimated liability in excess of $100,000 during the current taxable year. The portion to be paid currently is being increased from year to year in accordance with a schedule set down in the Revenue Act of 1964.

Under this schedule, corporations will be fully current with respect to their estimated tax in excess of $100,000 by 1970. Your committee's bill simply accelerates the transition to full current payment so that it will be completed in 1967 rather than 3 years later.

Under the present schedule, corporations using a calendar year accounting period would file their initial declaration and pay 9 percent of their estimated 1966 liability in excess of $100,000 on April 15 of this year. On June 15 they would pay an additional 9 percent of the estimated liability and on September 15 and December 15 they would pay installments of 25 percent on each date.

Under the bill, the payments due in April and June 1966, will be increased to 12 percent of the estimated liability and the amounts due in April and June 1967 will be increased from 14 to 25 percent of the estimated liability.

THE EXCISE TAXES ON PASSENGER AUTOMOBILES AND TELEPHONE SERVICE

The fifth and sixth provisions of the bill concern the manufacturer's excise tax on passenger automobiles and the tax on telephone and teletypewriter service. The bill imposes a moratorium on some of the rate reductions provided for these two excises by the Excise Tax Reduction Act of 1965.

The moratorium, which will last from the time this bill is passed until April 1, 1968, will freeze these rates at the levels which existed in December 1965. That is, the tax on passenger automobiles will be restored to 7 percent on the day following the date this bill is enacted and will remain at 7 percent until April 1, 1968. On the latter date, it will fall to 2 percent and on January 1, 1969, it will drop to the permanent level of 1 percent.

The tax on telephone service will be restored to 10 percent with regard to bills rendered after the first day of the first month after the date of enactment. It will remain 10 percent until April 1, 1968, when it will fall to 1 percent. On January 1, 1969, the tax will be repealed.

The committee made one important amendment in the bill approved by the House. The amendment concerns the manufacturer's excise on passenger automobiles. Under the House bill, automobile dealers and distributors would have been liable for a tax equal to 1 percent of the manufacturer's price with respect to each car they held in inventory on the day the tax was restored to 7 percent.

It has come to the attention of your committee that dealers would have many problems with respect to this tax. It might be difficult for them to gain customer acceptance of the tax since this amount would not be reflected in the posting attached to new cars which indicates the intended retail price.

Dealers, moreover, might have to wait for a substantial period in some cases before collecting the tax through sale of the car to a customer.

Because of these problems your committee amended the bill to delete the floor stocks tax with respect to cars held in dealers' inventories on the day the tax is increased to 7 percent.

The proposals in the bill regarding the excises on automobiles and telephone service were made with reluctance. The members of the committee are well aware that it is desirable to repeal these taxes in the long run. Nevertheless, there are convincing reasons for imposing a moratorium on reductions on the rates of these excises at the present time.

In the first place, these two excises generate significant revenue. Revenue is, first and foremost, the reason for this bill. It would require a combination of many other excise taxes, all equally undesirable, to match the revenue that will be obtained from these two taxes. Moreover, payments of individual income tax and corporate income tax are already being temporily increased under other provisions of the bill.

In the second place, it is much simpler matter from the administrative standpoint to increase the rates of an existing tax than it is to reimpose a tax that has been repealed. The machinery for collecting the tax is currently in existence and would not have to be reestablished.

Third, it is evident from the action taken last year that Congress considered that repeal of these two taxes was less urgent than the repeal of numerous other excise taxes.

Finally, these two excises affect a broad cross section of the population. Thus, the burden of these excises is more widely distributed than the burden of other excises.

COMMITTEE AMENDMENTS

The seventh and eighth provisions in this bill are amendments added by your committee. The first of these amendments relates to certain indirect contributions to political parties. It was brought to the attention of your committee that there are inconsistences in the tax treatment of expenses for placing ads in the convention program of a political party or in another political publication. There is also some confusion over the status of payments for admissions for fundraising dinners or programs and for amounts paid for admission to an inaugural ball, gala, or similar event.

To clarify the tax treatment of such expenses, your committee has added an amendment providing that no deduction will be allowed for the cost of advertising in a convention program or other publication if any part of such expense inures to a political party or candidate. Similarly, payments for admission to any dinner or program are not deductible if part of the proceeds inures to a political party or candidate. Finally, no deduction is allowed for tickets to an inaugural ball, gala, or similar event.

The second committee amendment concerns payments made by the Department of Agriculture with respect to such programs as the soil bank. This provision will require the Department of Agriculture to supply farmers with copies of information returns sent to the Internal Revenue Service. Such returns are sent to the Service whenever all payments made in any one year to a single farmer total $600 or more. Your committee believes that farmers should receive the same information with respect to payments derived from Government that recipients of dividends and interest payments receive from private corporations and payors.

CONCLUSION

The need for the revenues that will be provided by this bill is clear. Senators must keep this need in mind when appraising the bill. No one derives satisfaction from the thought that many Americans will have increased taxpayments to make as a result of this bill. But when we are tempted to delete or postpone any of the provisions of this bill, we must remember that the situation in Vietnam requires some sacrifices on the part of us all—not just those who are doing the fighting. From this standpoint, the only responsible way to

meet the expenses of Vietnam is through the approach adopted in this bill.

TAX ADJUSTMENT ACT OF 1966

The Senate resumed the consideration of the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Mr. WILLIAMS of Delaware. Mr. President, I am supporting H.R. 12752 the pending bill, the purpose of which is to provide additional revenue for fiscal year 1966 as well as 1967. I voted against the removal of these taxes last year on the basis that it was fiscally irresponsible to cut taxes in the face of a big deficit and with a war going on.

However, in supporting this bill, I do not underwrite the administration's claim that this solves all the fiscal problems, or that this will result in a deficit of only $1.8 billion in fiscal 1967.

For fiscal 1967 they claim it is $1.8 billion, but in reality the deficit is between $9 and $10 billion.

I pointed out earlier this year that the President in his message to Congress had advocated legislation dealing with truth in lending and truth in packaging, and I stated that what we need equally as much is more truth in government.

The fact is that if the budget submitted by the President to Congress is enacted this Government will produce a deficit of close to $10 billion in 1967.

The Secretary of the Treasury in his testimony before the Committee on Finance on this particular bill confirmed the arithmetic I have just stated.

I pointed out, however, that the real deficit is camouflaged in the claim of a $1.8 billion deficit. They have boasted of this figure as a great accomplishment.

The bill, coupled with the action in the committee last year, will produce $4.5 billion in fiscal 1967 in additional revenue as a result of acceleration in the payment of corporate taxes.

This is not new revenue. It is merely borrowing from next year's tax bill money that would normally be paid next year. This is moved over into fiscal 1967 to defray current expenses. It is so recognized and admitted by the Secretary of the Treasury. It is purely a one-shot operation, one which cannot be repeated in the years to come because we certainly cannot collect taxes in advance.

In addition, as a result of the new silver half dollars and quarters containing less silver there will be $1.5 billion nonrecurring income accrued to the Federal Treasury in fiscal 1967, and they have decided to include this as part of the general revenue, thereby using that money to defray expenditures in 1967.

Again, this item is nonrecurring income unless some brilliant bureaucrat decided later to print a paper quarter instead of minting a metal one.

They estimate $400 million will be picked up in fiscal 1967, as a result of the change in withholding taxes, which again is a one-shot operation.

In addition they are liquidating the assets of the Government by selling the mortgages on the Federal National Mortgage Association—FNMA—and some of the other lending organizations. It is true, as the Secretary points out, that there have always been some normal sales of these mortgages over the years, but the Secretary confirmed to our committee in the hearings on this bill, copies of which are now on Senators' desks, that the sale of FNMA mortgages was accelerated over and above the normal average sales of such mortgages by more than $1 billion in fiscal 1966 and that in fiscal 1967 an additional $1.5 billion will be brought in.

Their plans are to sell $4.7 billion in FNMA and small business mortgages. This is $1.5 billion more than would normally be sold.

All of the proceeds of the sales of these mortgages are used to pay current expenses and thereby reduce the amount of the recorded deficit.

Furthermore, they are selling $4.7 billion of these mortgages and applying it not to income but subtracting it from the expenditure side in order to give the American people the idea that they have cut expenditures. They have not cut expenditures. I repeat—they are using the $4.7 billion to defray the cost of the program of the Great Society. This is merely a bookkeeping device so that it will not appear on the books at all as expenditures.

Summarizing, taking the $4.5 billion accelerated payments of corporate taxes, the $1.5 billion windfall profit on coinage, the $400 million on withholding collections, and the $1.5 billion extra receipts on FNMA mortgages which have been sold, it means that they will be collecting $7.9 billion extra revenue, all of which will be nonrecurring income. It is like borrowing on next week's salary to pay this week's grocery bills.

When we add this $7.9 billion one-shot income to the $1.8 billion which the administration admits as a deficit, we find that the Government in fiscal 1967, based on its own records, will have a deficit of $9.7 billion. On an average this represents $800 million expenditures beyond our income for every month in the calendar year of 1967.

This $9.7 billion is after we have taken into consideration the restoration of the telephone and automobile excise taxes, which are part of this bill.

Mr. President, I am supporting the bill because I believe we are confronted with a serious financial condition so far as the Government is concerned.

As I stated earlier, I opposed removing these taxes last year when everyone knew our deficit this year would exceed $6 billion.

With a war in Vietnam the only alternatives were to restore the taxes or to raise the debt.

Yes, I support the administration in this bill, but I will have no part of its effort to deceive the American people as to the true deficit. Even with this bill we are not paying for the expenditures to meet the cost of the war in Vietnam.

Officials in the administration boast of the great achievements of their planned deficit program and boast that as the result of this deficit planning they have in the last 5 years brought down the unemployment rate to below 4 percent.

The chairman of the committee just mentioned that great achievement with pride, but they do not tell the people that the reason they were so successful in bringing the unemployment rate to below 4 percent is not an achievement of the Great Society but because there is a war going on in Vietnam and many American boys are being put into uniform and others are being employed in defense plants to make the implements of war. That is how the low unemployment rate has been brought about. Nor is the administration providing revenues to take care of the expenditures to conduct the war in Vietnam. We are enjoying a wartime prosperity. I use the term "enjoying" advisedly because we should recognize we are in a wartime economy, and we should be paying for its cost instead of insisting on both butter and guns.

As to the achievements of the Great Society, the Secretary of the Treasury and the Director of the Budget boasted that the deficits of the Great Society were deliberately planned just as planned but controlled inflation was a part of their program.

Some day this administration is going to have to take direct responsibility for the inflation which it is causing. Since 1961, the 5 years in which the Great Society has been in office, the administration has spent $31½ billion more than it has taken in in revenues. That is an average of $500 million a month for every month it has been in office. Yet every year the President has been before this Congress and in his messages he has always boasted that we are achieving a balanced budget. The words sound well, but actions belie the words.

It is time that the administration told the American people the facts of life; namely, that this bill is a one-shot operation to take it beyond the 1966 congressional elections without having to call for a tax increase. They want to go before the American people and tell what they have done without raising taxes.

The administration should have the same degree of courage to tell the American people what the facts are as is being shown by our boys fighting on the battlefields of Vietnam.

The people should be told that with the approval of this bill, once the year 1967 rolls around, we will automatically be moving into a deficit of around $900 million a month.

Unless Congress can cut some of the expenditures that are being asked for under the Great Society there will have to be a tax increase that will shock many people. Of course the administration may not admit this point until after the votes are counted next November.

According to the press, the administration is asking a special committee of Congress, beginning March 16, to study proposals to give the President standby authority to raise taxes. This standby authority to raise taxes is a devious way to have a tax increase approved by Congress without exactly describing it that way. Under the plan the standby authority will be enacted in this session of Congress, yet in the 1966 congressional elections the administration and the Members of Congress will be able to say that they have not raised the people's taxes but that Congress has only given the President standby authority if the Vietnam war makes it necessary. Then after the elections are over the increase can be ordered into effect, but by then the ballots will have been counted.

I for one do not intend to support any such standby authority. If the administration wants to increase taxes let the President tell the American people exactly what the fiscal situation is which faces the people and what kind of an increase it recommends. If the administration wants to increase taxes let it have the courage to ask for an increase in taxes and let Congress approve or disapprove it.

As one member of the Senate Finance Committee I serve notice that I intend to do all I can to block this request.

This would be a tax rise with a political twist.

The administration boasts that the cash budget is in balance. That boast is meaningless. When we talk about a cash budget we are talking about trust funds under the social security program, the railroad retirement program, and the civil service retirement program, and all of the other trust funds. To include moneys in those trust funds to show that there is a balanced cash budget is misleading the American people. It should follow its own directive to have truth in Government.

Certainly no reasonable Government official is going to propose that we move in and tap these trust funds—the social security fund, the medicare fund, and the other retirement funds.

I think it should be made clear to the American people that the present administration, this Great Society administration, is the most spendthrift government that we have ever had in the history of our country; that during the 5 years it has been in office it has spent at the rate of $500 million a month more than it has taken in, that currently it is operating at the rate of $600 million a month more than it has taken in, and based on present plans the deficit next year will be at the rate of $800 million a month more than the revenues.

This administration is leading us down the road to bankruptcy and inflation, and the Johnson administration will have to take full responsibility for it. What I would like to see the administration do is to tell the American people what the budgetary facts are with same courage that our boys are showing in Vietnam.

Mr. CARLSON. Mr. President, I wish to express my appreciation to the distinguished Senator from Connecticut [Mr. RIBICOFF] for allowing me a few minutes to speak on this matter.

As a member of the Finance Committee, I voted to report the bill. I expect to vote for it on final passage. But I feel I would be derelict in my duty if I did not state that I think there has been a very weak effort on the part of the administration to prevent inflationary pressures that are now confronting the Nation, destroying the purchasing power of the American public and threatening the American economy. In addition to that, I personally do not feel that the administration is providing for the expenditures needed for the war in which we are involved in Vietnam.

Mr. President, as the distinguished Senator from Delaware [Mr. WILLIAMS] mentioned, if we are to continue to expand these ever-increasing Great Society programs, it is a meager effort to take care of that phase of it.

I did not rise today to speak on the bill as a whole. I expect to participate in this debate and I shall discuss several phases of the bill as we go through it.

But I wish to speak out against one item in the bill and I feel that I must speak strongly against a reimposition of what I say is the most unfair of the nuisance taxes, the tax on telephones.

This has been an eventful several months. For years I—and others in this body—have been pointing out the injustice and inequity of this temporary tax which has been extended from time to time for over two decades.

Then last year the administration began swinging around to my point of view.

Last year our committee reported out a bill which would lop 7 percent from the telephone excise tax in January, 1966, with the remaining 3 percent to go by 1969.

The President hailed the action as he signed the excise tax bill of 1965.

In January, the first tax cut was seen in millions of telephone bills. And in January, even before most customers had received their first bills reflecting the tax reduction, the administration asked Congress to restore the cut.

I understand some people are calling the telephone excise the yo-yo tax.

But this tax is no joke. It is discriminatory, unfair and regressive.

This is a tax on the people who use the telephone—not the telephone companies. Over 55 million telephone customers will be paying about $700 million a year.

In my State of Kansas, 650,000 telephone users will pay nearly $11 million a year in this tax which is added to every telephone bill. Ending the tax would mean that many millions added to the purchasing power of Kansans—money which would add to the economic health of the Sunflower State.

By any principle of taxation, the telephone tax is a bad tax. It falls most heavily on those least able to pay.

This is not a luxury we are talking about. The telephone is in 85 percent of the Nation's homes. On the many farms and ranches of Kansas it is one of the most valued tools.

Bureau of Census figures for 1960 show that 20 percent of the households with telephones—approximately 7,800,000—had incomes of less than $3,000 a year. More than half of the telephone households had annual incomes of less than $6,000.

Last month, William C. Mott, of the United States Independent Telephone Association, representing 2,400 telephone companies, large and small, appeared before our committee.

He said it was difficult to explain to customers why they alone were to have to bear a total reimposition of the excise tax on an essential and necessary service.

It is difficult—

He declared—

because they don't understand why a service which everyone knows is necessary and essential should receive no tax relief while the race track goer, the cabaret habitue, the country club set, and buyers of jewels and furs are given complete tax relief.

Year after year as this discriminatory tax has been extended, I have been strongly urging its removal. And I do so again.

To sum up:

First. This tax falls hardest on those least able to pay—the lower income groups.

Second. It is discriminatory also in that telephone is the only household utility so taxed.

Third. The public generally regards this tax as unfair, particularly because it applies to a service it regards as essential, not a luxury.

It does not it make sense to let the so-called luxury taxes disappear while we reimpose an excise tax on telephones.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that I may yield to the Senator from Massachusetts [Mr. KENNEDY], without losing my right to the floor.

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

* * * *

ADDITIONAL COSPONSORS, AMENDMENT NO. 495

Mr. PROUTY. Madam President, before calling up my amendment No. 495, I ask unanimous consent that the names of the distinguished Senator from Wyoming [Mr. SIMPSON] and the distinguished Senator from Indiana [Mr. HARTKE] be included as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 495

Mr. PROUTY. Mr. President, I call up my amendment No. 495.

The PRESIDING OFFICER (Mr. BARTLETT in the chair). The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from Vermont [Mr. PROUTY] offers an amendment identified as No. 495, as follows:

At the end of the bill, add the following:

"SEC. . (a)(1) Section 202 of the Social Security Act is amended by adding at the end thereof the following:

"'*Benefit payments to persons not otherwise entitled under this section*

"'(w)(1) Every individual who—

"'(A) has attained age seventy, and

"'(B)(i) is not and would not, upon filing application therefor, be entitled to any monthly benefits under any other subsection of this section for the month in which he attains such age or, if later, the month in which he files application under this subsection, or (ii) is entitled to monthly benefits under any other subsection of this section for such month, if the amount of such benefits (after application of subsection (q)) is less than the amount of the benefits payable under this subsection to individuals entitled to such benefits, and

"'(C) is a resident of the United States (as defined in section 210(i) of the Social Security Act), and is (i) a citizen of the United States or (ii) an alien lawfully admitted for permanent residence who has resided in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application under this section, and

"'(D) has filed application for benefits under this subsection, shall be entitled to a benefit under this subsection for each month, beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. Subject to paragraph (2), such individual's benefit for each month shall be equal to the first figure in column IV of the table in section 215(a).

"'(2) The amount of the benefit to which an individual is entitled under this subsection for any month shall be equal to one-half of the amount provided under paragraph (1) if—

"'(A) such individual is a married woman, and

"'(B) if the husband of such individual is entitled, for such month, to benefits under this subsection.'

"(2) The following provisions of section 202 of such Act are each amended by striking out 'or (h)' and inserting in lieu thereof '(h), or (w)':

"(A) subsection (d)(6)(A),

"(B) subsection (e)(3)(A),

"(C) subsection (f)(4)(A),

"(D) subsection (g)(3)(A), and

"(E) the first sentence of subsection (j)(1).

"(3) Section 202(h)(4)(A) of such Act is amended by striking out 'or (g)' and inserting in lieu thereof '(g), or (w)'.

"(4) Section 202(k)(2)(B) of such Act is amended by striking out 'preceding'.

"EFFECTIVE DATE

"(b) The amendments made by subsection (a) shall apply only in the case of monthly benefits under title II of the Social Security Act for months beginning after September 1966 based on applications filed on or after July 1, 1966, or the date of enactment of this Act, whichever is the earlier.

"(c)(1) Section 227 of the Social Security Act is repealed as of the close of September 1966.

"(2) Any individual, who (for the month of September 1966) is entitled to a monthly insurance benefit under section 202 of the Social Security Act by reason of the provisions of section 227 thereof, shall be deemed to have applied for benefits under section 202(w) of such Act, and all applications which are filed for monthly benefits under section 202 of such Act by reason of the provisions of section 227 and which are pending on the date of enactment of this Act shall be deemed to be applications for benefits under such section 202(w).

"REIMBURSEMENT OF TRUST FUNDS

"(d) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, and to the Federal Hospital Insurance Trust Fund, respectively, from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

"(1) so much of any payments made or to be made during such fiscal year from such Fund with respect to individuals whose entitlement thereto is attributable to the provisions contained in section 202(w) of the Social Security Act,

"(2) the additional administrative expenses resulting, or expected to result, to such Fund on account of such payments, and

"(3) any loss in interest to such Fund resulting from the making of any such payments,

in order to place such Fund in the same position at the end of such fiscal year as that in which it would have been if the preceding subsections of this section had not been enacted."

Mr. PROUTY. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, I point out first that this amendment has been cosponsored by the distinguished Senator from Hawaii [Mr. FONG], the distinguished Senator from Idaho [Mr. JORDAN], the distinguished Senator from Pennsylvania [Mr. SCOTT], the distinguished Senator from New Hampshire [Mr. COTTON], the distinguished Senator from Kentucky [Mr. COOPER], the distinguished Senator from Alabama [Mr. SPARKMAN], the distinguished Senator from Colorado [Mr. ALLOTT], the distinguished Senator from Oregon [Mr. MORSE], the distinguished Senator from West Virginia [Mr. RANDOLPH], the distinguished Senator from North Dakota [Mr. YOUNG], the distinguished Senator from Alaska [Mr. GRUENING], the distinguished Senator from Wyoming [Mr. SIMPSON], and the distinguished Senator from Indiana [Mr. HARTKE].

Mr. President, this amendment responds to a great inequity in the present social security laws—an inequity which we tried, but failed, to abolish in the first session of the 89th Congress. It is an inequity caused by the nature of the social security system itself.

One and one-half million older Americans are not eligible to participate in social security.

Designed as a scheme of basic protection against want, the social security system has expanded its coverage over the years so that now over 90 percent of employed Americans benefit by its protective shield. Such near universal coverage has not always been the case.

Of the 1½ million Americans over age 65 not eligible for social security coverage, a great number are retirees from some of the most important productive or necessary occupations in American labor—teachers, firemen, policemen, and self-employed farmers. Many retired before their jobs were covered by the social security system. Many worked in our State or local governments, earning less than their fellow employees covered by social security.

For example, Mr. President, what is to become of those presently retired teachers who are not now eligible for social security? The plight of these important people was brought home to me recently at hearings before the Senate District Committee on legislation relating to teacher's retirement. Some District retired teachers who are not eligible for social security earned as little as $1,200 per year during their working life. Now, without social security, they are asked to live out the twilight of their years on a pittance from the teacher's retirement fund.

Men and women who devoted 20 or more years of service to teaching the young of our Nation's Capital, earning $1,200 per year in the process and denied participation in social security, now must live out the rest of their years on pensions, which they paid for out of their meager salaries, but which now yield less than welfare payments. Yes, Mr. President, we are denying social security benefits to those whose fully funded pension plans bring them less than they could receive on welfare. What justice is there for these people? What sense does the social security system make to them? What is being done to protect them against the ravages of poverty? The shocking answer is, "Nothing."

The situation in which these District of Columbia retired teachers find themselves is, I am afraid, typical of a great many personal deprivations across this great country. Who are the deprived? Those denied participation in social security during their productive years.

The situation of our self-employed farmers is no less severe. As you well know, it was not until more recent times that farmers could participate in social security programs. For those who time passed by—for those who grew old before protection was available—for those disabled under a system which recognized their plight too late, the social security system has been a bright dream in a picture book—looked at, read about but never available in times of need.

The Congress grappled with this question in 1965. To my mind we declared a major war on poverty among the aged, then equipped the army with popguns. The transitional insurance provisions of the Social Security Amendments of 1965, provide less than minimum benefits to 355,000 older Americans, those with at least three quarters of covered employment. We ignored the remaining 1.5 million without any covered employment. While setting out to alleviate long-term, hard-core poverty among our elderly poor, we enacted a short-term program with inadequate equipment and rushed to the aid of those in less severe distress.

Look closely at what we did in 1965. The transitional insurance provisions of the 1965 amendments to the Social Security Act pay a monthly benefit of $35—which is $420 per year or $1.15 per day—to those age 72 or over having at least three quarters of social security coverage. In other words, benefits less than the $44 Congress considered to be the bare-bones minimum for the lowest earning beneficiary were paid to those who evidenced some ability to work in covered employment during the years immediately preceding their retirement.

Mr. President, for the 355,000 Americans over age 65 who had three quarters of social security coverage the transitional insurance provisions, meager as they were, held a promise of hope. But, the provisions were a sad disappointment to the many, many hundreds of thousands of older Americans who had no quarters of coverage because the system did not permit them to participate. They were a bitter pill to those whose hard and earnest labors during a lifetime of marginal existence on the farms and in the classrooms brought no lasting financial rewards. They brought great sorrow to those whose dimming eyes and weakened hearts will not reach the 72d year.

In contrast, Mr. President, in the same act which propounded this mythical solution to a very real problem are provisions establishing broad spectrum medical care for the elderly. I refer my colleagues to a provision of the medicare title which reflects the incongruity of the transitonal insurance plan.

Section 103 of title I, "Health Insurance for the Aged and Medical Assistance," blankets in for medical care all those over age 65 or those who become age 65 before 1968, or those who have at least three quarters of coverage. As a result, any person 65 or over is eligible for hundreds of dollars of medical care without regard to social security coverage. But the same person would not be eligible for even the minimum cash benefit unless he had some covered employment.

This disparate approach to providing protection for the otherwise unprotected makes little senes. As written, the law launches an attack on the symptoms and byproducts of poverty among the elderly poor, but not the poverty itself. The 1½ million older Americans not eligible for cash benefits must wait until their poverty—their hunger—inadequate clothing and housing—cold stoves and heaters bring sickness, disease, and despair.

Poverty breeds sickness; among the elderly poor food, poor housing, poor clothing and poorly heated living quarters bring illness and disease, which in turn bring eligibility to participate in the medicare program under social security.

To those not eligible to participate—to those with no benefits at all, social security holds no bright ray of hope. There can be no promise of fulfillment in a program which absorbs an old person after all hope—all dignity—all health is gone.

Mr. President, I ask my colleagues to take a close look at the features of my amendment. Look at them in compari-

son to the transitional insurance provisions of the 1965 act and the medicare blanketing-in provisions.

First, I propose to blanket in all age 70 and above who are not otherwise eligible for social security benefits. These people would receive the minimum monthly benefits, which are now $44 per month, without regard to covered employment. They would receive benefits to insure them against abject poverty in their later years.

Unlike the blanketing-in proposals of the 1965 act, people becoming 70 in all future years will be eligible for benefits under my amendment. Unlike the 1965 amendments, there is no provision in my amendment which phases out later beneficiaries unless they acquire some quarters of coverage before reaching age 70.

I think it is preposterous to expect a great many of our older Americans, who had never worked in covered employment in years preceding their retirement, to get a covered job in their 70th year. Nor do I think it is equitable to provide medical care to all those now 65 without regard to covered employment while denying such coverage to all becoming 65 after 1968.

My amendment assumes that if we blanket in all those reaching age 70 in 1966, we must, in fairness and equity, blanket in those reaching age 70 in later years. The blanketing-in provisions of present law penalize later retirees. It asks them to pay twice—once for those presently of retirement age—through general revenues—and again for their own subsequent retirement. Under present law those nearest retirement age or those who have reached 65 but not 72 may have to seek some covered employment so as to be eligible for benefits at age 72.

Mr. President, the question of blanketing in should always be considered in the light of the economic realities inherent in the program. As social security coverage approaches universality the cost of my amendment diminishes. As more and more people work in covered employment and as more categories of employment come within the scope of the social security system fewer and fewer older Americans will fall outside the shield of its protection. What I ask my colleagues to do today is to bring hope to those whose jobs were covered after they retired.

Mr. President, I think it is of particular importance to look at my amendment's funding technique in comparison to that of the transitional insurance.

The report of the Senate Finance Committee on the transitional insurance program points out how $140 million was to be disbursed from the old age trust fund for benefits to the transitionally insured. It required substantial manipulatin of the underlying tax base and scale of covered salaries to produce this $140 million. As a net result future participants in the system and future employers must pay for benefits disbursed in earlier years. Each subsequent retiree, then, has paid a share of the retirement of the transitionally insured.

Blanketing in of all age 70 and above, providing a floor of protection against the needs of our elderly poor, is a responsibility properly belonging to the Nation as a whole.

While Federal moneys to fight the war on poverty came from the pocket of each taxpayer, the aged poor are ignored. While the elderly are expected to support this program, they reap few of its benefits. The war on poverty is being fought on other fronts. Older Americans are a lost battalion.

My amendment is a call to do battle against poverty among the aged. It is a battle belonging to each of us—a battle belonging to the present. My amendment funds the program entirely from general revenues and, accordingly, makes no impact whatsoever on the actuarial balance of the trust funds. In fact, by supplanting the transitional insurance program in existing law, my amendment enables further development of programs under the trust fund.

Mr. President, this brings me to a related question intimately connected with the amendment I now propose.

My amendment brings all those age 70 and above not otherwise eligible for social security under a program of minimum benefits. In the light of the cost of living and the great impact of ill health on the earning capacity of our older Americans, the present minimum of $44 makes little or no sense. As you know, I have long pushed for an elevation of the minimum level of benefits to a flat $70. If the system is to provide a basic floor of protection against want it must do more for the millions of Americans who, if covered at all, are only rewarded by a miserly scale of benefits.

A modest but adequate standard of living for older Americans, living in one of America's larger cities, as seen by the Bureau of Labor Statistics, is in the neighborhood of $3,200. Under present benefit levels, $44 per month nets a single retiree $528 per year. The older couple receives annually only $792 from social security. It is clear that social security at present minimum levels comes nowhere close to meeting the real needs of older couples. And, if social security is the aged couple's only income, there is no doubt they must live out their final years in abject poverty.

I am sorry my amendment is not broader of scope. I am sorry it brings 1½ million Americans under such a woefully inadequate scale of benefits. I am sorry it does not begin to provide real protection against want. But, it is a fundamental first step. It will provide bread and potatoes where before there were none.

My point, Mr. President, is this: While my amendment would have an impact on poverty among our elderly, it would only be the initial engagement in a war for meaningful, long-term protection against the devastating poverty that afflicts older America.

Unfortunately, Mr. President, my amendment is not a grandiose scheme to right all the wrongs that are done our elderly in the name of the war on poverty. It is a program that I consider minimal if we are ever to come to grips with the pressing problems of poverty.

I have heard the cost of this program discussed at some length. But there are same legislative matters, which, because of reasons of fundamental fairness, justice, and equity require that cost be put in perspective in the light of the values to be attained.

At a time when the President has assured us that the budget deficit will be one of the smallest of recent years—at a time when great poverty haunts many hundreds of thousands of older Americans—at a time when other Federal programs spend billions of dollars for everything from sewers to space—there must be and there is a way to bring food to the mouths—clothing to the backs and hope to the hearts of our forgotten old people.

This amendment does not propose a novel scheme. The financing for the amendment already has a precedent in existing law.

The portent of the amendment is along the lines of the Canadian public pension program which puts a flat-rate pension of $75 in the hand of every applicant over age 70.

Robert M. Clark, in his famous study, "Economic Security for the Aged in the United States and Canada," stated that in interviewing well over 300 persons in connection with this report:

> I have never discussed social security with anyone so devoted to principles of individualism that he did not favor action at some level of government to provide basic minimum of social security for everyone. Nor have I encountered anyone so imbued with extreme collectivist doctrines that he denied the desirability of at least a minimum positive role for private initiative in providing for social security. I hasten to add that the concept of a basic minimum to be provided by the state varies all the way from an amount barely sufficient for survival to an amount that would provide a comfortable and financially carefree retirement.

The objectives of my amendment have been acclaimed by such diverse parties in interest as the U.S. Chamber of Commerce and the AFL–CIO. Every organization of older Americans that I have talked to unqualifiedly supports my amendment. In fact, last year I had an overwhelming number of letters suggesting that my amendment should be adopted before medicare—that in the scale of values my amendment was of more direct consequence and of more immediate benefit to those whose povertous afflictions would ultimately lead to ill health.

Why, in Vermont alone there are 2,500 people age 70 and over who are on public assistance but are not eligible to receive social security benefits. They receive not $1 of the $9.3 billion in cash benefits distributed nationally; nor do they receive a penny of the more than $23 million distributed in Vermont alone.

My amendment is not novel—it is fundamental—it is necessary—it is long overdue.

Mr. President, there are more than 18 million people over age 65 in our country today. It is estimated that by the year 2000 one-third of our population

will be 65 and over. If 1960 income averages hold steady, nearly 4 percent or some 1,300,000 will have no money income whatsoever. Unless we now chart a course leading to meaningful programs of protection for older Americans we may come upon a period when our national resources must be largely directed toward correcting old wrongs.

My amendment, Mr. President, would, by blanketing in under social security those age 70 and above not otherwise eligible for benefits, put a paltry $1.45 each day into the pocket of a needy older American. While the poverty program in some of our larger cities has been putting thousands of dollars into the hands of a chosen few—the party hacks who bleed the poor to enrich the party—it has declined to put $1.45 into the hands of a needy old woman. While it has spent millions of dollars to set up new bureaucracies to tell the poor why they are poor, it has not had the courage, the boldness or the daring to tell older America why it does not provide $1.45 for food and clothing.

That is the remarkable feature of the so-called war on poverty, Mr. President. It is fought on the wrong battlefields at the wrong time for the wrong reasons. While legions of our older Americans are losing daily battles against invading poverty, a well-oiled, well-heeled war machine wheels past them, showering promises on ears deafened by time, waving banners before eyes dimmed by despair.

The National Council of Senior Citizens reports that nearly 5.4 million persons age 65 and over live in poverty. The elderly constitute more than one-half of all the poor people living alone. Their poverty is often invisible—by no means are they all congregated in slums, but are found in the rooms of old homes, in mining and railroad towns and in shacks in rural areas.

The older they get the poorer they become—literally thousands of them fail to survive the rigors of our winters. In this supposedly civilized and enlightened age that is a timeless tragedy exceeding comprehension.

Leon Keyserling, the former Chairman of the Council of Economic Advisers, pointed out in a recent antipoverty conference in New York that of those receiving social security benefits, nearly 58 percent of the married couples, 58 percent of the unattached men, and 64 percent of the unattached women live in poverty. Among recipients of public assistance who do not receive old-age benefits under social security, almost 100 percent of the married couples age 65 and over live in poverty. Quoting Mr. Keyserling:

> During the years since the original Social Security Act of 1935, the marshaling of the national conscience, the marshaling of our national resources, the marshaling of quantitative income help for the old has lagged terribly. It has lagged not only behind the cost of living, but also behind the productive resources of the Nation, behind our per capita worth, behind our capacity as distinguished from our obligation to provide a decent standard of living for our old people * * *. We have the economic and financial resources to do this, allowing for all other priorities of our national needs—and we should do it.

Mr. President, these elderly people if their health, strength and skills had permitted, would have come under social security had they been able to work a few more years. But when they retired from the work force, the act was not broad enough to provide them with even a small retirement increase. Today these men and women 70, 80, 90 years old must live from hand to mouth, in many cases not knowing where their next meal is coming from.

My amendment would come to grips with this problem completely by blanketing in once and for all all Americans over 70 years of age not otherwise eligible for benefits.

Mr. President, I feel that the Congress has been derelict in understanding and responding to the needs of these people. We have succeeded in setting our older people as a group apart from the mainstream of American life. The elderly are with us, but not of us.

They trouble us precisely because we are such an affluent society. They have become a standing embarrassment, a mute reproach to the social conscience of the Nation.

Mr. President, it is high time that we took action to correct this great inequity.

Mr. PASTORE. Mr. President, will the Senator from Vermont yield for a question?

Mr. PROUTY. I am glad to yield to the Senator from Rhode Island.

Mr. PASTORE. The Senator's amendment has great personal and human appeal, there is no question about it. There may be many citizens not covered by social security who do need some assistance once they have reached the age of 70. In our kind of society, it is hard for them to find gainful employment, or to obtain some income without becoming beggars so to speak. Therefore, the question I should like to ask the distinguished Senator is: How much will it cost?

Mr. PROUTY. I have the figures before me.

Mr. President, in response to the inquiry of my good friend, the Senator from Rhode Island [Mr. PASTORE], let me indicate the summary of the costs as I see them.

First. In 1965 Robert Myers, Social Security actuary, informed the Senate Finance Committee that there were 1.75 million Americans aged 65 and over not eligible for social security.

Second. The Task Force on Economic Growth and Opportunity of the United States Chamber of Commerce, the AFL–CIO, the National Council of Senior Citizens, the American Association of Retired Persons and the National Retired Teachers Association claim that this figure should be 1.5 million.

Third. On March 2 of this year Robert Myers maintained there were 1.8 million age 70 and above not eligible for social security.

Fourth. Using the figures cited by the chamber task force the cost of the Prouty amendment—not including an allowance for any reduction in State welfare payments which may take place—can reasonably be expected to be $450 million.

Using the Myers figures, the net cost of my proposal would be $760 million.

I have struck a median figure between the high and the low level estimates of my proposal. I think it can reasonably be expected not to exceed $600 million.

I am sure that the labor organizations and the United States Chamber of Commerce task force have competent actuaries in a position to make reasonably good estimates.

Mr. PASTORE. I understand the Senator's amendment would be paid out of the trust fund, which would be reimbursed by the general treasury.

Mr. PROUTY. That is correct.

Mr. PASTORE. It is my understanding that we have a permanent debt ceiling of $285 billion. I recall that we have lifted the debt ceiling many times and it is now set temporarily at $324 billion. The national debt is $323.7 billion. That means we have a margin of only about $300 million.

If the amendment is adopted and the bill passes with the amendment, it will cost between $450 and $760 million.

Does the Senator make any provision for raising the ceiling of the debt limit?

Mr. PROUTY. Obviously the Senator from Vermont is not in a position to do that. I think there are many unnecessary items in the budget, and some that are much less important than taking care of 1½ million people who are in desperate need.

I do not know what is going to happen to the debt ceiling. If the deficit is held to what it is estimated to be, we may not have a problem.

Mr. PASTORE. But the Senator realizes that we have passed a bill providing for expenditures of $4.8 billion in order to carry out our obligation and commitment in Vietnam. It is because of that commitment and a hesitancy to raise the debt at this time that the administration is asking for money to pay for that obligation. Yet the Senator's amendment seeks to increase the debt by $450 to $760 million.

What the Senator from Rhode Island would like to have answered at this juncture is how we are going to cut taxes or give greater allowances at a time when we are trying to have a tax adjustment in order to meet our commitment in Vietnam.

I wonder if the Senator from Vermont can inform us how we can have our cake and eat it, too. That is what it amounts to.

Mr. PROUTY. I think taking care of a million and a half elderly citizens, 70 years of age and over, who are in desperate need, is entitled to a high priority; it is a very important consideration.

Let me refer to one of thousands of letters I have received over the past years. This one comes from the La Crosse Retired Teachers Association in Wisconsin. A study conducted by the association shows that 500 retired teachers receive less than $25 a month, while 637 receive $50 a month, and none of these 1,100 retired teachers was eligible for social security.

I have many others that I shall put in the RECORD, but that is typical.

Mr. PASTORE. May I say to the Senator, unless a motion to table is made,

that I am looking rather sympathetically at the amendment, because if the Senator from Vermont or any Senator on the other side of the aisle is going to be Santa Claus, I would like to consider these people in my State, too; but if we are to begin to live up to our responsibilities, we had better act in a responsible way.

Such an important measure should have the benefit of committee consideration and calm judgment. These older people will be hurt by any quick rejection of their cause in a hasty floor discussion. They will be hurt even more by an attempt at an empty gift gesture with no practical money source to make it good.

It is not logical or helpful to tie their case with its considerable cost to a bill intended to increase the Government's income for Vietnam.

I shall vote to table the amendment although my heart will not be in it—for I favor a practical approach to the problem of their need.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. PROUTY. I yield to the Senator from Oregon.

Mr. MORSE. Mr. President, the amendment of the Senator from Vermont [Mr. PROUTY] provides long delayed justice to the individuals who, by various chances of working conditions, have reached the age of 70 without an entitlement to social security coverage. The cost of furnishing them coverage would come out of General Treasury funds, under this amendment.

In my opinion, it is only a matter of time before this measure is enacted, and I only hope it will be now, rather than later.

It provides the "70 and over" age group with only the minimum coverage. But it seeks to correct the gaps in the law and in the circumstances of individuals whereby the intended universality of social security has not been achieved.

These people are dying by the day, week, and month. I think any further delay is going to continue to work an injustice on these citizens.

I warmly commend the Senator from Vermont for offering the amendment. I am pleased to be a cosponsor, to speak for it, and to vote for it.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. PROUTY. I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I want to compliment the Senator from Vermont, not only for offering this amendment, but for the very masterful way in which he has marshaled the facts concerning the need for it.

I am a cosponsor of the amendment. I have long been associated with the Senator from Vermont in his efforts to secure help for these very people, those who are under social security, who are receiving a minimum amount, and those not under social security.

With all the benefits and alleged benefits being spread around this country, it is inconceivable that we should not do something to right the wrong in the case of this group.

I am very happy to be joining the Senator from Vermont in fighting for this very necessary and worthy amendment.

Mr. PROUTY. I appreciate what the Senator has said. I recall last year he voted twice not only in support of an amendment similar to the pending amendment, but also to increase the minimum payments for social security beneficiaries. I appreciate the Senator's help. I know his support is going to add luster to this amendment.

Mr. LONG of Louisiana. Mr. President, this amendment is a social security amendment. It will cost $790 million. The Government needs revenue. We are trying to come as close to balancing the budget as we can. If this amendment is adopted, it will put the budget still further out of balance.

The amendment would provide a windfall in many State welfare programs, because a large portion of the people who need this help are already covered by the State welfare programs which are already matched by Federal funds.

With the Federal Government running a deficit, and the Federal Government being $320 billion in debt, it does not seem appropriate to put the Federal Government still deeper into debt.

Some of the States operate on a surplus. The State of Louisiana would not object to having a windfall, but the constitution of the State of Louisiana requires it to float a bond issue and borrow if it is going to have a deficit.

The State of Virginia, also, is not permitted to operate on a deficit. I see in the Chamber the Senator from Virginia [Mr. BYRD]. He was a State legislator and he knows that the State of Virginia does not operate on a deficit. They have no debt. Imagine that. Under this amendment it is proposed that we put the Federal Government deeper in debt by going to the aid of State budgets, when some of the States do not have a debt at all.

I have sympathy for helping the aged, and there are all sorts of things we can do for the aged. We did a lot last year. The social security and medicare bills we passed last year cost the Government several billion a year. Most of that would go to the aged and add to the cost of the social security increase.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr LONG of Louisiana. I yield to the Senator from Florida.

Mr. SMATHERS. Is it not a fact that one of the worst fallacies in the area of this particular proposal is that of the roughly 1,800,000 people who would be covered under the amendment there are many hundreds of thousands who are already retired on a military retirement, a Federal retirement, or some private company retirement, and they are not asking for help? Some of these are actually quite well-to-do people and yet this is going to give them $44 a month and their spouses $22 in addition. They do not need it or want it. The other 1,100,000 who would be benefited by this particular amendment offered by the Senator from Vermont, are under the old age assistance program. The State legislaturcs in each of these States would have to meet and devise a suitable means test to determine whether or not they are going to have this increase permitted because it may be, as the Senator from Louisiana pointed out, that the States would do nothing and the Federal Government would do all of it.

It would take at least a year and a half to get underway and cover people who do not need or have asked to be covered. It throws us into debt more deeply than we are now.

Here is a measure to meet the present cost of Vietnam and what are we doing but adding an amendment that will have a total cumulative 5-year cost of $3.4 billion. That does not make sense.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. If I may continue for a moment, I will yield to the Senator from Vermont.

In the State of Louisiana, we have a popular Governor who ran for office and committed himself to pay raises for schoolteachers. Ever since then the administration has been trying to find enough money to meet that commitment. They have found financing for part of it but not all of it. If we were to give them an additional amount from the Federal Government they could say, "Let's put that into the schoolteacher pay raise."

In that event this measure would not be for the old people but for the schoolteacher pay raise. They will say, "The Federal Government took these people off of our hands. We will give money we saved to the schoolteachers." It would not be the aged who would benefit but the schoolteachers.

Approximately 1.8 million persons would be blanketed in under this proposal.

Of this group, about 1 million are estimated to already be receiving old-age assistance from the States. This amendment would replace State funds now received by the needy and they would receive the check instead from the Federal Government.

The increased benefits would go to those who least need it—not those on welfare, but to the well-to-do who are not on welfare. They do not need it nor do they expect it. It would be foolish to spend the money in this fashion, especially when the Federal Government is running a deficit.

The proposal is arbitrary because there is no justification for selecting the age of 70 as the starting point. Why not the age of 68 or the age of 66? If a person were 68 or 66 years of age he might need the money more than a person a year or two older who is well off financially. The selection of age in this fashion would invite further reduction to perhaps 65.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I will yield in just a moment.

Last year Congress provided increased benefits for public assistance as well as designing a new program to allow greater

Federal participation in the medical assistance programs of the States. Further, the medicare programs afforded hospital and medical benefits to all our elderly heretofore unprotected against medical costs. All of these programs allow our elderly to use previously unavailable funds and have greater purchasing power for nonmedical necessities.

The amendment is a crude way of getting Federal general fund revenue for the aged. It would merely replace Federal dollars for the State dollars going to persons on old-age assistance, with no assured increase in payments for the individual recipient. The substitution of Federal funds will enable the State to merely pocket the saving and then the State is free to spend it for any purpose, and the needy aged may not be the advantaged group. A straight increase in the old-age assistance matching formula would be a much more effective conduit of general revenue funds to the needy aged and it would avoid the windfall payments to the States who are well able to meet their own requirements.

I submit that the Committee on Finance has not ignored the needs of the aged in this country. We brought before the Senate last year, and I am sure we will again this year, measures to help provide additional benefits to the aged. The social security bill last year increased the cost to the Government by over $7 billion a year. Most of that $7 billion was for the benefit of the aged. We will take a look at our program sometime during the year, and as we study the figures, and the measures available, and the various services where we could better provide for the aged, we will recommend to the Senate what we believe would be the best program to be worked out after.

There are untold numbers of provisions that can be voted for each year by those who wish to benefit the aged. However, I do not think that it should be added to this revenue-raising bill.

I have seen many suggestions, all containing varying degrees of merit which would give benefits of one kind or another to the aged.

I believe that the Senate would be better advised to study all of these proposals and suggestions and at least let the Department of Health, Education, and Welfare recommend those that they think we can afford at this time.

I yield to the Senator from Vermont.

Mr. PROUTY. Mr. President, first I recognize the responsibility of the distinguished Senator from Louisiana who opposed this legislation. Regardless of how he might feel about his job, as chairman of the committee, he is the spokesman for the administration. When I refer to the Senator's opposition, I am not thinking of him as an individual. I know that when a similar amendment was introduced last year the Senator gave a great deal of time and thought to it. I appreciated that very much.

We have to assume, I think, that he is speaking for the administration. It is his responsibility to do that when he opposes this amendment or those similar to it.

Mr. LONG of Louisiana. May I say to the Senator that I am not speaking for the administration. I have not checked as to the Department of Health, Education, and Welfare or the Treasury Department's view. I would assume that the Treasury Department does not want it on this revenue-raising bill. It defeats the purpose of the bill.

The purpose of the bill is to seek to raise close to $5 billion to help balance the budget and to pay the extraordinary costs imposed on us because we have a war going on in Vietnam. What we are supposed to be doing today is raising revenue, not spending it.

Mr. PROUTY. Mr. President, will the Senator yield further?

Mr. LONG of Louisiana. I yield.

Mr. PROUTY. In view of the fact that I and other Senators have sponsored legislation similar to this over the last 4 years, and no hearings have ever been held by the Senate Finance Committee, I think it is logical to assume that the administration is strongly opposed to legislation of this nature. I shall place in the RECORD, at the proper time, a great many figures on this subject; but I invite the Senator's attention to the 1965 amendments to the Social Security Act, which provide incentives and penalties for certain reductions in State public assistance programs resulting from amendments to the Social Security Act. I shall place them in the RECORD in memorandum form.

However, the Senator from Louisiana well knows that if a State reduces its old-age assistance because of an increase in social security payments, it proportionately loses some of the Federal grant unless that money is used for some other State public assistance program, such as aid to the blind, aid to dependent children, and similar programs. Is it not accurate then to say that in such a situation my amendment has positive benefits?

A substantial number of States have already taken advantage of the voluntary exemption up to $5. I hope others will do so.

Mr. LONG of Louisiana. From my point of view, that is one more thing that is wrong with the amendment. It should not give States windfalls in their budgets, it seems to me that there is no reason to enable them to reduce taxes while the Federal Government is increasing its taxes.

Mr. PROUTY. I shall also place in the RECORD, in the form of a memorandum, the 1965 actuarial report of the Civil Service Commission, which makes some startling observations.

To those who would not like to see my amendment apply to recipients of Federal pensions I would point out that of the more than 200,000 surviving widows and children of civil service retirees, 38 percent receive less than $50 a month; 79 percent receive less than $100 a month; 93 percent receive less than $150 a month. Ninety-nine percent of all surviving widows and children receive less than the so-called poverty level of $3,000 per year Of the 170-some thousand widows on the civil service retirement rolls as of June 30, 1965, the average age was 65.8, the average annuity a meager $80 per month.

The situation of surviving widows and children is not necessarily the most desperate. Look at the unfortunate figures relating to employee annuitants.

Four hundred forty-nine thousand and seven hundred receive less than $50 a month; 126,100 receive less than $100; 214,300 receive less than $150 per month; 307,600 receive less than $200. Viewing the so-called poverty level as $250 per month, 377,500 civil service employee annuitants out of a grand total of 508,500 receive less than poverty-scale annuities.

That poverty scale was established by this administration, which apparently is overwhelmingly opposed to the adoption of this amendment.

Mr. President, alarmingly enough, nearly 74 percent of all civil service employee annuitants receive less than the magical poverty level.

So let him who sees injustice, in including Federal pensioners in my bill come forward and identify himself.

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

Mr. LONG of Louisiana. Mr. President, I do not desire to deter Senators from making speeches on the amendment. If any Senator desires to discuss the amendment further, I shall yield for that purpose. However, unless some Senator desires to discuss it, I am prepared to move to table the amendment on the theory that it is a social security amendment, which more appropriately should be attached to a social security measure than to the revenue-raising bill now before the Senate.

Mr. PROUTY. I understand what the Senator has in mind. Unless other Senators wish to speak at this time, I should like to have a live quorum. Following the quorum call, I should like to be permitted to speak briefly, after which I shall be prepared to vote.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 45 Leg.]

Aiken	Hartke	Nelson
Allott	Hickenlooper	Neuberger
Anderson	Hill	Pastore
Bartlett	Holland	Pearson
Bayh	Hruska	Pell
Bennett	Inouye	Prouty
Bible	Jackson	Proxmire
Boggs	Javits	Randolph
Brewster	Jordan, N.C.	Ribicoff
Burdick	Jordan, Idaho	Robertson
Byrd, Va.	Kennedy, Mass.	Russell, S.C.
Byrd, W. Va.	Kennedy, N.Y.	Russell, Ga.
Carlson	Long, Mo.	Saltonstall
Case	Long, La.	Scott
Clark	Magnuson	Simpson
Cooper	Mansfield	Smathers
Cotton	McCarthy	Smith
Curtis	McClellan	Sparkman
Dirksen	McGee	Stennis
Dominick	McIntyre	Symington
Douglas	McNamara	Talmadge
Eastland	Metcalf	Thurmond
Ellender	Miller	Tower
Ervin	Mondale	Tydings
Fannin	Monroney	Williams, N.J.
Fong	Montoya	Williams, Del.
Gore	Morse	Yarborough
Gruening	Morton	Young, N. Dak.
Harris	Mundt	Young, Ohio
Hart	Murphy	

The PRESIDING OFFICER (Mr. BARTLETT in the chair). A quorum is present.

Mr. PROUTY. Mr. President, I point out that at the appropriate time, a motion will be made to table my amendment. I wish to make it very clear, particularly to the 1,500,000 elderly citizens, 70 years of age or over in this country who would benefit under this amendment, that a vote for a motion to table is a vote against the amendment. I repeat, a vote for a motion to table is a vote against the amendment.

I understand some of these elderly people, or some of their representatives, are in the gallery. I want them to report that to the people they represent: that a vote to table this amendment is a vote against a meaningful program of benefits for older Americans and, in my judgment, is a vote against 1,500,000 elderly citizens in this country who need help desperately at this time. So let there be no mistake about that.

I think it is unfortunate, Mr. President, that all of a sudden, the Senate of the United States is urged not to stand up and vote on the merits of this amendment. It seems to me that we should have sufficient courage to vote "Yes" or "No" on the merits of the amendment, and not on a procedural motion. And so again, Mr. President, let me make it very plain to the old folks of this country that a vote to table this amendment is a vote against the amendment.

Mr. President, after making the parliamentary situation clear, I should like to proceed to explain briefly what my amendment purports to do.

There are 1.5 million Americans age 70 and above who have no social security protection. The system has passed them by. Their jobs were not covered by social security during their working years. They are for the most part the teachers, policemen, firemen, and self-employed farmers who retired before social security coverage came to their profession.

Many of these 1.5 million older Americans either have no outside income or they receive small pensions based in part on salaries of the 1930's and 1940's. For example, some retired teachers with 20 or more years service have pensions of $25 per month. A number are on public assistance.

My amendment would "blanket in" under the protection shield of social security all of these people who reach age 70 without the benefit of social security coverage. They would receive the minimum monthly benefit which is now $44.

The precedent for my amendment was set in the 1965 amendments to the Social Secruity Act when all older Americans not covered by social security were made eligible for medicare at age 65. Additionally, the transitional insurance provisions added to the social security law by those amendments were an effort to make a start in the direction of my amendment.

My proposal is the logical extension of the "blanketing in" provisions of the 1965 Social Security Amendments. Its adoption is essential if we are to meet our commitments to fight poverty among our elderly poor. It is supported in principle by the U.S. Chamber of Commerce, the AFL-CIO, the American Association of Retired Persons, the National Retired Teachers Association, the National Council of Senior Citizens, and virtually every informed person or organization conversant with the plight of the aged needy.

Some weeks ago, when he appeared before the Committee on Aging, Mr. Shriver, Director of the OEO, stated in substance that the poverty program was not designed to help the elderly poor. He said, in effect, that while the program trys to bring some help to the elderly poor, it basically was not designed for that purpose.

I commended Mr. Shriver for being honest and forthright in making that statement. I asked him if it was not true that what the elderly poor in this Nation needed more than anything else was more money in their pockets, and in substance he agreed.

I now quote from Mr. John Edelman, legislative director of the National Council of Senior Citizens, when he appeared before the Committee on Aging.

He said:

> We have adopted, both by convention and by subsequent action of our executive council, a program for considerably more substantial increases in the social security benefits than even those pointed out by Mr. PROUTY. We applaud Senator PROUTY's efforts in this direction, and in the long run, we feel he is aiming at the most fundamentally necessary thing which needs to be done to alleviate the conditions of the elderly in the United States today. We support blanketing in all persons aged 70 under social security for a least a minimum benefit, and will continue to work for it very actively and very militantly.

Mr. President, let me quote briefly from a few of the thousands of letters that I have received on this question from old people throughout the country. Nothing tells more about my amendment—nothing better states its need—than the correspondence I have received over the years.

From Mrs. C, an 89-year-old widow with no social security, no pension, and little hope, a plea to buy bread for her table.

From Mrs. T, the widow of a minister with 50 years' service, a sorrowful request for redemption from the indignity of poverty.

From Miss C, a retired teacher with 50 years' service, a searching request for money to help her preserve her failing eyesight.

From Mrs. S, of Appleton, Wis., a touching note telling how much my amendment would mean to her. Her total income is $45 per month—she does not receive any welfare payments.

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From Mrs. M, of Little Rock, Ark., the story of an acquaintance who retired from teaching at age 70 and took a job as a waitress to get social security coverage.

From Miss M, of Rhode Island, a statement of the retired teachers great need for my amendment, relating how 250 of them receive pensions of less than $2,000 a year.

From Miss S, of Milford, Mich., afflicted with chronic allergic asthma, complicated by emphysema, who receives a pension of $113 a month, over half of which goes for medicines and I quote:

> I have at times considered just giving up with an overdose of sleeping pills at times—it is so discouraging. I have been a good citizen all my life but I really don't feel like one now.

From Mr. H, of New Fairfield, Conn., the holder of a Ph. D., these tragic words:

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From Mrs. U, from Moxville, N.C., a short, sad biography. For the past 14 years she was the sole support of her aged mother, who recently died at 97. Her pension over this period was less than $50 a month. Now her eyes are dimming and she writes me of her fear that she will not live to see the benefits of my amendment.

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From Mr. E, of Huntington Station, N.Y., a comment familiar to those of us who have long studied the problems of the aged, he cannot find a job so as to qualify for social security. You see, he is 78 and employers tell him he is too old to work.

These letters are typical of the thousands I have received in recent years stressing the plight of the forgotten elderly and pleading for relief from the oppressions of poverty. These people are not the cold statistics of a census. These are real people in real distress.

Much has been said about the cost of the program. First, I remind Senators who are present in the Chamber that the Dominion of Canada, which clearly does not possess the financial resources of the United States, pays a pension of $75 a month to every citizen reaching the age of 70.

If our country, the greatest and most powerful country in the world cannot

duplicate the effort of our northern neighbor, I believe we must take a new look at our entire social security system. Turning to some of the costs of the poverty program, I quote from hearings on the supplemental 1966 appropriations for the poverty program:

PER PERSON COSTS OF OTHER FEDERAL PROGRAMS IN RELATIONSHIP TO THE $44 PER PERSON PER MONTH $528 PER YEAR COST OF THE PROUTY AMENDMENT

UNDER THE POVERTY PROGRAM

From hearings on supplemental 1966 appropriations

Cost of opertaing Job Corps camp per enrollee: $4,500, over 9-month period annualized, this cost is $6,035.

Capital costs of Job Corps camp per enrollee: $500, as amortized over 10 years.

Travel costs of enrollee: $70.

Readjustment allowance per enrollee: $50 per month, plus $30 per month living allowance.

Maximum clothing allowance per enrollee: $140.

In the 1966 supplemental, Shriver asked for $235 million for job camps to meet a design capacity of 50,000 enrollees. The Prouty amendment asks for three times that amount to provide social security protection for 30 times the number of people. The goal is 100,000 enrollees at an annualized cost of $600 million poverty dollars. For one-third again the cost, the Prouty amendment benefits 1,500 percent more people.

The poverty program benefits 50,000 young people in the prime of life. The Prouty amendment benefits 1.5 million older Americans in their dim and often desperate years.

The Job Corps enrollee is paid enough to send $600 back to his parents each year. The aged, 70 years and over, not eligible for social security, are denied $528 if the Prouty amendment is defeated.

The appropriation requested for 280,000 work trainees was $255 million, or roughly $911 per trainee. The amount requested per each Prouty beneficiary, $44 per month, $528 per year.

UNDER MANPOWER DEVELOPMENT AND TRAINING ACT

According to the Department of Health, Education, and Welfare, it costs nearly $2,500 per year to keep a man and his family on welfare for a year (hearings on Manpower Development and Training Act, Feb. 2, 1964, Senate, according to Commissioner Keppel). MDTA costs $1,200 to $1,300 per trainee.

UNDER PROGRAMS OF VOCATIONAL REHABILITATION

Depending upon degrees of disability, rehabilitation services run from $500 to $1,500 per person.

In summary then, it appears that the Prouty cost-benefit ratio far exceeds cost-benefit ratios of existing Federal assistance programs. Additionally, the program benefits a category of beneficiaries too long neglected.

Mr. President, I should like to quote from the task force report of the U.S. Chamber of Commerce. It states in part:

There remain over 1.5 million people age 65 and over who are not eligible for social security retirement benefits. These are principally retired Federal Government employees, veterans, and others who, either because of age or occupation, were not included in the Social Security Act of 1935 and subsequent amendments. The number of aged persons not covered by social security is decreasing each year as people in the upper age brackets die and as more people reaching retirement age are eligible for social security because of prior employment.

Since 1935 the Social Security Act has been amended to include more groups, such as, for example, military personnel and self employed persons. Members of the medical profession, as a result of the amendments of 1965, are the most recent group to be added. Social security is a public program and no group of working people should be exempted from paying taxes to support it or from benefiting from it.

The task force's recommendations state:

All Americans 65 years of age and over not eligible for social security retirement benefits should be brought into the program.

Mr. President, a little earlier, when there were few Senators in the Chamber, I pointed out some of the problems of the recipients of Federal pensions. I should like to reiterate their plight again for emphasis:

Of the more than 200,000 surviving widows and children of civil service retirees, 38 percent receive less than $50 a month; 79 percent receive less than $100 a month; 93 percent receive less than $150 a month. Ninety-nine percent of all surviving widows and children receive less than the so-called poverty level of $3,000 per year. Of the 170,000-some widows on the civil service retirement rolls as of June 30, 1965, the average age was 65.8, the average annuity a meager $80 per month.

The situation of surviving widows and children is not necessarily the most desperate. Look at the unfortunate figures relating to employee annuitants: 49,700 receive less than $50 a month; 126,100 receive less than $100; 214,300 receive less than $150 per month; 307,600 receive less than $200. Viewing the so-called poverty level as $250 per month, 377,500 civil service employee annuitants out of a grand total of 508,500 receive less than poverty-scale annuities.

Mr. President, alarmingly enough, nearly 74 percent of all civil service employee annuitants receive less than the magical poverty level.

So, let him who sees injustice in including Federal pensioners in my bill come forward and identify himself.

I wish to point out that there can be a fair and reasonable difference of opinion as to the cost of this program; the figures are quite intricate. I invite the attention of the Senate to an amendment which I offered last year on the floor of the Senate to increase minimum benefits to $70 per month per individual.

During the debate, the distinguished Senator from Louisiana estimated the cost of my amendment at that time at $3 billion. I estimated the cost at around $1.2 billion.

Subsequent to action on the bill, I received a memorandum from Mr. Myers, the Social Security actuary, in which he said in part:

A discussion of the cost estimates that I had made for this proposal and for earlier versions thereof is contained on page 15337 of the CONGRESSIONAL RECORD for July 8. Unfortunately, some of the cost information that I furnished to both Senator LONG and Senator PROUTY was not completely clear and I hope that this memorandum will clarify the situation.

He pointed out—and I am not referring to the amendment presently pending before the Senate—that the actual additional cost of my amendment over the Finance Committee bill was $1.8 billion, rather than $3 billion suggested by the distinguished Senator from Louisiana.

I am not suggesting that Mr. Myers deliberately—I know he did not—give different information to the Senator from Louisiana than he did to me. We approached the question from different standpoints. I think the Senator from Louisiana and I were both accurate, based on the information given us.

In closing, let me reemphasize that the Canadian Government pays to each citizen 70 years and older $75 a month, and $150 to a couple, if a man and wife are both living.

It seems to me this country can do no less.

May I repeat, if and when the motion to table is made, I want it clearly understood a vote to table this amendment is in fact a motion to kill the amendment. It is merely a procedure by which some Senators, if they wish to do so, can tell people back home, "I voted only to table; I did not vote against the amendment." But a vote to table is a vote against the Prouty amendment. I hope there will be no misunderstanding about it.

I am sorry we have had no opportunity to act on this measure over the 3 to 4 years since its introduction. I must assume the administration is opposed to the proposal. Otherwise it would have the support of the distinguished Senator from Louisiana.

I am perfectly willing to yield the floor at this time, and I am ready to vote at any time; but, once again, I wish to say that a vote to table is a vote against the Prouty amendment

Mr. LONG of Louisiana. Mr. President, this amendment should not be agreed to. I should like to point out why it does not make good sense. I explained the amendment to the Senate last year. The Senate tabled the amendment at that time.

I made the statement then and it is equally appropriate now that, rather than adopt the amendment, it would be just as well to climb to the top of the Washington Monument and scatter hundred dollar bills in a high wind.

In Louisiana we cannot get the policemen and firemen to come under the social security system. They prefer to be covered by the State pension system because they get higher retirement benefits under that system. After serving 20 years, a policeman can retire on full retirement benefits and receive full retirement benefits.

This amendment provides that, even while either the retired fireman or policeman is drawing a pension, which could be $500 a month or more, he would nevertheless be entitled to social security benefits of $44 a month for himself and $22 for his wife.

If any distinguished Member of this legislative body is 70 years of age, he receives the full retirement benefit of $900 a month. Under this amendment, he would also receive a further benefit of $44 a month for himself and $22 for his wife.

Further, a member of the armed services generally draws retirement benefits far greater than provided by social security. Under this amendment, he will get additional benefits of $44 a month for himself and $22 for his wife, even though there was no need shown for it.

One would think, if we were going to adopt this amendment, there would at least be a requirement to show a need. This need has certainly not been demonstrated. There is no question of need involved.

The Senator from Vermont has talked about schoolteachers. We cannot get the schoolteachers in Louisiana to enter the social security retirement program. They fear that if they do so, they would jeopardize their own pensions, under which they are guaranteed much better benefits than they would receive under the social security program. They do not want to take the chance, by coming under social security, that the State legislature would not appropriate the large sums of money necessary to provide for their present retirement benefits.

Yet under this bill, in addition to the State retirement benefits, each retired schoolteacher would receive $44 for himself and $22 for his wife.

Even more inequitable, under this amendment, a person can be a millionaire, draw a good private pension, and still be entitled to $44 a month for himself and $22 for his wife.

This is certainly a poorly conceived amendment, almost as inept as another amendment, which might have been offered. This other measure, namely, amendment No. 490, was also introduced by Senator PROUTY as a proposed amendment to the pending tax measure. It would provide benefits for everybody around the world who is aged 70 and over. It would include Mao Tse-tung, Charles de Gaulle, and everybody else. The Senator apparently will want to provide a pension for everybody in the world. The Senator may not call amendment 490 up.

At least, we can say the pending amendment applies only to American citizens. But it is equally objectionable, for there is no requirement of need or of contribution. Every State has a welfare program to take care of anyone who is truly in need. But those who are not in need and who have not contributed 5 cents to the social security trust fund would, under the amendment, receive benefits. There is no reason why we should be providing payments to people who can take care of themselves and have not made any contributions to the program.

For example, the Federal Government provides a better retirement program than people have under social security. Why should Federal retirees receive additional benefits under the social security system?

How about State employees? Many of them do not want it. If they want to come under social security, all they have to do is elect to do so.

When I tried to persuade such individuals to come under the social security program in my State, they demanded that I take any such proposal off the statute books for fear that the State legislature might not vote to provide the amounts of money necessary under their own retirement system.

The Government is about $320 billion in debt. Some States have no debt at all. This amendment would give some States a big windfall as to their own State programs, at the expense of the Federal Government, and put the Federal Government more deeply into debt.

Mr. President, there is no need for the amendment. In the event that someone had a case for people who are really in need, we would be glad to consider it on the Finance Committee and vote additional help for these less fortunate persons. Not only is there no need for this amendment, it does not belong on a tax raising bill.

H.R. 12752 is to enable us to move toward balancing the budget, and the proposed measure would unbalance the budget.

If we are going to vote for this amendment, we might as well go ahead with voting other measures which might provide for those who think they have no need for additional Federal benefits.

Because of the foregoing arguments, I shall move to table the amendment.

Mr. PROUTY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LONG of Louisiana. I yield.

Mr. PROUTY. Mr. President, I ask unanimous consent to submit some memorandums in the RECORD.

There being no objection, the data were ordered to be printed in the RECORD, as follows:

SUMMARY OF COST ANALYSIS

1. In 1965, Robert, Meyers, social security actuary, informed the Senate Finance Committee that there were 1.75 million Americans aged 65 and over not eligible for social security.

2. The U.S. Chamber of Commerce, the AFL–CIO, the National Council of Senior Citizens, the American Association of Retired Persons, and the National Retired Teachers Association claim that this figure should be 1.5 million.

3. On March 2, Robert Meyers maintained there were 1.8 million age 70 and above not eligible for social security.

4. Using the figures cited by the chamber the cost of the Prouty amendment (not including an allowance for any reduction in State welfare payments which may take place) can reasonably be expected to be $450 million.

5. Using Meyers figures the net cost of the Prounty proposal is $760 million.

6. Striking a median figure between the high and low estimates the Prouty proposal can reasonably be expected to cost around $600 million.

MEMORANDUM ON COST

On April 30, 1965, Robert J. Myers, social security actuary, submitted a written estimate on the cost of blanketing-in all persons age 65 or over for benefits of $35 per month with $17.50 payable to the wife of the beneficiary.

This stated that there were 1.75 million Americans aged 65 and over not eligible for social security. Mr. Myers indicated that the number of such beneficiaries would diminish each year reaching a level of 1.25 million by 1990. On March 2, 1966, Mr. Myers said that there were 1.8 million people age 70 and above who would be brought within the scope of my amendment.

Clearly, there is a wide discrepancy in Mr. Myers' underlying data. How can there be 1.75 million age 65 while there are 1.8 million age 70 only 1 year later, particularly in light of the statement by Mr. Myers that the group not now eligible for social security is decreasing in size each year.

The U.S. Chamber of Commerce in its task force report on poverty and the aged notes that there are 1.5 million Americans age 65 and above not now eligible for social security. This statistic is confirmed by the National Council of Senior Citizens and the American Association of Retired Persons and the National Retired Teachers Association.

The difference in the ultimate cost figure is, of course, quite substantial. If the base figure of 1.5 million older Americans ineligible for social security is used for all those age 65 and above, the cost of the Prouty proposal viewed as a product of the annual benefit ($528) times the number of beneficiaries the cost is maximized at $792 million. The actual cost will be much less. For example, a portion of the 1.5 million will be wives who would receive one-half the minimum benefit. Additionally, the 355,000 transitionally insured (now financed from the OASDI trust fund) would be absorbed and included in the 1.5 million, releasing the present cost of transitional insurance, $140 million for other social security purposes. Finally, beneficiaries of the Prouty amendment might elect to go off public assistance, thereby diminishing the total Federal cost by virtue of the public assistance title of the Social Security Act.

The Prouty amendment does not blanket in at age 65. It blankets in at age 70. Using the Chamber's base of 1.5 million at age 65 it is fair to assume a base of 1.25 million at age 70. Using a base of 1.25 million would develop a maximum cost of $660 million from which reductions would be made for payments to wives, diminishment in public assistance payments, and a $140 million credit for the transitionally insured absorbed into the Prouty proposal. The net cost out of general revenue might be fairly represented by $450 million.

Taking Mr. Myers' highest estimate of 1.8 million beneficiaries age 70 and above less the credit for transitional insurance, wives' payments and reductions in public assistance, his estimate can be fairly read to require payment of some $700 million out of general revenues.

Striking a median cost figure between the high buyer's estimate and the low estimate a payment of some $575 million out of general revenues might be expected.

A more definite cost appraisal is not possible due to the wide fluctuation of the estimates provided by the social security actuary from 1965 to the present.

PER PERSON COSTS OF OTHER FEDERAL PROGRAMS IN RELATIONSHIP TO THE $44 PER PERSON PER MONTH OR $528 PER YEAR COST OF THE PROUTY AMENDMENT

UNDER THE POVERTY PROGRAM (FROM HEARINGS ON SUPPLEMENTAL 1966 APPROPRIATION)

Cost of operating Job Corps camp enrollee: $4,500, over 9-month period; annualized, this cost is $6,035.

Capital costs of Job Corps camp enrollee: $500, as amortized over 10 years.

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Depending upon degrees of disability, rehabilitation services run from $500 to $1,500 per person.

In summary then, it appears that the Prouty cost-benefit ratio far exceeds cost-benefit ratios of existing Federal assistance programs. Additionally, the program benefits a category of beneficiaries too long neglected.

MEMORANDUM ON STATE PUBLIC ASSISTANCE PROGRAMS

The 1965 amendments to the Social Security Act provided an incentive and a penalty for certain reductions in State public assistance programs resulting from amendments to the Social Security Act.

The incentive was provision for voluntary exemption of up to $5 of income in computing a welfare recipient's eligibility for continued or new participation in a State welfare program.

The penalty occurs under section 405 in the 1965 amendments and requires the diminishment of Federal public assistance grants to States to the extent that the State does not maintain expenditures from State and local funds as was spent under approved plans in a base period against which current quarter expenditures would be measured.

The net effect of adding these provisions to the Social Security Act is to pursuade States to maintain their level of public assistance expenditures without setting off benefits received by welfare claimants from social security.

While these two provisions do not guarantee the complete pass-through of social security benefits to welfare recipients without a reduction in the welfare payment they clearly limit the instances in which a State will elect to make such public welfare reductions.

For example, since the effective date of the 1965 amendments, 11 States have implemented part or all of the allowable $5 exemption. Two States are going to implement it and an additional 12 jurisdictions have the matter actively under consideration.

Because of the maintenance of effort provisions, section 405, should a State reduce a beneficiaries welfare payment that money is more likely to stay within the States public assistance program—to aid the blind, children of unemployed parents, the physically handicapped—and accordingly the Prouty Amendment will support State public assistance programs.

Subject: States which have passed the OASDI benefit increase on to old-age assignment recipients by exercising the option in section 409 (a) of the Social Security Amendments of 1965 allowing the disregarding of up to $5 a month of any income.

The Welfare Administration informs us that as of February 3, 1966, the following States had exercised the option as to $5 a month or less: Arkansas, $3; Delaware, $5; Florida, $4; Idaho, $5; Indiana, $5; Georgia, $4; Hawaii, $5; Missouri, $5; Vermont, $4; South Dakota, $5; Wyoming, $5.

Two more jurisdictions say that they are going to implement the provision: Michigan and Puerto Rico.

Twelve more jurisdictions state that implementation is under consideration at the present time: District of Columbia, Kentucky, Nevada, New Hampshire, North Carolina, Oklahoma, South Carolina, Tennessee, Virgin Islands, Virginia, West Virginia, and Wisconsin.

The rest of the jurisdictions have indicated that they do not intend to implement the provision at the present time.

MEMORANDUM ON GENERAL REVENUE FUNDING

1. Amendment 490 which has been superceded by amendment 495 provided that the OASDI trust fund should be reimbursed on a "contribution-benefit" formula. That is to say from general revenues money should be covered into the trust fund to the extent that it would equate the contribution a Prouty beneficiary would have made to the trust fund if he had been covered by social security.

2. Amendment 495 which will be offered provides for funding from general revenues on a "cost-benefit" ratio. That is to say $1 is covered into the OASDI trust fund from general revenues for every dollar in benefits paid.

3. Under the principle of the funding technique in amendment 490 the cost of the Prouty plan is borne both by the taxpayers and the trust fund. Inasmuch as minimum beneficiaries never contribute as much to the fund as they take out, the Treasury would have to cover into the trust fund only the contributions beneficiary would have made if he had been covered. To the extent that such contribution does not pay for actual cash benefits the trust fund absorbs the difference.

4. Under the general revenue funding principle of amendment 495 no burden is placed on the trust fund, hence on contributors to the trust fund. All of the costs are borne out of general revenues, hence by the taxpayers.

EXCERPTS FROM CORRESPONDENCE—WHO BENEFITS BY THE PROUTY AMENDMENT

Mr. President, nothing tells more about my amendment—nothing better states its need—than the correspondence I have received these many months from people whose destiny turns on my amendment. Let me read to you some telling excerpts:

From Mrs. C. an 89-year-old widow with no social security, no pension, and little hope, a plea to buy bread for her table.

From Mrs. T, the widow of a minister with 50 years' service, a sorrowful request for redemption from the indignity of poverty.

From Miss C, a retired teacher with 50 years' service, a searching request for money to help her preserve her failing eyesight.

Fom Mrs. S, of Appleton, Wis., a touching note telling how much my amendment would mean to her. Her total income is $45 per month—she does not receive any welfare payments.

From the La Crosse County Retired Teachers Association, the results of a study which notes that 500 retired teachers receive less than $25 per month from their pension while 637 receive only $50. None of these 1,100 retired teachers was eligible for social security.

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From Mr. E of Huntington Station, N.Y., a comment familiar to those of us who have long studied the problems of the aged, he cannot find a job so as to qualify for social security. You see, he is 78 and employers tell him he is too old to work.

These letters are typical of the thousands I have received in recent years stressing the plight of the forgotten elderly and pleading for relief from the oppressions of poverty. These people are not the cold statistics of a census. These are real people in real distress.

Mr. LONG of Louisiana. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Nevada [Mr. CANNON], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Minnesota [Mr. MCCARTHY], the Sena-

tor from South Dakota [Mr. McGOVERN], the Senator from Utah [Mr. MOSS], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also anounce that the Senator from Connecticut [Mr. DODD] and the Senator from Ohio [Mr. LAUSCHE] are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut [Mr. DODD] would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Califoria [Mr. KUCHEL] is absent because of illness.

The result was announced—yeas 37, nays 51, as follows:

[No. 46 Leg.]

YEAS—37

Anderson	Holland	Pastore
Bayh	Jackson	Pell
Bible	Jordan, N.C.	Proxmire
Brewster	Long, Mo.	Robertson
Byrd, Va.	Long, La.	Smathers
Case	Mansfield	Stennis
Douglas	McClellan	Symington
Eastland	McGee	Talmadge
Ellender	McNamara	Tydings
Ervin	Metcalf	Williams, N.J.
Harris	Monroney	Yarborough
Hart	Montoya	
Hill	Neuberger	

NAYS—51

Aiken	Gruening	Nelson
Allott	Hartke	Pearson
Bartlett	Hickenlooper	Prouty
Bennett	Hruska	Randolph
Boggs	Inouye	Ribicoff
Burdick	Javits	Russell, S.C.
Byrd, W. Va.	Jordan, Idaho	Russell, Ga.
Carlson	Kennedy, Mass.	Saltonstall
Clark	Kennedy, N.Y.	Scott
Cooper	Magnuson	Simpson
Cotton	McIntyre	Smith
Curtis	Miller	Sparkman
Dirksen	Mondale	Thurmond
Dominick	Morse	Tower
Fannin	Morton	Williams, Del.
Fong	Mundt	Young, N. Dak.
Gore	Murphy	Young, Ohio

NOT VOTING—12

Bass	Fulbright	McCarthy
Cannon	Hayden	McGovern
Church	Kuchel	Moss
Dodd	Lausche	Muskie

So the motion of the Senator from Louisiana [Mr. LONG] to lay on the table the amendment of the Senator from Vermont [Mr. PROUTY] was rejected.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Vermont [Mr. PROUTY]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MILLER (when his name was called). On this vote I have a live pair with the junior Senator from Oklahoma [Mr. HARRIS]. If he were present and voting, he would vote "nay." If I were at liberty to cast my vote, I would "yea." I withhold my vote.

The rollcall was concluded.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Nevada [Mr. CANNON], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Utah [Mr. MOSS], the Senator from Maine [Mr. MUSKIE], and the Senator from Oklahoma [Mr. HARRIS] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. LAUSCHE], and the Senator from Virginia [Mr. BYRD] are necessarily absent.

On this vote, the Senator from Virginia [Mr. BYRD] is paired with the Senator from Connecticut [Mr. DODD].

If present and voting, the Senator from Virginia would vote "nay," and the Senator from Connecticut would vote "yea."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL] is absent because of illness.

The result was announced—yeas 45, nays 40, as follows:

[No. 47 Leg.]

YEAS—45

Aiken	Hartke	Pastore
Allott	Hruska	Pearson
Bartlett	Jackson	Pell
Boggs	Javits	Prouty
Brewster	Jordan, Idaho	Randolph
Burdick	Kennedy, Mass.	Ribicoff
Byrd, W. Va.	Kennedy, N.Y.	Russell, S.C.
Carlson	Magnuson	Russell, Ga.
Cotton	McClellan	Scott
Curtis	McIntyre	Simpson
Dominick	Mondale	Smith
Eastland	Morse	Sparkman
Fannin	Mundt	Tower
Fong	Murphy	Young, N. Dak.
Gruening	Nelson	Young, Ohio

NAYS—40

Anderson	Hill	Proxmire
Bayh	Holland	Robertson
Bennett	Inouye	Saltonstall
Bible	Jordan, N.C.	Smathers
Case	Long, Mo.	Stennis
Clark	Long, La.	Symington
Cooper	Mansfield	Talmadge
Dirksen	McGee	Thurmond
Douglas	McNamara	Tydings
Ellender	Metcalf	Williams, N.J.
Ervin	Monroney	Williams, Del.
Gore	Montoya	Yarborough
Hart	Morton	
Hickenlooper	Neuberger	

NOT VOTING—15

Bass	Fulbright	McCarthy
Byrd, Va.	Harris	McGovern
Cannon	Hayden	Miller
Church	Kuchel	Moss
Dodd	Lausche	Muskie

So Mr. PROUTY's amendment was agreed to.

Mr. LONG of Louisiana. Mr. President——

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. PROUTY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCOTT. Mr. President, I move to lay that motion on the table.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Louisiana had addressed the Chair previously, and the Chair recognized him.

Mr. LONG of Louisiana. Mr. President, I wish to discuss the amendment.

I think Senators ought to have an opportunity to hear the arguments made on this amendment. I should like to acquaint Senators with what this amendment does.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Louisiana yield?

Mr. LONG of Louisiana. Mr. President, I do not yield.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator for Louisiana yield for that purpose?

Mr. SCOTT. Mr. President, who has the floor?

Mr. PROUTY. Who has the floor?

Mr. LONG of Louisiana. I do. I refuse to yield.

The PRESIDING OFFICER. The Senator from Louisiana has the floor, and the Chair did not recognize the Senator from Vermont to make his motion.

Mr. LONG of Louisiana. Mr. President, I have the floor. I do not yield at this moment.

Mr. DIRKSEN. Mr. President, wait a minute. Do not be impatient.

Mr. LONG of Louisiana. May I say, Mr. President, that I am not impatient but I still do not yield the floor. I should like to ask the Chair to protect my rights.

Mr. President, I do not want to yield.

Mr. DIRKSEN. I insist.

Mr. LONG of Louisiana. I believe I do have the floor, and I do not yield.

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG of Louisiana. I was recognized by the Chair.

Mr. SCOTT. Mr. President, I should like to propound a parliamentary inquiry, which I understand is in order.

Mr. LONG of Louisiana. I was recognized by the Chair.

The PRESIDING OFFICER. Will the Senator yield for a parliamentary inquiry?

Mr. LONG of Louisiana. No. I do not yield at this point.

Mr. PASTORE. May we have order, Mr. President?

Mr. PROUTY. Mr. President, a point of personal privilege.

Mr. LONG of Louisiana. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PROUTY. Mr. President, a point of personal privilege.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Louisiana has the floor. Does the Senator from Louisiana yield?

Mr. DIRKSEN. Mr. President, let us have a formal ruling as to whether or not——

Mr. LONG of Louisiana. Mr. President, I will yield for a question, and I will not yield for anything but a question. The Chair recognized the Senator from Louisiana when I addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor. The Senator from Vermont spoke a few seconds after the Chair had recognized the Senator from Louisiana.

Mr. HICKENLOOPER. Mr. President, may we have order?

The PRESIDING OFFICER. The regular order has been requested, and the Senator from Louisiana has the floor and will hold the floor if the Chair is able to enforce that ruling.

Mr. DIRKSEN. Mr. President, I would like to know, when a vote has been taken——

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that, without any prejudice to my right to the floor, and without yielding to any Senator the right to make a motion, I might yield for a brief statement by the Senator from Illinois; I repeat, with the understanding that I do not prejudice my right to the floor and I do not yield to him for the purpose of making a motion.

Mr. DIRKSEN. Mr. President, I fully agree to those conditions.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DIRKSEN. Mr. President, when the result was announced, the Senator from Vermont was in the well of the Senate, and he moved to reconsider. It seems to me that even without formal recognition by the Chair, that motion can be made. That has been customary; and I moved to table that motion.

Now, did the Senator from Vermont have the floor, or did he not have the floor?

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. DIRKSEN. I yield.

Mr. MANSFIELD. I had tried to seek recognition for the purpose of asking for the yeas and nays on the motion to reconsider of the distinguished Senator from Vermont, but I was not recognized. So, as I understand it, due to the fact that the Senator from Louisiana was given the floor, there was no motion to table made which would have any validity.

The PRESIDING OFFICER. The Senator from Montana has stated the situation correctly. The Senator from Vermont will have the privilege, before any other business is transacted, of making a motion to reconsider.

Mr. LONG of Louisiana. Mr. President, I did not agree to that.

Mr. PROUTY. Well, Mr. President, a parliamentary inquiry.

Mr. LONG of Louisiana. My understanding, Mr. President, is that the person who holds the seat of the majority leader when all the Senators are shouting at the same time according to custom is entitled to be recognized first. That has been the procedure as long as I have been a Member of this body.

I wish to speak about the motion while a number of Senators are present, since very few Senators were present when I presented my arguments.

This is the same measure that was voted down by a vote of 55 to 36 last year. I merely wish to explain to the Senators how little sense this proposal makes. Here is what it would do.

In the State of Louisiana, for example, as in some of the other States, we permit policemen to retire after 20 years of service.

Mr. PASTORE. Mr. President, we cannot hear the speaker.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. LONG of Louisiana. In the State of Louisiana, just as one example, as in many other States, we let policemen retire after 20 years of service, and they can draw full retirement after 20 years. They do not wish to be covered by social security, because the retirement benefits under our policeman's retirement program are so much greater than they are under social security.

In my State, it is not at all unusual for a man to retire as a policeman and then go to work as a fireman; and after 20 years, he is eligible for a second full retirement, so that he can draw two pensions, both of which exceed the maximum benefit under social security.

The amendment upon which we have just voted now proposes to say that, starting at age 70, in addition to drawing two pensions, that a person could also draw a third pension, under social security, of $44 for himself and $22 for his wife, even though he has not contributed 1 cent to social security. Not 1 red copper penny must he have put into the social security fund. To pay for this amendment, we will have to take from the general revenues much of the money we hope to raise in the pending tax legislation. The amount required for the first year would exceed what we would raise by the increased tax on telephones. It would cost $790 million to provide these social security benefits to many who do not need them.

In addition, people in the armed services have their retirement program, and in many instances the maximum benefit under that program exceeds the maximum benefit under social security.

What would the Senator's amendment provide? It would provide that those people, in addition to drawing a military pension—which we provide with taxpayers' funds—would also draw $44 for themselves and $22 for their wives.

The amendment is so broad as to provide benefits even for Members of Congress, persons who are serving here right now provided they are not covered under social security. Every retired Senator 70 years of age or older would start immediately drawing a pension of $44, plus $22 for his wife in addition to his Government pension. So I say to my fellow Senators, you are voting yourselves a pension right now if you are over the age of 70 and not drawing social security benefits.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield to the Senator from Rhode Island.

Mr. PASTORE. I think the Senator from Louisiana is making a good point. I think there is considerable substance to the arguments that have been made by the Senator from Vermont [Mr. PROUTY]. There are some people who have reached the age of 70 who may need some help.

But after all, this is a piece of legislation that should be studied thoroughly. I realize that what this legislation would do is put everyone under the umbrella. Once you have reached the age of 70, you could be a millionaire, and you would still be entitled to collect $44 every single month.

I do not think the Senator from Vermont means anything as far-reaching as that. He has been reading letters here of people who desperately need some help; and we ought to do something for those people. But I think this is a measure which should be thoroughly studied, and that this is not the way to do it.

I believe there is substance to the arguments made on both sides, but I would hope we would not go off, willy-nilly, because it is attractive, this afternoon, to subscribe to the Senator's amendment.

Mr. LONG of Louisiana. Mr. President, I wish to go one step further. I wish to point our that anyone who is in need of such help can get it right now, under public welfare. We just finished increasing the matching formula to provide adequately for those under old age assistance.

So what it boils down to is a matter of whether the Senate wishes to embark on this program of providing monthly payments to people who have not paid one penny for it, who have no claim nor title whatever to it, and who have no need of it. If we are going to embark on such a course may our merciful Lord shed some help on this fair land of ours. If we are going to start voting pensions for people who do not need them, who have no requirement for them whatever, who are drawing pensions already, in some cases, of $700 every month, many thousands of dollars every year, people who have large annuities, who have all kinds of resources, then I would say there is no hope of ever balancing the budget, no hope of ever having any fiscal responsibility in this country.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. SMATHERS. Is it not a fact that the bill with which we are involved here is basically a bill which seeks to raise revenue in order to meet our growing commitments in South Vietnam? Is that not the purpose of the bill?

Mr. LONG of Louisiana. That is what we are trying to do.

Mr. SMATHERS. Is it not a fact that this amendment, if adopted, would cost the taxpayers an estimated $3.4 billion in 5 years?

Mr. LONG of Louisiana. Yes, it would.

Mr. SMATHERS. Is it not a fact that we have in this country a somewhat inflationary condition already, and that if we adopt the amendment of the Senator from Vermont, it would feed the fires of inflation about as much as anything we could do?

Mr. LONG of Louisiana. There is no doubt about it; because it would put the money, for the most part, in the hands of people who have no need of it whatever.

Mr. SMATHERS. Would the Senator not agree that people who talk about believing in fiscal responsibility should by all means not vote for this amendment?

Mr. LONG of Louisiana. I agree.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield to the Senator from New Mexico.

Mr. ANDERSON. I am 70 years old. Will the Senator explain to me why I should receive an extra $66 a month which I do not receive?

Mr. LONG of Louisiana. I just do not understand it. May I say to the Senator, if he retires, he will have a very fine pension available to him.

Why we have to provide additional pensions is something I cannot understand. It may be that there are some needy persons who need help, but for the most part they are being taken care of by public welfare. If we are going to start providing pensions for persons whether they need it or not, where they may be drawing three different payments, one from the armed services as a retiree, one from the police association as a former policeman, another as a schoolteacher or a former fireman, and in addition, provide $66 for the man and his wife even though they might still be working and drawing a large income, I canot hazard a guess where it will stop.

All of that is provided for by this measure. Further, if we are going to provide benefits at the age of 70, what is sacred about that number? Why not make it 35? Why not provide here and now that everyone shall draw a pension of $1,000 a month and no one will have to work any more. It makes about that much sense.

Mr. ANDERSON. The Senator is talking theoretically. However, if I should retire, I would draw a pension from the Senate. I have also served 35 years as an officer of an insurance company and I would draw a pension from them. Therefore, why should I receive $66 on this? I do not see it at all.

Mr. LONG of Louisiana. I agree with the distinguished Senator from New Mexico.

To me, it seems unnecessary to vote $66 for Senators and their wives. To now accept the principle that everyone in good health, with plenty of money, and no need whatever, can receive a Federal benefit even though they are receiving two or three other pensions is disastrous. That is the one principle that seems to me, once we accept it in this vote; namely, that the Government will give us money whether we need it or not just cries out for everyone to dig into Uncle Sam's Treasury and take a barrelful of money home.

Once we adopt that principle, there will be little hope that the Government will ever be solvent.

Mr. DIRKSEN. Mr. President, will the Senator from Louisiana yield, without losing his right to the floor?

Mr. LONG of Louisiana. I yield for a question only, without losing my right to the floor.

Mr. DIRKSEN. Of course, because there must be an observation made here.

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). Does the Senator from Louisiana yield to the Senator from Illinois?

Mr. LONG of Louisiana. I yield, without losing my right to the floor.

Mr. DIRKSEN. The distinguished Senator from Louisiana cannot quarrel with me, because I gave him the vote. I share the logic which he has expressed but, of course, before us at the moment is the fact that here is a vote of 45 to 40. The Senate has voted. Now we are ready to reconsider the vote. I know of no good reason why we should not proceed with reconsideration, because the author of the amendment will so move, and we need not go through all this argument again. We had it last year. We have it today. The amendment has been printed. It has been before the Senate for a long time.

Mr. LONG of Louisiana. Let me say that one of the finest speeches I heard in this body was made on the Republican side of the aisle by former Senator Homer Capehart. I recall, during one night session, he took the floor and stated, "Why do we do these things? Why don't we think?"

I should like to suggest that we think once in a while and have some idea of what we are voting on.

I did not debate the amendment in detail on it, because last year, by a vote of 55 to 36, the Senate rejected this very amendment. It was my thought that it was not necessary to go into great detail explaining the matter from the point of view of those opposed to it.

Mr. President, in due course, the motion to table will be made, but of course Senators know that once that motion is made, it is not debatable.

Mr. DIRKSEN. The Senator is correct.

Mr. LONG of Louisiana. I believe that I should have a word or two to say before that motion is made.

Mr. ANDERSON. The Senator knows, of course, that was a different situation last year. Last year was not an election year. [Laughter.]

Mr. MANSFIELD. Mr. President, will the Senator from Louisiana yield, without losing his right to the floor?

Mr. LONG of Louisiana. I yield to the Senator from Montana, under those conditions.

Mr. MANSFIELD. Is it not true that the adoption of this amendment will, as the distinguished Senator from Florida has stated, cost the Federal Treasury $3.5 billion over the next 5 years?

Mr. LONG of Louisiana. Yes; the Senator is correct.

Mr. MANSFIELD. Is it not true that every Member of Congress, even though we have fairly good pension funds to which we all contribute, would become eligible either upon retirement or at the age of 65, I believe it is, to also receive an additional $44 a month?

Mr. ANDERSON. Sixty-six dollars, with husband and wife.

Mr. LONG of Louisiana. It is $44 plus $22 for one's wife.

Mr. MANSFIELD. That would mean, then, that every Member of this body would be eligible, without having to pay one dime, if this amendment were adopted, and I would acquire an additional $44.

Mr. LONG of Louisiana. Provided, of course, if we did not draw social security.

Mr. MANSFIELD. Let me say that I would hate to vote for such an amendment and then have to face my constituents who would know that I had voted a pension of $44 for myself.

Mr. LONG of Louisiana. The Senator from Montana is correct.

Mr. PROUTY. Mr. President, will the Senator from Louisiana yield for a question, with the understanding that he will not lose his right to the floor?

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Vermont under those conditions?

Mr. LONG of Louisiana. I yield, under those conditions.

Mr. PROUTY. Mr. President, the criticisms made about my proposal apply to the social security system itself. The social security system imposes no true means test. I am sure that my good friend from Louisiana recognizes that we should not try to establish a means test. If the Senator wishes to do anything about it at some time in the future, that is one thing; but let me point out—the Dominion of Canada pays to every individual 70 years of age or older, $75 a month. It is certainly not the intention to add pensions to that of the distinguished Senator from Montana, or other Senators present. This is something that can be studied in the future, but it will mean changing the nature of the entire social security program to do it. What my amendment is intended to do is to take care of 1,500,000 elderly people 70 years of age or older who are desperate. There is no question about that. Do we want them to have a retirement annuity or do we want them to stand in the breadlines. If we wish to preserve some degree of human dignity in people who are retired—teachers and other professional people who were working before the social security program became effective, or were too old to qualify under the law which was approved last year, we can do it.

All of the associations of retired persons, the AFL–CIO, and the task force of the U.S. Chamber of Commerce feel that every older person should be brought in under the social security program.

I believe the actual cost of my program is going to be considerably less than the figure which has been mentioned by the distinguished Senator from Louisiana. I believe his figures have been inflated. I believe that it can be demonstrated quite effectively that that is the case.

Mr. President, I have placed many memoranda in the RECORD. I believe that Senators, if they were not in the Chamber at the time of this debate, will find that I justified the costs of a program in light of the old people who would be covered by this amendment.

I do not wish to continue this discussion. I am ready for the vote, when the Senator from Louisiana will permit me to do so, but I must say that this is unusual procedure.

Mr. LONG of Louisiana. Free debate has never been unusual. I have waited until the Senator was through speaking before I made the motion to table.

The Senator contends that I was in error in the estimate I made about one of his amendments. The Senator usually introduces his amendments on the floor and keeps changing them, which makes it rather difficult to know what the correct estimates are. The estimate I have, and one I made, came from someone regarded as the best man in the business—I am talking about Mr. Robert Myers, who estimated what this amendment would cost.

May I say that some things are a little bit difficult to explain. Here is amendment No. 490, which bears the Prouty name. It provides for monthly benefits of $44 and $22 for the spouse. This one says that everybody who has reached the age of 70 is entitled to the benefits. It does not limit it to American citizens. This amendment would make Mao Tse-tung eligible for the benefits. It would provide Khrushchev the benefits——

Mr. PROUTY. That is not the amendment before the Senate. Amendment No. 490 utilized an approach to eligibility paralleling the approach taken by the transitional insurance eligibility provisions of section 227 of the Social Security Act. Nevertheless, amendment No. 490 is not before the Senate.

Mr. LONG of Louisiana. It was introduced and I have it here in my hand.

Mr. PROUTY. That amendment has not been called up.

Mr. LONG of Louisiana. But here it is, and it provides that everybody in the world age 70 and over would be eligible for the $44 monthly benefit and his spouse $22.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, I move to lay that motion on the table, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the motion to reconsider.

The yeas and nays have been ordered.

Mr. DOUGLAS. Mr. President——

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider.

Mr. DOUGLAS. Mr. President, will the Chair state what is the question before this body?

The PRESIDING OFFICER. The Senate will be in order. The question is on the motion to table the motion to reconsidered.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Nevada [Mr. CANNON], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Utah [Mr. MOSS], the Senator from Maine [Mr. MUSKIE], and the Senator from Missouri [Mr. SYMINGTON] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD], and the Senator from Ohio [Mr. LAUSCHE] are necessarily absent.

On this vote, the Senator from Connecticut [Mr. DODD] is paired with the Senator from Missouri [Mr. SYMINGTON]. If present and voting, the Senator from Connecticut would vote "yea," and the Senator from Missouri would vote "nay."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL] is absent because of illness.

The result was announced—yeas 44, nays 43, as follows:

[No. 48 Leg.]

YEAS—44

Aiken	Fong	Nelson
Allott	Gruening	Pearson
Bartlett	Hartke	Prouty
Boggs	Hickenlooper	Randolph
Brewster	Hruska	Ribicoff
Burdick	Jackson	Russell, S.C.
Byrd, W. Va.	Javits	Russell, Ga.
Carlson	Jordan, Idaho	Scott
Cooper	Kennedy, N.Y.	Simpson
Cotton	McIntyre	Smith
Curtis	Mondale	Sparkman
Dirksen	Morse	Tower
Dominick	Morton	Young, N. Dak.
Eastland	Mundt	Young, Ohio
Fannin	Murphy	

NAYS—43

Anderson	Inouye	Pastore
Bayh	Jordan, N.C.	Pell
Bennett	Kennedy, Mass.	Proxmire
Bible	Long, Mo.	Robertson
Byrd, Va.	Long, La.	Saltonstall
Case	Magnuson	Smathers
Clark	Mansfield	Stennis
Douglas	McClellan	Talmadge
Ellender	McGee	Thurmond
Ervin	McNamara	Tydings
Gore	Metcalf	Williams, N.J.
Harris	Miller	Williams, Del.
Hart	Monroney	Yarborough
Hill	Montoya	
Holland	Neuberger	

NOT VOTING—13

Bass	Hayden	Moss
Cannon	Kuchel	Muskie
Church	Lausche	Symington
Dodd	McCarthy	
Fulbright	McGovern	

So Mr. PROUTY's motion to lay on the table Mr. MANSFIELD's motion to reconsider the vote by which the Prouty amendment was adopted was agreed to.

89TH CONGRESS
2D SESSION

H. R. 12752

IN THE SENATE OF THE UNITED STATES

MARCH 9, 1966

Ordered to be printed with the amendments of the Senate numbered

AN ACT

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Adjustment Act of 1966".

* * * * *

* * * * *

SEC. 102. ESTIMATED TAX IN CASE OF INDIVIDUALS.

(a) INCLUSION OF SELF-EMPLOYMENT TAX IN ESTIMATED TAX.—Section 6015(c) (relating to definition of

estimated tax in the case of an individual) is amended to read as follows:

"(c) ESTIMATED TAX.—For purposes of this title, in the case of an individual, the term 'estimated tax' means—

"(1) the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, plus

"(2) the amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

"(3) the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1."

(b) ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX.—

(1) Section 6654 (a) (relating to addition to the tax for underpayment of estimated tax by an individual) is amended by inserting after "chapter 1" the following: "and the tax under chapter 2".

(2) Section 6654 (d) is amended to read as follows:

"(d) EXCEPTION.—Notwithstanding the provisions ot

the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

"(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

"(2) An amount equal to 70 percent ($66\frac{2}{3}$ percent in the case of individuals referred to in section 6073 (b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402 (a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

"(A) The taxable income shall be placed on an annualized basis by—

"(i) multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

"(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

"(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment).

"(B) The term 'adjusted self-employment income' means—

"(i) the net earnings from self-employment (as defined in section 1402 (a)) for the months in the taxable year ending before the

month in which the installment is required to be paid, but not more than

"(ii) the excess of $6,600 over the amount determined by placing the wages (within the meaning of section 1402(b)) for the months in the taxable year ending before the month in which the installment is required to be paid on an annualized basis in a manner consistent with clauses (i) and (ii) of subparagraph (A).

"(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income and the actual self-employment income for the months in the taxable year ending before the month in which the installment is required to be paid as if such months constituted the taxable year.

"(4) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year."

(3) Section 6654(f) (relating to definition of tax

for purposes of subsections (b) and (d) of section 6654) is amended to read as follows:

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term 'tax' means—

"(1) the tax imposed by this chapter 1, plus

"(2) the tax imposed by chapter 2, minus

"(3) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)."

~~(15)~~*(4) Section 6211(b)(1) (relating to definition of a deficiency) is amended by striking out "chapter 1" and inserting in lieu thereof "subtitle A".*

~~(16)~~ ~~(4)~~*(5)* Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(34) ESTIMATED INCOME TAX.—The term 'estimated income tax' means—

"(A) in the case of an individual, the estimated tax as defined in section 6015(c), or

"(B) in the case of a corporation, the estimated tax as defined in section 6016(b)."

(17) ~~(5)~~ *(6)* Section 1403 (b) (cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to declarations of estimated tax on self-employment income, see section 6015."

(c) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Section 1402 (e) (3) (relating to effective date of waiver certificates) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of sections 6015 and 6654, a waiver certificate described in paragraph (1) shall be treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1966.

* * * * *

* * * * *

(35) *SEC. 303. (a)(1) Section 202 of the Social Security Act is amended by adding at the end thereof the following: "Benefit Payments to Persons Not Otherwise Entitled Under This Section*

"(w)(1) Every individual who—

"(A) has attained age sevcnty, and

"(B)(i) is not and would not, upon filing application therefor, be entitled to any monthly benefits under any other subsection of this section for the month in which he attains such age or, if later, the month in which he files application under this subsection, or (ii) is entitled to monthly benefits under any other subsection of this section for such month, if the amount of such benefits (after application of subsection (q)) is less than the amount of the benefits payable under this subsection to individuals entitled to such benefits, and

"(C) is a resident of the United States (as defined in section 210(i) of the Social Security Act), and is (i) a citizen of the United States or (ii) an alien lawfully admitted for permanent residence who has resided

in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application under this section, and

"(D) has filed application for benefits under this subsection, shall be entitled to a benefit under this subsection for each month, beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. Subject to paragraph (2), such individual's benefit for each month shall be equal to the first figure in column IV of the table in section 215(a).

"(2) The amount of the benefit to which an individual is entitled under this subsection for any month shall be equal to one-half of the amount provided under paragraph (1) if—

"(A) such individual is a married woman, and

"(B) if the husband of such individual is entitled, for such month, to benefits under this subsection."

(2) The following provisions of section 202 of such Act are each amended by striking out "or (h)" and inserting in lieu thereof "(h), or (w)":

(A) subsection (d)(6)(A),

(B) subsection (e)(3)(A),

(C) subsection (f)(4)(A),

(D) subsection (g)(3)(A), and

(E) the first section of subsection (j)(1).

(3) Section 202(h)(4)(A) of such Act is amended by striking out "or (g)" and inserting in lieu thereof "(g), or (w)".

(4) Section 202(k)(2)(B) of such Act is amended by striking out "preceding".

EFFECTIVE DATE

(b) The amendments made by subsection (a) shall apply only in the case of monthly benefits under title II of the Social Security Act for months beginning after September 1966 based on applications filed on or after July 1, 1966, or the date of enactment of this Act, whichever is the earlier.

(c)(1) Section 227 of the Social Security Act is repealed as of the close of September 1966.

(2) Any individual, who (for the month of September 1966) is entitled to a monthly insurance benefit under section 202 of the Social Security Act by reason of the provisions of section 227 thereof, shall be deemed to have applied for benefits under section 202(w) of such Act, and all applications which are filed for monthly benefits under section 202 of such Act by reason of the provisions of section 227 and which are pending on the date of enactment of this

Act shall be deemed to be applications for benefits under such section 202(w).

REIMBURSEMENT OF TRUST FUNDS

(d) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, and to the Federal Hospital Insurance Trust Fund, respectively, from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) so much of any payments made or to be made during such fiscal year from such Fund with respect to individuals whose entitlement thereto is attributable to the provisions contained in section 202(w) of the Social Security Act,

(2) the additional administrative expenses resulting, or expected to result, to such Fund on account of such payments, and

(3) any loss in interest to such Fund resulting from the making of any such payments,

in order to place such Fund in the same position at the end of such fiscal year as that in which it would have been if the preceding subsections of this section had not been enacted.

* * * * *

89TH CONGRESS
2D SESSION

H. R. 12752

AN ACT

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 1966

Ordered to be printed with the amendments of the Senate numbered

TAX ADJUSTMENT ACT OF 1966

The Senate resumed the consideration of the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

* * * *

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 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.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. GORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on passage. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Idaho [Mr. CHURCH], the Senator from Arizona [Mr. HAYDEN], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Utah [Mr. Moss], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also announce that the Senator from New Hampshire [Mr. MCINTYRE] is absent because of illness.

I further announce that the Senator from Connecticut [Mr. DODD] and the Senator from Ohio [Mr. LAUSCHE] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. CHURCH], the Senator from Connecticut [Mr. DODD], the Senator from Arizona [Mr. HAYDEN], the Senator from Ohio [Mr. LAUSCHE], the Senator from South Dakota [Mr. MCGOVERN], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Utah [Mr. Moss], and the Senator from Maine [Mr. MUSKIE] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL] is absent because of illness.

The Senator from Arizona [Mr. FANNIN], the Senator from South Carolina [Mr. THURMOND], and the Senator from

Pennsylvania [Mr. SCOTT] are necessarily absent.

If present and voting, the Senator from California [Mr. KUCHEL], the Senator from Arizona [Mr. FANNIN], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from South Carolina [Mr. THURMOND] would each vote "yea."

The result was announced—yeas 79, nays 9, as follows:

[No. 52 Leg.]

YEAS—79

Aiken	Harris	Murphy
Allott	Hart	Neuberger
Anderson	Hartke	Pastore
Bartlett	Hill	Pell
Bayh	Holland	Prouty
Bennett	Hruska	Proxmire
Bible	Inouye	Randolph
Boggs	Jackson	Ribicoff
Brewster	Javits	Robertson
Burdick	Jordan, N.C.	Russell, S.C.
Byrd, Va.	Jordan, Idaho	Russell, Ga.
Byrd, W. Va.	Kennedy, Mass.	Saltonstall
Cannon	Kennedy, N.Y.	Simpson
Carlson	Long, Mo.	Smathers
Case	Long, La.	Smith
Clark	Magnuson	Sparkman
Cooper	Mansfield	Stennis
Cotton	McCarthy	Symington
Curtis	McClellan	Tower
Dirksen	McGee	Tydings
Douglas	McNamara	Williams, N.J.
Eastland	Metcalf	Williams, Del.
Ellender	Mondale	Yarborough
Ervin	Monroney	Young, N. Dak.
Fong	Montoya	Young, Ohio
Fulbright	Morton	
Gruening	Mundt	

NAYS—9

Bass	Hickenlooper	Nelson
Dominick	Miller	Pearson
Gore	Morse	Talmadge

NOT VOTING—12

Church	Kuchel	Moss
Dodd	Lausche	Muskie
Fannin	McGovern	Scott
Hayden	McIntyre	Thurmond

So the bill (H.R. 12752) was passed.

Mr. LONG of Louisiana. Mr. President, I find that the amendment offered by the Senator from Indiana [Mr. HARTKE] failed to read as the Senator explained.

Mr. HARTKE. In the technical drafting of the amendments, the amount of the tax eliminated was to revert to what it was at the first of the year—3 percent. As the drafting service prepared the bill, that provision was eliminated entirely. That was not the intention. I have explained this to the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, that is what the Senate thought it was voting for. So I ask unanimous consent that the Senator from Indiana be permitted to modify his amendment in accordance with the explanation he has given to the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Hartke amendments (No. 504) as modified and agreed to, are as follows:

On page 51, beginning with line 18, strike out all through line 12 on page 52 and in lieu thereof insert:

"(a) POSTPONEMENT OF CERTAIN RATE REDUCTIONS.—Section 4251 (relating to tax on communications) is amended—

"(1) By striking out subsection (a) and inserting in lieu thereof the following:

"'(a) IN GENERAL.—

"'(1) Except as provided in subsection (b), there is hereby imposed on amounts paid for—

"'(A) local residential telephone service, a tax equal to the percent of the amount so paid specified in paragraph (2)(A), and

"'(B) local telephone service, toll telephone service, and teletypewriter exchange service, a tax equal to the percent of the amount so paid specified in paragraph (2)(B).

The taxes imposed by this section shall be paid by the person paying for the services.

"'(2)(A) The rate of tax referred to in paragraph (1)(A) is as follows:

"'Amounts paid pursuant to bills first rendered—

	"'Percent
During 1966	3
During 1967	2
During 1968	1

"'(B) The rate of tax referred to in paragraph (1)(B) is as follows:

"'Amounts paid pursuant to bills first rendered—

	"'Percent
Before April 1, 1968	10
After March 31, 1968, and before January 1, 1969	1'

"(2) By inserting at the end of subsection (c) the following new sentence: 'For purposes of paragraphs (1)(B) and (2)(B) of subsection (a), in the case of communication services rendered before February 1, 1968, for which a bill has not been rendered before April 1, 1968, a bill shall be treated as having been first rendered on March 31, 1968.'

"(b) LOCAL RESIDENTIAL TELEPHONE SERVICE.—Section 4252 (relating to definitions for purposes of the tax on communication services) is amended—

"(1) by striking out the last sentence of subsection (a) and inserting in lieu thereof the following:

"'The term "local telephone service" does not include any service which is toll telephone service (as defined in subsection (b)), private communication service (as defined in subsection (d)), or local residential telephone service (as defined in subsection (e)).'; and

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

"'(e) LOCAL RESIDENTIAL TELEPHONE SERVICE.—For purposes of this subchapter, the term "local residential telephone service" means (1) the communication service furnished to a subscriber which provides access to a local telephone system, and the privilege of telephonic quality communication with persons having telephone or radio telephone stations constituting a part of such local telephone system, if the telephone station which is furnished to the subscriber is located in a personal residence of the subscriber and is not used principally in the conduct of any trade or business, and (2) any facility or service provided in connection with such communication service.'"

On page 52, line 13, strike out "(b)" and insert "(c)".

On page 52, line 22, strike out "(c)" and insert "(d)".

On page 52, lines 22 and 23, strike out "subsections (a) and (b)" and insert "this section".

Mr. LONG of Louisiana. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the bill be printed with the amendments numbered; and that in the engrossment of the amendments of the Senate to the bill H.R. 12752, the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section and subsection numbers, designations, and cross references thereto.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG of Louisiana. Mr. President, I move that the Senate insist on its amendments to the bill H.R. 12752 and ask for a conference with the House thereon; and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG of Louisiana, Mr. SMATHERS, Mr. ANDERSON, Mr. WILLIAMS of Delaware, and Mr. CARLSON conferees on the part of the Senate.

TAX ADJUSTMENT ACT OF 1966

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. KING of California, BOGGS, KEOGH, BYRNES of Wisconsin, CURTIS, and UTT.

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1323

TAX ADJUSTMENT ACT OF 1966

MARCH 14, 1966.—Ordered to be printed

Mr. MILLS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 12752]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 18, 22, 23, 24, 25, and 34.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 26, 27, 28, 29, 30, 31, 32, and 33, and agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Sec. 302. Benefits at age 72 for certain uninsured individuals.

(a) MONTHLY BENEFITS.—Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"*BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS*

"*ELIGIBILITY*

"*SEC. 228. (a) Every individual who—*

"*(1) has attained the age of 72,*

"*(2)(A) attained such age before 1968, or (B) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,*

"*(3) is a resident of the United States (as defined in subsection (e)), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 210(i)) continuously during the 5 years immediately preceding the month in which he files application under this section, and*

"*(4) has filed application for benefits under this section,*

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

"*BENEFIT AMOUNT*

"*(b)(1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be $35.*

"*(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be $35 and the amount of the wife's benefit for such month shall be $17.50.*

"*REDUCTION FOR GOVERNMENTAL PENSION SYSTEM BENEFITS*

"*(c)(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he is eligible for such month.*

"*(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) $17.50.*

"*(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—*

"*(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) $35, and*

"(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) $17.50.

"(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

"(A) such individual shall be deemed to have filed application for such benefits,

"(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

"(C) to the extent that entitlement depends on such individual or his spouse having retired, such individual and his spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

"(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Secretary shall allocate the amount of such benefit to the appropriate calendar months.

"(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than $1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for the month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

"(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

"(8) Under regulations prescribed by the Secretary, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than $5 may be accumulated until they equal or exceed $5.

"SUSPENSION FOR MONTHS IN WHICH CASH PAYMENTS ARE MADE UNDER PUBLIC ASSISTANCE

"(d) The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

"(1) such individual receives aid or assistance in the form of money payments in such month under a State plan approved under title I, IV, X, XIV, or XVI, or

"(2) such individual's husband or wife receives such aid or assistance in such month, and under the State plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance,

unless the State agency administering or supervising the administration of such plan notifies the Secretary, at such time and in such manner as may be prescribed in accordance with regulations of the Secretary, that such payments to such individual (or such individual's husband or wife) under such plan are being terminated with the payment or payments made in such month.

"SUSPENSION WHERE INDIVIDUAL IS RESIDING OUTSIDE THE UNITED STATES

"(e) The benefit to which any individual is entitled under this section for any month shall not be paid if, during such month, such individual is not a resident of the United States. For purposes of this subsection, the term 'United States' means the 50 States and the District of Columbia.

"TREATMENT AS MONTHLY INSURANCE BENEFITS

"(f) For purposes of subsections (t) and (u) of section 202, and of section 1840 a monthly benefit under this section shall be treated as a monthly insurance benefit payable under section 202.

"ANNUAL REIMBURSEMENT OF FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND

"(g) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the Secretary of Health, Education, and Welfare deems necessary on account of—

"(1) payments made under this section during the second preceding fiscal year and all fiscal years prior thereto to individuals who, as of the beginning of the calendar year in which falls the month for which payment was made, had less than 3 quarters of coverage,

"(2) the additional administrative expenses resulting from the payments described in paragraph (1), and

"(3) any loss in interest to such Trust Fund resulting from such payments and expenses,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if such payments had not been made.

"DEFINITIONS

"(h) For purposes of this section—

"(1) The term 'quarter of coverage' includes a quarter of coverage as defined in section 5(l) of the Railroad Retirment Act of 1937.

"(2) The term 'governmental pension system' means the insurance system established by this title or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (A) pensions, (B) retirement or retired pay, or (C) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death).

"(3) The term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

"(4) The determination of whether an individual is a husband or wife for any month shall be made under subsection (h) of section 216 without regard to subsections (b) and (f) of section 216."

(b) CERTAIN APPLICATIONS UNDER 1965 AMENDMENTS.—For purposes of paragraph (4) of section 228(a) of the Social Security Act

(added by subsection (a) of this section), an application filed under section 103 of the Social Security Amendments of 1965 before July 1966 shall be regarded as an application under such section 228 and shall, for purposes of such paragraph and of the last sentence of such section 228(a), be deemed to have been filed in July 1966, unless the person by whom or on whose behalf such application was filed notifies the Secretary that he does not want such application so regarded.

And the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with the following amendments:

On page 19 of the Senate engrossed amendments, strike out line 4 and insert:

Sec. 303. Temporary duty-free entry for gifts from members of Armed Forces in combat zones.

(a) *GIFTS COSTING $50 OR LESS.—Subpart B of part 1 of the appendix to*

On page 19 of the Senate engrossed amendments, in the matter following line 7, after "may prescribe" insert a comma.

On page 19 of the Senate engrossed amendments, in the fourth line from the bottom of the page, strike out "(b)" and insert: (*b*) *CLERICAL AMENDMENT.—*

On page 19 of the Senate engrossed amendments, in the last line, strike out "(c)" and insert: (*c*) *EFFECTIVE DATE.—*

And the Senate agree to the same.

W. D. MILLS,
CECIL R. KING,
HALE BOGGS,
EUGENE J. KEOGH,
JOHN W. BYRNES,
JAMES B. UTT,
Managers on the Part of the House.

RUSSELL B. LONG,
GEORGE A. SMATHERS,
CLINTON P. ANDERSON,
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. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, 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 following Senate amendments made technical, clerical, clarifying or conforming changes: 1, 2, 3, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 23, 24, 25, 27, 28, 29, 30, 31, and 32. With respect to these amendments (1) the House recedes, or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS

Amendments Nos. 4 and 5: The bill as passed by the House and the Senate permits employees to claim withholding allowances (which are to have the same effect as withholding exemptions for purposes of income tax withholding) equal to the number determined by dividing by $700 the excess of (1) estimated itemized deductions, over (2) an amount equal to the sum of a specified percentage of the first $7,500 of estimated wages and 17 percent of the remainder of the estimated wages. Under the bill as passed by the House, the percentage of the first $7,500 of estimated wages was 12 percent. Under Senate amendment No. 4, this percentage is reduced to 10 percent. The House recedes.

Under the bill as passed by the House, any fraction resulting from the computation was to be disregarded except that, if the number determined was one-half or more but less than 1, it was to be increased to 1. Under Senate amendment No. 5, fractional numbers are not to be taken into account. The House recedes.

The conferees on the part of the House and on the part of the Senate are concerned about the extent of overwithholding which prevails under existing law and which it appears will continue at a reduced level under the graduated withholding system provided by this bill, even with the withholding allowances as provided in the agreement reached by your conferees. For that reason, it has requested the Treasury Department to continue to survey and study ways and means of reducing overwithholding, particularly in the case of seasonal and intermittent employment, and has asked the Treasury Department, as it gains some experience under the system provided by the bill, to report back from time to time to the House Committee on Ways and Means and the Senate Committee on Finance as to any practicable means of reducing the remaining overwithholding.

Amendment No. 7: Under the bill as passed by the House, an employee's estimated itemized deductions for any estimation year could not be greater than the amount of the deductions (other than the deductions referred to in secs. 141 and 151 of the code and other than the deductions required to be taken into account in determining adjusted gross income under sec. 62 of the code) shown on his Federal income tax return for the taxable year preceding his estimation year. Under Senate amendment No. 7, if the employee did not show such deductions on his return for such preceding taxable year, the amount of his estimated itemized deductions is not to exceed the lesser of $1,000 or 10 percent of the wages shown on such return. The House recedes.

OPTION OF INDIVIDUALS TO DISREGARD BALANCES DUE AND OVERPAYMENTS OF $5 OR LESS

Amendment No. 18: This amendment added a new section 5 to the code under which individuals were given an election to disregard balances due and overpayments of $5 or less where their withholding and other tax credits and payments of estimated tax for a year were within $5 of their tax liability for the year as shown on their returns. This election would have been effective for taxable years after 1966.

The Senate recedes.

Although the House conferees did not agree to Senate amendment No. 18, they recognize the desirability of simplifying tax collection and refund procedures, an objective toward which this amendment was directed. For this reason, the conferees, both on the part of the House and on the part of the Senate, are requesting the Treasury Department to study and report back to the House Committee on Ways and Means and the Senate Committee on Finance as to the practicability and desirability of forgoing taxpayments and refunds in cases where the amount due at the time the final return is filed is small because of substantial payments through withholding or payments of estimated tax, or both. This study and report to the committees is to be made in conjunction with the study on ways of relieving overwithholding referred to earlier in this statement.

FLOOR STOCKS TAX ON PASSENGER AUTOMOBILES, ETC.

Amendment No. 19: The bill as passed by the House provided for a floor stocks tax on passenger automobiles and trailers (other than house trailers) suitable for use in connection with passenger automobiles which on the day after the enactment of the bill are held by dealers and have not been used and are intended for sale. Under this provision the tax was 1 percent of the price for which the article was sold by the manufacturer, producer, or importer. The tax was to be paid by the dealer and be collected from him by the manufacturer, producer, or importer. The tax was to be paid at such time after 60 days after the date of enactment of the bill as may be prescribed by the Secretary of the Treasury or his delegate.

Senate amendment No. 19 strikes out this provision of the bill.

The House recedes.

LOCAL RESIDENTIAL TELEPHONE SERVICE

Amendment No. 22: The bill, as passed by the House, increased the tax on communication services to 10 percent (the rate in effect on December 31, 1965) for the period from the effective date of this provision through March 31, 1968. Senate amendment No. 22 provided that this temporary increase was not to apply to local residential telephone service, as defined in the amendment, and that the tax rates provided by existing law (3 percent for calendar year 1966, 2 percent for calendar year 1967, and 1 percent for calendar year 1968) were to continue to apply to this service.

The Senate recedes.

EFFECTIVE DATE OF INCREASE IN COMMUNICATIONS TAX

Amendment No. 26: Under the bill as passed by the House, the amendments made by section 202 of the bill (relating to communication services) were to take effect, under the rules prescribed by the bill, on the first day of the first month which begins more than 15 days after the date on which the bill is enacted. Under Senate amendment No. 26 the effective date is April 1, 1966.

The House recedes.

DISALLOWANCE OF DEDUCTION FOR CERTAIN INDIRECT CONTRIBUTIONS TO POLITICAL PARTIES

Amendment No. 33: This amendment adds a new section 276 to the code providing that no deduction otherwise allowable under chapter 1 of the code shall be allowed for any amount paid or incurred for—

(1) advertising in a convention program of a political party, or in any other publication if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate,

(2) admission to any dinner or program, if any part of the proceeds of such dinner or program directly or indirectly inures (or is intended to insure) to or for the use of a political party or a political candidate, or

(3) admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified with a political party or a political candidate.

The new section also defines the term "political party" and provides that proceeds are to be treated as inuring to or for the use of a political candidate only if (*a*) such proceeds may be used directly or indirectly for the purpose of furthering his candidacy for selection, nomination, or election to any elective public office, and (*b*) such proceeds are not received by such candidate in the ordinary course of a trade or business (other than the trade or business of holding elective public office). The new section applies to taxable years beginning after December 31, 1965, but only with respect to amounts paid or incurred after the date of the enactment of the bill.

The House recedes.

INFORMATION RETURNS MADE BY THE DEPARTMENT OF AGRICULTURE

Amendment No. 34: Section 6041(a) of the code now requires information returns to be made by persons engaged in trade or business and by officers and employees of the United States with respect to certain payments of $600 or more in a taxable year. The return sets forth the amount of the payments and the name and address of the recipient. Senate amendment No. 34 added a new subsection (e) to section 6041 providing (1) that information returns which are required under section 6041(a) with respect to payments under programs administered by the Department of Agriculture are to be rendered by the Secretary of Agriculture or by one or more officers or employees of the Department of Agriculture designated by the Secretary of Agriculture to make such returns on his behalf, and (2) that the Secretary of Agriculture (or the officer or employee rendering the return) is to furnish to each person whose name is set forth in the return a written statement showing the aggregate amount of payments to the person as shown on the return.

The Senate recedes.

Although the conferees on the part of the House, because of problems of administering the amendment, did not agree to Senate amendment No. 34, it was recognized that there is a problem in correlating the different payments which may be made to a farmer during a year at different times or by different offices or agencies of the Department of Agriculture. It was thought that a means should be developed administratively to report with respect to any farmer a total of the payments made to him which should be reported for tax purposes. Also, a study should be made of the feasibility of reporting to the farmer amounts paid to him which are reported to the Internal Revenue Service. These studies should be made by the Department of Agriculture in cooperation with the Department of the Treasury and a report made to the House Committee on Ways and Means and the Senate Committee on Finance early in the next Congress.

SOCIAL SECURITY BENEFITS FOR CERTAIN AGED UNINSURED INDIVIDUALS

Amendment No. 35: This amendment adds a new section to the bill to provide monthly benefit payments under section 202 of the Social Security Act to individuals who meet the requirements of the new provisions. Under the Senate amendment, an individual would be entitled to the new benefits if he has filed application for the benefits and (*a*) has attained age 70, (*b*) either (i) is not and would not (upon filing application) be entitled to monthly benefits under existing section 202 for the month in which he attains age 70 or (if later) the month in which he files application for the new benefits, or (ii) is entitled to such benefits but the amount is less than the amount of the new benefits, and (*c*) is a resident of the United States (as defined in sec. 210(i) of the Social Security Act) and is a citizen of the United States or an alien lawfully admitted for permanent residence who has resided in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application for the new benefits.

Under the Senate amendment, the amount of the new monthly benefit would (in effect) be $44, except that the amount would be $22 in the case of a married woman whose husband is entitled to the

new benefits. Under the Senate amendment the new provisions would apply for months after September 1966, and section 227 of the Social Security Act (relating to transitional insured status) would be repealed as of the close of September 1966.

The Senate amendment authorized appropriations to be made from time to time to the Federal old-age and survivors insurance trust fund and to the Federal hospital insurance trust fund to place each trust fund in the same position in which it would have been but for the Senate amendment.

Under the conference agreement, the House recedes with an amendment in the nature of a substitute for the Senate amendment. Subsection (a) of section 302 of the bill as agreed to in conference adds a new section 228 to the Social Security Act providing for benefits at age 72 for certain uninsured individuals.

Under subsection (a) of the new section 228 an individual is (subject to the limitations provided by sec. 228) to be entitled to benefits if he—

(1) has attained age 72;

(2) attained such age before 1968 or has not less than three quarters of coverage (whenever acquired) for each calendar year elapsing after 1966 and before the year in which he attained such age;

(3) is a resident of the United States (as defined in the second sentence of subsec. (e) of the new sec. 228), and is a citizen of the United States or an alien lawfully admitted for permanent residence who has resided in the United States (as defined in sec. 210(i) of the Social Security Act) continuously during the 5 years immediately preceding the month in which he files application under new section 228; and

(4) has filed application for benefits under new section 228.

Entitlement is to begin with the first month after September 1966 in which the individual becomes entitled to such benefits and is to end with the month preceding the month in which he dies.

Subsection (b) of the new section 228 provides that the benefit amount for any month is to be $35, except that if both husband and wife are entitled (or upon application would be entitled) to benefits under new section 228 for any month, the husband's benefit for such month is to be $35 and the wife's benefit is to be $17.50.

Subsection (c) of the new section 228 provides for the reduction of the benefits under this new provision on account of periodic benefits for which the individuals concerned are eligible under governmental pension systems (as defined in new subsec. (h)(2)).

Under paragraph (1) of the new subsection (c) the amount of the new benefit for any individual is first reduced by the periodic benefits under governmental pension systems for which such individual is eligible.

Paragraphs (2) and (3) relate to husbands and wives and in effect provide that the new benefit amount to which one spouse is entitled will be further reduced, in the manner specified, by a portion of the periodic benefits for which the other spouse is eligible under governmental pension systems.

Paragraph (4) of the new subsection (c) provides in effect that, in determining the eligibility of individuals for periodic benefits under governmental pension systems, applications for such benefits shall be

deemed to have been filed and the individuals concerned shall be deemed to have retired.

Paragraph (5) of the new subsection (c) provides that where a periodic benefit is payable on a basis other than a calendar month, the Secretary of Health, Education, and Welfare is to allocate the amount of such benefit to the appropriate calendar months.

Paragraph (6) of the new subsection (c) provides that a monthly benefit amount under the new provision (determined before rounding under new subsec. (c)(7)) of less than $1 is to be reduced to zero. Where both husband and wife are entitled to benefits under the new provision for the month, their benefit amounts are to be reduced to zero only if, after such amounts are combined (but before rounding under new subsec. (c)(7)), they aggregate less than $1.

Paragraph (7) of the new subsection (c) provides that any benefit amount which is not a multiple of 10 cents is to be raised to the next higher multiple of 10 cents. In the case of a husband and wife, this rounding provision is to be applied separately to the benefit of each spouse.

Paragraph (8) of the new subsection (c) provides that, under regulations prescribed by the Secretary of Health, Education, and Welfare, where the amount otherwise payable under the new provision to an individual (or to a husband and wife) is less than $5, that amount may be accumulated. Where the amounts so accumulated equal or exceed $5, they will become immediately payable.

Subsection (d) of the new section 228 provides, in general, that the benefit to which any individual is entitled under section 228 for any month is not to be paid if he receives aid or assistance in the form of money payments in such month under a State plan approved under title I, IV, X, XIV, or XVI of the Social Security Act. Such benefit for any month is also not to be paid if such individual's spouse receives such aid or assistance in such month and the needs of such individual were taken into account in determining eligibility for (or the amount of) such aid or assistance.

Subsection (e) of the new section 228 provides that the benefit to which any individual is otherwise entitled under the new section 228 is not to be paid for any month during which the individual is not a resident of the United States. For this purpose, the term "United States" means the 50 States and the District of Columbia.

Subsection (f) of the new section 228 provides that monthly benefits under the new section are to be treated as monthly insurance benefits under section 202 of the Social Security Act for purposes of sections 202(t) (relating to suspension of benefits of aliens who are outside United States), 202(u) (relating to conviction for certain offenses), and 1840 (relating to payment of premiums for supplementary medical insurance benefits). It is to be noted that this treatment (as monthly benefits under sec. 202) does not apply, for example, with respect to section 226 of the Social Security Act (relating to entitlement to hospital insurance benefits) or to section 202(m) of such act (relating to minimum benefits).

Subsection (g) authorizes to be appropriated to the Federal old-age and survivors insurance trust fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the Secretary of Health, Education, and Welfare deems necessary on account of—

(1) benefit payments made under the new section 228 during the second preceding fiscal year (and all fiscal years prior thereto

which begin after June 30, 1966) to individuals who had less than three quarters of coverage as of the beginning of the calendar year in which falls the month for which such benefit payments were made;

(2) the additional administrative expenses resulting from such benefit payments; and

(3) any loss in interest to such trust fund resulting from such benefit payments and administrative expenses;

in order to place such trust fund in the same position at the end of such fiscal year as it would have been in if such benefit payments had not been made.

Subsection (h) provides definitions for the new section 228.

Paragraph (1) provides that the term "quarter of coverage" includes a quarter of coverage as defined in section 5(l) of the Railroad Retirement Act of 1937.

Paragraph (2) defines the term "governmental pension system" to mean the insurance system established by title II of the Social Security Act or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (*a*) pensions, (*b*) retirement or retired pay, or (*c*) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death).

Paragraph (3) provides that the term "periodic benefit" includes a benefit payable in a lump sum if it is in commutation of or a substitute for, periodic payments.

Paragraph (4) provides that the determination of whether an individual is a husband or wife for any month is to be made under the general rules of subsection (h) of section 216 without regard to the special rules in subsections (b) and (f) of such section.

The new subsection (b) of section 302 of the bill, as agreed to in conference, provides that, for purposes of paragraph (4) of the new section 228(a) of the Social Security Act (which requires the filing of an application as a condition of entitlement to the new benefits), applications filed before July of 1966 under section 103 of the Social Security Amendments of 1965 (which provides eligibility for hospital insurance benefits for certain uninsured individuals) shall be treated also as an application for benefits under the new section 228.

DUTY FREE TREATMENT OF GIFTS FROM SERVICEMEN IN COMBAT AREAS

Amendment No. 36: Under existing law (sec. 321(a) of the Tariff Act of 1930) bona fide gifts from abroad may be imported free of duty if the retail value in the country of shipment does not exceed $10. Senate amendment No. 36 adds a new item to the tariff schedules providing for the temporary duty free entry of articles constituting a bona fide gift from a member of the Armed Forces of the United States serving in a combat zone to the extent such articles in any shipment do not exceed $50 in aggregate retail value in the country of shipment and with such limitations on the importation of alcoholic beverages and tobacco products as the Secretary of the Treasury may prescribe. The provision would apply only if the articles are purchased in or through authorized agencies of the Armed Forces of the

United States or in accordance with regulations prescribed by the Secretary of Defense. For purposes of this provision the term "combat zone" is any area designated by the President by an Executive order under section 112(c) of the Internal Revenue Code of 1954 (relating to exclusion from gross income for certain combat pay of members of the Armed Forces). On April 24, 1965, the President designated Vietnam and adjacent waters as a combat zone.

The Senate amendment applies to articles entered after the date of the enactment of the bill and on or before December 31, 1967.

The House recedes with clerical amendments.

W. D. MILLS,
CECIL R. KING,
HALE BOGGS,
EUGENE J. KEOGH,
JOHN W. BYRNES,
JAMES B. UTT,
Managers on the Part of the House.

O

TAX ADJUSTMENT ACT OF 1966

Mr. MILLS. Mr. Speaker, I call up the conference report on the bill (H.R. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax reductions, and for other purposes, 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.

Mr. MILLS (interrupting the reading of the statement). Mr. Speaker, in view of the fact that it is our intention fully to discuss and explain the conference report, I would ask unanimous consent to dispense with further reading of the

statement and ask that the statement be printed in the RECORD at this point.

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

There was no objection.

(For conference report and statement, see proceedings of the House of Mar. 14, 1966, pp. 5527–5530.)

The SPEAKER. The gentleman from Arkansas is recognized for 1 hour.

Mr. MILLS. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, the conference report which we bring to the House pertains to the bill H.R. 12752, the Tax Adjustment Act of 1966.

GENERAL

Before discussing the conference report in detail, I should like to point out that it has been barely 2 months since the President sent his tax proposals to the Congress. For the second time in 2 years, the Congress has acted with dispatch on a major tax bill. Our target was March 15. If this conference report is agreed to, we will hit that target. What is more, the action this time was on a bill to raise revenue and not on a bill to reduce taxes. Congress has demonstrated, in other words, that it can and will take action quickly, both to lower revenues and to raise them, whenever there is clear evidence of the need for quick action.

Let me turn now to the language as agreed to by the conferees. The conference agreement does not depart to any significant extent from the bill passed by the House on February 23. This is indicated by the fact that the bill as passed by the House provided for an increase in administrative-budget revenues of $1.2 billion in the fiscal year 1966 and an increase of $4.8 billion in the fiscal year 1967. The bill as agreed to by the conferees provides for an increase in administrative-budget revenues of $1.1 billion in the fiscal year 1966 and $4.8 billion in the fiscal year 1967. There is virtually no difference, then, in terms of revenue between the bill that was passed by the House and the bill agreed to by the conferees. This result is significant, for the bill passed by the Senate provided for substantially less revenue than the bill passed by the House. The Senate-approved bill would have provided $1.1 billion in administrative-budget revenues in the fiscal year 1966 and only $3.9 billion in the fiscal year 1967.

The language agreed to by the conferees represents a responsible approach in helping to meet the financial demands of the Vietnam conflict. These demands—which are the sole reason for this bill—cannot be met out of the revenues generated under existing tax rates. Significant additional revenues must be provided. Without these additional revenues, there would be too large a deficit in the budget. Such a deficit, occurring at a time when our economy is once again operating at close to full employment levels and capacity, might generate serious inflationary pressures.

All told, there were 36 numbered Senate amendments to the bill as passed by the House. Sixteen of these amendments, however, were technical, clerical, or conforming in nature. Of the remaining 20 amendments, 8 were connected with 2 relatively minor revisions in the provisions of the House-passed bill.

Of the 12 amendments that I would classify as substantive, the conferees on the part of the Senate agreed to recede on 6. The conferees on the part of the House receded on six of these amendments, three of which concern matters not directly related to the provisions of the bill passed by the House.

SOCIAL SECURITY BENEFITS FOR CERTAIN PERSONS AGED 72 AND OVER

Perhaps the most important Senate amendment to the bill, which in a greatly modified form was agreed to by the conferees, involves a social security amendment and not an income or excise tax matter. That amendment was sponsored by Senator PROUTY. It would have authorized a minimum social security benefit of $44 a month—$22 for a wife—to all persons not eligible for social security benefits who have attained age 70 now and in the future. People who qualified for monthly social security benefits of $35 or $17.50 under the special transitional insured status provision enacted last year for people already in their seventies would have had their benefits raised to $44 and $22. The benefits would have been paid regardless of the entitlement under other Government retirement systems—in other words, on top of any Federal, State, or local pension. It would have called for a first-year expenditure of $790 million from the general fund in fiscal 1967, $735 million in fiscal 1968 and so forth for a considerable number of years. The amendment would have resulted in a substantial drain on the railroad retirement account and would have left that system with a very large actuarial deficiency. In addition, it would have made these new benefits available to persons receiving old-age assistance, and, in most cases, their assistance payments would have been reduced by the amount of these benefits with the result that such individuals would not be better off than they now are. The effect of the amendment would have been to shift an additional part of the burden of support of the needy aged from State funds to Federal funds. It would have covered persons aged 70 or over for all future years instead of merely on a transitional basis. It would have repealed the transitional insured status provision which we enacted just last year.

Clearly, this amendment in the form in which it came to us from the other body would have accomplished its basic purpose in a very costly and inefficient manner.

The Senate conferees agreed to extensive modifications to bring it more in line with the legislation which the Congress enacted last year authorizing benefits for certain aged people at age 72 who have as little as three quarters of coverage.

Benefit amount: Under the conference agreement, the benefit amount, as in last year's law, would be $35 for the husband and $17.50 for the wife, instead of $44 and $22.

Transitional provision: A transitional provision has been included, similar to the one we provided last year for the uninsured aged under hospital insurance, so that persons who attain age 72 in 1968, or later, will be required to have at least three quarters of coverage. Eventually, the number of quarters required will merge with the regular insured status requirements of the law.

Number of persons covered: The provision agreed to by the conferees makes an estimated 370,000 persons who are now 72 or over, or who will reach the age of 72 in either 1966 or 1967, eligible to receive social security benefits who do not now receive such benefits. About two-thirds of these beneficiaries will be women and 80 percent of the women will be widows. Thus, the typical beneficiary might be said to be a widow aged 85, whose husband had been a farmer who died in the early 1950's.

Offset provision: Another modification made by the conference committee would be the imposition of an offset for amounts received under other governmental retirement systems against the entitlement under the new program. The objective is to guarantee to these aged individuals retirement payments of $35 a month for the husband, $17.50 for the wife, or a family total of $52.50. The offset would apply to payments made under Federal, State, or local governmental pension systems, and would include payments of first, pensions; second, retirement or retired pay; or third, annuities or similar amounts payable on account of personal services performed, but would not include any payment under any workers' compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death.

Of course, Mr. Speaker, I should mention that this offset provision will not apply to amounts payable under national service life insurance, or U.S. Government life insurance policies.

Examples of offset: Mr. Speaker, let me illustrate the manner in which this offset would work. First, take the case of a retired State employee, age 72, who is receiving a State pension of $25 and who has a wife age 72. Under this provision, he would receive an additional $10, bringing his pension and benefit receipts up to $35, and his wife would receive a benefit of $17.50, making a total family income from these sources of $52.50.

Take another example, an aged retired governmental employee who receives $10 a month from a local pension and whose wife receives $30 per month as a retired schoolteacher. Their total income from these other governmental sources is $40 per month. Under this language, an additional $12.50 would be payable to the husband, bringing their total up to $52.50.

A third case shows how this language excludes from the provision retired employees who are receiving substantial amounts from other governmental sources. Take the case of a retired Government employee who is receiving $300 a month. Under this language, he would not receive additional amounts, nor would

his wife. Or, take the case of a Government employee, age 69, who is still working but who—if he retired—could receive a pension of $200 per month, and who has a wife age 72. Neither would receive anything under this amendment. Mr. Speaker, I will insert at this point a table showing further illustrations:

ILLUSTRATIONS OF SOCIAL SECURITY BENEFITS PAYABLE UNDER AMENDMENT FOR CASES OF PERSONS RECEIVING GOVERNMENTAL PENSION SYSTEM BENEFITS

Case A–1: Government employee aged 69 working, but eligible for pension of $100; his wife is aged 72. Neither receive anything under this amendment.

Case A–2: Same as case A–1 except his potential pension is $40; his wife receives $12.50 under this amendment.

Case A–3: Same as case A–1, except his potential pension is $15; his wife receives $35 under this amendment.

Case B–1: Retired Government employee aged 72, with wife same age, receiving pension of $80 per month; neither receive anything under this amendment.

Case B–2: Same as case B–1, except husband's pension is $40; he receives nothing, and his wife receives $12.50 under this amendment.

Case B–3: Same as Case B–1, except husband's pension is $20; he receives $15, and his wife receives $17.50 under this amendment.

Case C: Husband and wife both aged 72 or over and both receiving Government pensions, as follows:

Government pension		Social security benefit under this bill	
Husband	Wife	Husband	Wife
$50	$20	----------	----------
20	50	----------	----------
40	10	----------	$2.50
10	40	$2.50	----------
30	10	5.00	7.50
10	30	12.50	----------

FINANCING

Mr. Speaker, let me explain the financing of the conference language. Under this substitute, the financing initially will come from the social security old-age and survivors insurance trust fund, which in turn will be reimbursed from the general fund of the Treasury beginning with the fiscal year ending June 30, 1969, and continuing in this manner for each year. The reimbursements will be for benefit payments to individuals who have less than three quarters of coverage, administrative expenses, and the loss of interest to the trust fund resulting from the benefit payments and administrative expenses. The basic concept, Mr. Speaker, is to place the trust fund in the same position at the end of each fiscal year beginning with June 30, 1969, as it would have been in if such payments had not been made.

In summary, this financing is sounder fiscally and follows more closely the benefit eligibility principles of past social security legislation. It reduces the Prouty amendment general revenue expenditures almost eightfold and will have no budget impact until fiscal 1969.

The first year cost under the Prouty amendment would have been around $790 million; the first year cost under this amendment will be about $95 million for fiscal year 1967, and about $115 million in fiscal year 1968. Thereafter, the cost for each fiscal year will decrease.

EFFECTIVE DATE

Mr. Speaker, the effective date for the benefits under the conference agreement will be for the month of October 1966.

SUMMARY

Mr. Speaker, your conferees believe the approach contained in this conference agreement is far preferable to the language contained in the Prouty amendment.

This approach has a number of advantages—

First. It is in accord with the general approach which we took last year with respect to the transitional insured status provision, and with respect to coverage of the uninsured aged under the hospital insurance provision;

Second. It provides for a washout effect of transitional benefits for the aged which will not inhibit the orderly extension of social security coverage;

Third. It would not substitute Federal funds for State funds as the base of public assistance payments;

Fourth. It will not add to the actuarial burdens of the railroad retirement system;

Fifth. It contains an offset so that inequitable results will not be obtained by putting this benefit on top of and without regard to benefits received under other governmental pension systems; and

Sixth. It will provide real assistance for many of our elderly citizens who are most in need of assistance.

FLOOR STOCK TAX ON AUTOMOBILES

A second important change in the bill passed by the House that was agreed to by the conferees concerns the floor stocks tax on passenger automobiles. The bill passed by the House provided that dealers and distributors would be assessed a tax equal to 1 percent of the manufacturer's price of the cars they held in inventory on the day after the date of enactment of this bill.

The conferees on the part of the House agreed to Senate amendments which delete the floor stocks tax from the bill. On the day following the date of enactment of the bill, the manufacturer's excise tax will rise from 6 to 7 percent with regard only to cars shipped by manufacturers and not with regard to new cars held by dealers or distributors on that date. It is estimated that this amendment will result in the collection of $25 million less in revenue in the fiscal year 1966 than the bill passed by the House.

WITHHOLDING ALLOWANCES

Two of the Senate amendments agreed to by the conferees on the part of the House concern the procedure for computing withholding allowances. Members will recall that the bill passed by the House included provisions intended to permit persons with relatively large itemized deductions to adjust their withholding in a manner that would prevent excessive overwithholding. The adjustment procedure consists of a method whereby withholding allowances may be claimed. Such allowances are to be treated as additional withholding exemptions for withholding purposes.

The withholding allowance procedure was developed by the Committee on Ways and Means because its members were concerned about the overwithholding which would otherwise be experienced by some taxpayers as a consequence of the adoption of graduated withholding rates. While the procedure approved by the committee did much to solve the problem, it was felt that even more should be done, particularly for those with incomes of less than $10,000 who have heavy itemized deductions and therefore would experience significant overwithholding. That is why a committee amendment was offered on the floor of the House when H.R. 12752 was considered. That amendment would have permitted a person whose estimated itemized deductions exceeded the applicable limits—12 percent of estimated wage income up to $7,500 and 17 percent of estimated wage income above $7,500—to claim a single withholding allowance if his excess itemized deductions exceeded $350 rather than a full $700.

The Senate considered the graduated withholding system further, having the benefit of the earlier deliberations of the House. As a result, the Senate modified the provision adopted on the floor of the House. The Senate amendments require that excess itemized deductions equal a full $700 before a withholding allowance can be claimed but, to offset this, reduce the percentage upon which excess itemized deductions are based from 12 percent of the first $7,500 of estimated wage income to 10 percent of such income. No change was made in the 17 percent requirement which applies to estimated wage and salary income in excess of $7,500.

The conferees on the part of the House agreed to the Senate amendments just explained. It was pointed out that the procedure adopted in the amendment submitted on the floor of the House would have resulted in underwithholding for some persons who were merely trying to reduce overwithholding. The House conferees agreed that it would be unfortunate if a taxpayer found himself faced with an unexpected tax bill at the end of the year simply because he followed an approved procedure for reducing overwithholding. Furthermore, in the opinion of the House conferees the objective of the provision adopted on the floor of the House will be largely achieved by reducing the percentage limit for the computation of excess itemized deductions from 12 to 10 percent of the first $7,500 of estimated wage income. The latter change will insure that persons with incomes of less than $10,000 and relatively large itemized deductions have ready access to the withholding allowance procedure.

INDIRECT CONTRIBUTIONS TO POLITICAL PARTIES

The two remaining Senate amendments of importance agreed to by the conferees on the part of the House involve matters not directly related to the provisions of the bill passed by the House. The first of these disallows deductions for indirect contributions to political parties. The amendment is intended to

clear up an area of uncertainty under existing law. It does so by clearly disallowing any deduction for advertising in a convention program of a political party or in any other publication if any part of the net proceeds of the advertising inures to the benefit of a political party or candidate. It also disallows deductions for payments made in connection with any dinner or program if any part of the proceeds inures to the use of a political party or candidate. Finally, it disallows deductions for admission payments to inaugural balls, galas, parades, concerts, or similar events. The amendment applies to taxable years which begin after December 31, 1965, with respect to amounts paid or incurred after the date of enactment of this act. The conferees on the part of the House agreed that it was desirable to remove any uncertainty concerning the deductibility of such payments.

DUTY-FREE GIFTS FROM SERVICEMEN IN COMBAT ZONES

The final Senate amendment of substance that was agreed to by the conferees on the part of the House concerns a tariff provision. It raises the value of gifts which may be sent into this country from abroad without payment of duty from $10 to $50 when the gifts are sent by members of our Armed Forces who are serving in a combat zone as designated by the President. In view of the fact that a similar regulation was in effect from December 5, 1942, until July 1, 1961, with respect to gifts from servicemen stationed abroad, the House conferees agreed that this privilege should be extended to our servicemen now in Vietnam.

The $50 limit will be computed on the basis of retail values in the country of shipment. The Secretary of the Treasury or his delegate is authorized to limit imports of alcoholic beverages and tobacco products. Furthermore, to qualify for the special $50 exemption limit, the gift articles will have to be purchased in or through authorized agencies of the Armed Forces.

The Treasury Department estimates that this amendment will involve an additional outflow of only $9 or $10 million as far as the balance of payments is concerned. The reduction in customs duties which will result from this amendment will be negligible. The new provision will apply on articles which enter the country after the date of enactment of this bill. The provision, however, will expire on December 31, 1967.

MISCELLANEOUS CHANGES

I mentioned earlier that eight amendments agreed to by the conferees on the part of the House concerned minor modifications of the provisions in the bill passed by the House. Six of these amendments involve a change in the effective date of the provisions concerning communications services. The bill passed by the House provided that the 10 percent tax on local and toll telephone service and teletypewriter exchange service was to be effective with respect to bills rendered on or after the first day of the first month which begins more than 15 days after the date on which this bill is enacted. The bill as agreed to by the conferees sets April 1, 1966, as the effective date for the communications tax provisions. That is, the 10 percent rate will be in effect on bills for taxable communications services rendered on or after April 1, 1966. Since Congress has acted with dispatch on this bill, the communications tax provision would, in all probability, have gone into effect on April 1 in any case. The modification merely clarifies the exact date on which the new provisions will become effective.

Two other minor technical amendments provide that in computing eligible withholding allowances, a taxpayer who used the standard deduction in the prior year may consider the amount of his itemized deductions for the prior year equaled 10 percent of his wages in that year or $1,000, whichever is less. These are simply amendments to clarify the provisions of the House bill.

SENATE AMENDMENTS DELETED IN CONFERENCE

OPTION OF INDIVIDUAL INCOME TAXPAYERS TO DISREGARD BALANCES DUE AND OVERPAYMENTS OF $5 OR LESS

The Senate added amendment under which individuals were given an election to disregard balances due and overpayments of $5 or less where their withholding and other tax credits and payments of estimated income tax for a year were within $5 of their tax liability for that year as shown on their tax returns. The conferees deleted this amendment. However, the conferees are requesting the Treasury Department to study and report back to the House Committee on Ways and Means and the Senate Committee on Finance as to the practicability and desirability of forgoing tax payments and refunds where the amount due at the time of the final return is small. This study and report is to be made in conjunction with a study on ways of relieving overwithholding which was also directed to be made.

EXEMPTION OF LOCAL RESIDENTIAL TELEPHONE SERVICE FROM RESTORATION OF TAX

The House-passed bill restored temporarily the 10-percent tax on local and long-distance telephone and teletypewriter services. This was the rate in effect prior to January 1, 1966. On January 1, 1966, the rate had dropped from 10 percent to 3 percent. A Senate amendment provided that this temporary restoration of the tax—through March 31, 1968—was not to apply to local residential telephone service. The conferees agreed to delete this amendment.

INFORMATION RETURNS

Under present law persons engaged in a trade or business and officers and employees of the U.S. Government who make payments of $600 or more to a person are required to file information returns with the Internal Revenue Service. This includes payments made by the Department of Agriculture to farmers. The Senate added an amendment requiring that copies of these information returns in the case of farmers were also to be furnished to the farmers. The conferees deleted this amendment. In this connection, a study is to be made by the Department of Agriculture in cooperation with the Department of the Treasury and a report is to be made to the House Committee on Ways and Means and the Senate Committee on Finance early in the next Congress. This study is to also include the administrative feasibility of making such reports.

REVENUE TABLES AND COMPARISON OF EFFECT OF BILL IN VARIOUS STAGES

Estimated revenue increase and expenditure increase (−) under H.R. 12752 as reported by the Ways and Means Committee, as passed by the House of Representatives, as reported by the Senate Finance Committee, as passed by the Senate, and as reported by the conference; fiscal years 1966 and 1967

[In millions of dollars]

	As reported by the Ways and Means Committee, Feb. 15, 1966		As passed by the House of Representatives, Feb. 23, 1966		As reported by the Senate Finance Committee, Mar. 2, 1966		As passed by the Senate, Mar. 9, 1966		As reported by the conference, March 1966	
	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967
Excises:										
Communication taxes:										
Local residential telephone		315		315		315				315
Long-distance service and local business telephone service		470		470		470		470		470
Automobile tax:										
Floor stocks	25		25							
Sales on and after effective date	35	420	35	420	35	420	35	420	35	420
Total excises	60	1,205	60	1,205	35	1,205	35	890	35	1,205
Corporate tax speedup	1,000	3,200	1,000	3,200	1,000	3,200	1,000	3,200	1,000	3,200
Graduated withholding for individuals	95	275	95	210	95	245	95	245	95	245
Increase in declaration requirement for individuals from 70 to 80 percent		150		150		150		150		150

Footnotes at end of table.

Estimated revenue increase and expenditure increase (—) under H.R. 12752 as reported by the Ways and Means Committee, as passed by the House of Representatives, as reported by the Senate Finance Committee, as passed by the Senate, and as reported by the conference; fiscal years 1966 and 1967—Continued

[In millions of dollars]

	As reported by the Ways and Means Committee, Feb. 15, 1966		As passed by the House of Representatives, Feb. 23, 1966		As reported by the Senate Finance Committee, Mar. 2, 1966		As passed by the Senate, Mar. 9, 1966		As reported by the conference, March 1966	
	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967
Taxpayer election to disregard final tax liability of +$5 to −$5							(1)	(1)		
Reimbursement of social security trust fund by general fund for benefits for certain aged individuals								−590		(2)
Total, administrative budget	1,155	4,830	1,155	4,765	1,130	4,800	1,130	3,895	1,130	4,800
Self-employment tax, quarterly declaration payments		200		200		200		200		200
Social security benefits for certain aged individuals								−590		[2] −95
Reimbursement of social security trust fund by general fund for benefits for certain aged individuals								590		(2)
Total, cash budget	1,155	5,030	1,155	4,965	1,130	5,000		4,095	1,130	4,905

[1] No revenue impact in fiscal years 1966 and 1967; estimated revenue loss for fiscal year 1968 is $10 million.

[2] Reimbursement from the general fund of its share of the benefits payable in fiscal year 1967 does not occur until fiscal year 1969.

Comparison of administrative budget receipts and expenditures with and without H.R. 12752 as reported by the Ways and Means Committee, as passed by the House of Representatives, as reported by the Senate Finance Committee, as passed by the Senate, and as reported by the conference; fiscal years 1966 and 1967 [1]

[In billions of dollars]

	As reported by the Ways and Means Committee, Feb. 15, 1966		As passed by the House of Representatives, Feb. 23, 1966		As reported by the Senate Finance Committee, Mar. 2, 1966		As passed by the Senate, Mar. 9, 1966		As reported by the conference, Mar. 14, 1966	
	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967	Fiscal year 1966	Fiscal year 1967
Expenditures without bill	106.4	112.8	106.4	112.8	106.4	112.8	106.4	112.8	106.4	112.8
Receipts without bill	98.8	106.2	98.8	106.2	98.8	106.2	98.8	106.2	98.8	106.2
Deficit without bill	7.6	6.7	7.6	6.7	7.6	6.7	7.6	6.7	7.6	6.7
Increase in expenditures under bill	0	0	0	0	0	0	0	[2] .6	0	(2)
Total expenditures (including those under bill)	106.4	112.8	106.4	112.8	106.4	112.8	106.4	113.4	106.4	112.8
Increase in receipts under bill	1.2	4.8	1.2	4.8	1.1	4.8	1.1	4.5	1.1	4.8
Total receipts (including those under bill)	100.0	111.0	100.0	111.0	100.0	111.0	100.0	110.7	110.0	111.0
Deficit after taking account of revenues and expenditures under bill	6.4	1.8	6.4	1.9	6.5	1.9	6.5	2.8	6.5	1.9

[1] Figures are based on President's budget message, and therefore totals include estimated effects of proposed legislation other than H.R. 12752. Figures are rounded and will not necessarily add to totals.

[2] As passed by the Senate this figure represents reimbursement in fiscal year 1967 of social security trust fund by general fund for $590,000,000 of benefits for certain aged individuals; as reported by the conference the amount and coverage of benefits were reduced and reimbursement by the general fund of the $95,000,000 of benefits payable in fiscal year 1967 does not occur until fiscal year 1969.

Mr. GERALD R. FORD. Mr. Speaker, will the distinguished gentleman from Arkansas, the chairman of the Committee on Ways and Means, yield?

Mr. MILLS. I am glad to yield to the distinguished minority leader, the gentleman from Michigan.

Mr. GERALD R. FORD. The Secretary of the Treasury made a very significant speech in my State of Michigan yesterday before the Economic Club of the City of Detroit. He talked about taxes, inflation and the problems of our economy. Prior to making that speech he had a press conference and in that press conference, he said the following, and I quote:

My whole speech implies there might be a need for further moderate tax increases depending on the factors I mentioned in the speech.

Has there been any indication by the Secretary to the committee or to the chairman that such a request is in prospect?

Mr. MILLS. Not to me—there has not been any such indication. We are all concerned, as I know the gentleman from Michigan is concerned, with what the future holds. But none of us, at least I am not capable of adequately predicting what we may have in the future with respect to the costs in Vietnam, for instance. Frankly, I do not know what the future holds in that respect. I think we must keep abreast of what is occurring on a day-to-day basis and do what we can to protect the value of the dollar and to protect other values here in the United States.

I am sure that my friend would say with me that if the time came where it was necessary to prevent inflation to consider a tax bill that we ought to give consideration to it and reach a conclusion based upon what the facts are at that particular time.

Mr. GERALD R. FORD. Do you believe based on the facts as you have seen them so far that there is such a need for the kind of Federal tax increase mentioned by the Secretary?

Mr. MILLS. If the gentleman will remember, during the course of the general debate on the bill itself, the problem as I see it is primarily with respect to the enormous deficit, and I called it enormous, under the present conditions that we have in the fiscal year 1966 on the basis of projection—and that is all we have to go by. For the fiscal year 1967, we have a projected deficit of $1,800 million and certainly that kind of deficit would not exert as much inflationary pressure as does the present deficit of some $6½ billion projected for fiscal year 1966. I do not know what the final cost will be in 1967. But I say we must watch it in order to see to it that we take pains to preserve and protect the value of the dollar and avoid any decrease in it and any runaway inflation in prices.

Mr. GERALD R. FORD. One of the problems in this fiscal year as has been well pointed out in the minority views of the Committee on Appropriations on the bill that we will have before us later

today is the fact that the Department of Defense in the last 6 or 12 months has so grossly underestimated its anticipated expenditures. If we go on the basis of experience in the last 12 months and forecast what will happen in the next 12 months based on the figures of the Department of Defense, it does not look too encouraging. The Defense Department expenditure forecasts have badly missed their mark. The spending forecasts were too low and as a result there has been serious upward pressure on our national economy. Better spending forecasts by the Defense Department might have helped the Johnson-Humphrey administration in its decisions in meeting the challenge of inflation. Defense Department spending estimates were wrong. The Nation is in an inflationary spiral. The administration must bear the burden for the errors which have been made.

Mr. MILLS. I caution my friend against reaching any conclusions now about the matter, and I hope that he will not, because regardless of how far off the Department of Defense may have been at some time in the past, I point out realistically how difficult it is for any administration to project what the total costs of Government may be some 12 months or 18 months ahead. We all remember when President Eisenhower in his 1959 budget estimated a half-billion dollar surplus, and it turned out he was off $12.9 billion, because we had a deficit of $12.4 billion. I do think that it should be pointed out that there has been in the past 2 or 3 years, with respect to the total rate of spending, some overestimation of that rate of spending in total amount. In the 1965 budget the original estimate was $97.9. The actual figure was $96.5 billion. In 1964 the estimate was $98 billion. The actual figure was $97.7 billion.

Mr. GERALD R. FORD. I would not necessarily agree, but the record must speak for itself.

Mr. MILLS. If you go over the 2- or 3-year period, I believe you will be able to see that they have been about as accurate as anyone could possibly be, and they have actually overestimated, because we have ended up spending less than the budget suggested we might spend in some of that period of time. Of course, we have had some increases in revenue over what was projected. So the best thing for us at the moment to do is to keep our eyes and ears open and be attuned to the developments that happen from day to day and reach conclusions as to what we should do when we have full information with respect to the coming fiscal year.

Mr. BROCK. Mr. Speaker, will the gentleman yield for clarification of amendment No. 33?

Mr. MILLS. I am glad to yield to the gentleman from Tennessee.

Mr. BROCK. It is my understanding that in certain States there are nonpartisan publications which are published and which receive ads in a standard business fashion. On occasion both political parties perform services for that publication, and they receive payment for those services. Is it the intention of the gentleman from Arkansas to eliminate that sort of activity on the part of political parties?

For example, there are the distribution services and the sales of the magazine.

Mr. MILLS. If the gentleman will read the statement on page 8 of the report that we prepared in explanation of the amendment, he will get a clearer understanding of what was intended in the amendment.

Does my friend, the gentleman from Wisconsin, wish to respond to the question? Frankly, I do not know what the answer is. Each case depends on the facts. Did the gentleman from Wisconsin follow the question? We were thinking in terms of the publications of each party. Your attention is called to paragraph (1). I do not know just what the situation would be if it were a nonpartisan publication. It depends on where the money goes, mainly.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Wisconsin.

Mr. BYRNES of Wisconsin. I think the issue is whether there is a potential in revenues from the particular undertaking, be it an advertising venture, a catalog, a ball, or some other activity of that nature—if it has a potential of inuring to the benefit of a political party.

Mr. MILLS. A banquet.

Mr. BYRNES of Wisconsin. Yes, a banquet. Then the expense of that advertising or the expense of the admission charge could not be deducted as a business expense.

Mr. MILLS. In the case which the gentleman mentioned, that, it seems to me, would be in the field of nonpolitical activity. But if the proceeds of that venture inured to the benefit of either or both parties in Tennessee, or to any of the political candidates in Tennessee, the expense would probably not be deductible as I read it.

Mr. BROCK. I did not have particular reference to that point. I am speaking of nonpartisan publications for which both political parties perform services.

Mr. MILLS. You would have to give me more facts and particularly whether or not the proceeds go to the benefit of candidates or a party. If they do, the expense would appear not to be deductible. I want to make it clear that there is uncertainty at the present time.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I am glad to yield to the gentleman from Florida.

Mr. PEPPER. As I understand the able chairman, if the conference report is adopted, henceforth advertisements of business groups, business corporations, and business enterprises in publications put out by political parties or their respective units would no longer be tax-deductible?

Mr. MILLS. I do not know whether they are now or not. I would say to my friend from Florida that we are making it clear here that they are not deductible when they inure to the benefit of a political party or a political candidate in the future.

Mr. PEPPER. Mr. Speaker, will the gentleman yield for one further question?

Mr. MILLS. I yield to the gentleman from Florida.

Mr. PEPPER. I wonder if the committee, having taken that rather salutary approach, has in any way provided in this conference report for the removal of any exemptions that may now exist for certain radio and publication expense?

Mr. MILLS. No, we have not done anything except what we have done in this amendment we are talking about in that direction.

Mr. PEPPER. I thought since the gentleman from the other body was attempting to stop one source of loss of revenue which was being received for political purposes, consideration might now be given henceforth by the able Ways and Means Committee to publications that are nothing but political publications and radio programs that are nothing but political, and the question as to whether they are entitled tax exemption.

Mr. MILLS. Consideration would have to be given to that in the future. We did not do so here.

Mr. Speaker, I am convinced that the conferees have done the best job that it is possible for them to do with respect to the subject matter of this conference. I would urge the Members of the House to accept the conference report. Let us get the bill signed into law within the period that the committee had as its target date on the commencement. Therefore, I urge you to vote for the conference report.

Mr. BURTON of California. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from California.

Mr. BURTON of California. Mr. Speaker, there is a matter affecting California, New York, and two other States. These States have a program called disability insurance.

It is a program paid for entirely by a payroll deduction system. It is financed, as a rule, by employee contributions only.

It provides weekly payments in situations other than work-connected disability and injury. It is quite analogous to the workmen's compensation law, but neither the conference committee nor the gentleman's statement clarified this matter.

Will I be correct in assuming that these unemployment compensation disability payments will be treated just as the workmen compensation payments for purposes of the $35 payment provisions in the report?

Mr. MILLS. We specifically said, Mr. Speaker, in the conference report that, for purposes of any reduction in the new benefits, workmen's compensation would not be taken into account.

I do not know enough about the gentleman's provision, in the State of California, frankly, to know whether or not benefits under the provision would be taken into account for purposes of the offset. I will have to check with the

gentleman later to find out more detail about his State provisions.

Mr. CURTIS. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield 10 minutes to the gentleman from Missouri.

Mr. CURTIS. Mr. Speaker, I did not sign the conference report, but I would like to report that as far as the tax aspects of this bill are concerned, which was the bill that passed the House, I think the conferees in conference did a good job. The one feature that was changed was where we accepted a Senate amendment other than a number of technical amendments, I might say, which the Senate offered, which were very necessary to this bill. This one matter of substance that was changed has to do with the floor stock provision for automobiles owned by the dealers amounting to $25 million.

This is a matter that some of us on our side of the aisle opposed in the Ways and Means Committee in the first place. I am satisfied that this is a better tax bill now, partly for the reason as the chairman explained, but also because the administration's agreement that because we have given the floor stock exemption when the automobile excise tax was lowered, therefore when we increase it we ought to put back the tax on floor stock, is unsound. There are certain things that only go one way and not the other. You can either have a valve or a conduit. This happens to be a valve. The reason for the treatment of the floor stock when the tax went down was that automobile dealers were caught with higher priced inventory, inventory assessed at a higher tax rate than the new automobiles delivered after the tax went down. They could never get rid of that inventory, or at least they would have a difficult problem doing so. So we eased that off and said, "No. The floor stock tax will be waived."

However, when you go in the other direction and you go up with the tax, then the dealers are left with inventory of lower taxed cars. Obviously there is no problem in their getting rid of the floor stock at a lower price. So I was pleased about the elimination in conference of the floor stock tax.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield on that point?

Mr. CURTIS. Yes. I yield.

Mr. BYRNES of Wisconsin. I think it should be pointed out and understood that this tax is one which is assessed against the manufacturer.

Mr. CURTIS. That is right.

Mr. BYRNES of Wisconsin. You cannot impose it on the dealer and still be consistent with the philosophy as to where the impact of the tax is and its nature. It is a manufacturers tax and not a delears tax to begin with.

Mr. CURTIS. The gentleman is absolutely right. And it became one of the issues in the Ways and Means Committee as to whether we changed that manufacturers tax to a retailers tax. But at any rate, it is an improvement and I *wanted to point it out.*

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. Yes. I will be glad to yield to the chairman of the committee.

Mr. MILLS. The gentleman made the argument in the committee that the committee should not include it in the first place.

Mr. CURTIS. That is right. Now, as to why I have opposed the conference report. I think this is a very serious matter that the House at some time or other is going to have to face up to. We bring these tax bills in here under closed rules on the floor of the House, thus denying really to every Member of the House the opportunity to amend, even under our rules of germaneness in the House, which are fairly strict rules. Then under the procedure followed the bill goes over to the Senate where they have no rules of germaneness or closed rules.

Any Senator can offer an amendment on a tax bill, whether it pertains to the bill or not. Then the matter comes back to the conference and your conferees, who are members of the Committee on Ways and Means, are constantly confronted with material that we have not had an opportunity of studying and have not had the opportunity, really, to give a good opinion on. Now, it so happens that the Constitution prohibits tax measures from originating in the Senate. The Senate does have a right to amend. They have assumed that means they can amend regardless of whether it is germane or not. Now, I am not asking the Senate to adopt the House rule of germaneness, but I am asking that there be a rule of germaneness that applies to this kind of procedure. Otherwise we are constantly confronted with situations like the one that now faces us. There are three nongermane amendments in this conference report. Not only are they not germane, but two of them do not have anything to do with the Internal Revenue Code. We are confronted with this situation.

Now let me point out the question on the benefits of people over the age of 70. That is the way the Senate put it in. This was an amendment that was not even considered in the Senate Finance Committee. It was written on the floor of the Senate. Then it comes in to conference, and obviously it needed changing.

So the conferees attempt to write then and there this new language that you find in the report. The committee or the conferees had to meet yesterday to amend it even further. The point is this is no way to legislate. The objectives may be sound. I could not agree with the objectives on this more because Congressman BYRNES has primarily, and I have joined with him over a period of years in seeking to do something about these people over the age of 70. So has Congressman MILLS.

This was rejected, I might say, in the Social Security Act of 1965, although part of it was in there. However, the technical language used is very important and very serious. The House never considered it and the Ways and Means Committee never considered it and the Senate Finance Committee never considered it. If we want to do proper justice to people over 70 or to any group, we had better pay attention to what is the orderly way to write legislation.

The amendment in regard to the GI's overseas and what they can send back home duty free is another item. There is no question that if a bill for this purpose were introduced and offered before the Committee on Ways and Means, we woud get it in proper language and vote it out and it would pass here unanimously.

It would be considered in the other body in the same way and passed unanimously, and this could become law within a month, but properly drafted and fully considered.

Mr. Speaker, instead of that, this matter is put on a tax bill where it has no business. We had not really considered it. We tried to write this language in conference. I might say that I do not believe we did a very good job.

Again, Mr. Speaker, we want to be for the GI's. That is not the issue. The issue, however, if we really want to help them, is to vote for their interests following an orderly procedure in writing legislation.

Mr. Speaker, finally, as far as the Williams amendment is concerned, this has to do really with the Corrupt Practices Act. There is no question but that this hits at a very small part of the entire problem involved, how political parties and political candidates are financed.

Again, Mr. Speaker, this was written in a fashion where there was not proper consideration given to the entire problem.

Mr. Speaker, the author of the amendment, Senator WILLIAMS, of the other body, admitted it. The Treasury Department said they had not studied it. It is obvious, based upon the few questions asked today on the floor that the House of Representatives has never considered it, and the Committee on Ways and Means has never considered it.

Mr. Speaker, this procedure, in my opinion, makes a shambles of the legislative process.

Now, Mr. Speaker, let me talk as a politician. If we in the House of Representatives want to be able to amend tax bills and have our thoughts made a part of them, we had better start paying attention to either knocking out the closed rule under which we have to consider tax bills, or stand firm on this constitutional right that tax measures can originate only in the House of Representatives. And, if our colleagues in the other body have some ideas as to how they would like to amend tax bills, let them come over and consult with the House Members. I am certain, Mr. Speaker, that any one of us would be happy to accommodate them, and introduce a bill along the line that they would like so that it can be considered by the Committee on Ways and Means, so that it can be considered on the floor of the House, with testimony backing it up at a public hearing, and with a written report upon the bill.

Mr. Speaker, as matters stand here we are considering things in this tax bill that should be properly studied and properly debated.

Finally, Mr. Speaker, I would like to refer to some remarks that the gentle-

man from Michigan [Mr. GERALD R. FORD] directed to the chairman of the Committee on Ways and Means in regard to future tax increases, if I could have the attention of the gentleman.

The gentleman from Michigan [Mr. GERALD R. FORD] asked questions of the chairman of the Ways and Means Committee, the gentleman from Arkansas [Mr. MILLS] as to whether or not the administration had approached him about tax increases. The chairman of the Committee on Ways and Means replied that it had not. However, it looks very apparent to me that the administration has approached some of our colleagues in the Congress along this line.

This, I feel, is true because, beginning tomorrow, a subcommittee of the Joint Economic Committee, headed by the gentlewoman from Michigan [Mrs. GRIFFITHS] who also serves on the Committee on Ways and Means, plans to hold hearings on this subject of tax increases.

Mr. Speaker, I am a little bit worried about this, because I too am a member of the Joint Economic Committee, and some of my colleagues on the Committee on Ways and Means have been looking at me as if I had something to do with this bypassing of the Committee on Ways and Means.

Let me assure you that I have not, and I have not been a confidant as to the scheduling of this subcommittee's hearings. However, it is very obvious to me that the Secretary of the Treasury and others are behind these hearings that will start tomorrow, to be conducted by the Joint Economic Committee.

Mr. Speaker, I am hopeful that the administration will be a little more forthright in what they are trying to do as far as increased taxes are concerned, even though they will not consult with the chairman of the Committee on Ways and Means.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from Arkansas.

Mr. MILLS. It might not be unusual for me not to be considered on every question involving taxes, but let me clarify the gentleman's statement. The gentlewoman from Michigan [Mrs. GRIFFITHS] discussed this matter with me. I believe it was her idea, frankly. I do not think she had to be put up to holding her hearings. She wanted to know if I had any feelings that the hearings should not be held. I told her that it was perfectly all right with me, since any legislation would have to originate in the Committee on Ways and Means along this line anyway.

The SPEAKER pro tempore (Mr. ALBERT). The time of the gentleman from Missouri has expired.

Mr. MILLS. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. CURTIS. Mr. Speaker, I thank the gentleman from Arkansas for clarifying this. I believe that is probably so, because the gentlewoman from Michigan [Mrs. GRIFFITHS] has been very interested in this area, and has been quite concerned about the economic aspects of our tax laws. However, if the situation is that way, let me say this: The administration certainly has seized the opportunity—and it is very clear that they are more than cooperating with the gentlewoman from Michigan [Mrs. GRIFFITHS] in bringing about these hearings. It seems quite clear that the administration, at least, is sending up a trial balloon to see just what reaction there will be to the increased taxes.

I will close my remarks by simply saying we certainly need tightening in the fiscal area. But the other side of fiscal coin other than taxes and debt is expenditures, and the administration still seems completely unconcerned about the necessary reforms in the expenditure area to avert inflation.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLS. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. JONES].

(Mr. JONES of Missouri asked and was given permission to revise and extend his remarks.)

Mr. JONES of Missouri. Mr. Speaker, I hope I will not use the entire 5 minutes, but I do not wish to let this opportunity pass without making a few brief remarks about this.

Last June when we passed the tax bill, I voted against it. I said at that time that we were not providing for the recouping of losses in that tax bill and I predicted at that time that it would be necessary to have a tax bill to replace the losses. When this bill came up here last month, I voted against it because I felt it was a discrimination when we had eliminated the taxes on many of the luxury items, which were not being restored, although we did reinstate excise taxes on telephones and automobiles.

Now, when the bill comes back here, I think it is a worse bill because of what the gentleman from Missouri [Mr. CURTIS] just said: the way we permit the other body to insert items that are not germane. I hope some time this House will have the intestinal fortitude to adopt a rule that any amendment that is not germane under the rules of the House of Representatives will not even be considered when they are placed in a bill by the other body.

Now, as to the statement about a study for increased taxes, I do not think anybody has to be smart to know that we are going to have another tax bill before this session is out. You do not have to have hearings to arrive at that conclusion. I think it is apparent that we are going to have it. Another thing that I think is very wrong—and someone said how can you vote against a bill that is going to give some old folks some money. If you are laboring under the delusion that you are doing something there under a program that has been studied and planned, you are just as wrong as you can be. Hearings were not held in either House or Senate, and the amendments were adopted on the floor of the Senate.

There are so many things that need to be done with reference to social security that we should not try to correct them by amendments to a tax bill. It does not make sense.

For instance, some time ago I introduced a bill (H.R. 11327), which has been referred to the Committee on Veterans' Affairs, providing that certain social security benefits may be waived and not counted as income. This became necessary when increases under the Social Security Act had the effect of reducing veterans' and widows' benefits by an amount in excess of those increases granted by social security. I do not think this was intentional, and I do believe that this inequity should be corrected.

If we are going to amend the social security laws, let us amend them and help everybody and remove the inequities. But this bill does not remove these inequities at all. It touches on some of them.

Mr. Speaker, these are some of the reasons I am going to vote against this conference report. I hope this administration will have the wisdom to come up here and say: "We need money for Vietnam and we are recommending and advising you to provide an adequate tax to pay for Vietnam, and after that situation is over, take off the tax." That will solve this problem.

Mr. Speaker, it is my opinion that as long as we vote for these makeshift, piecemeal, patchwork type of bills that do not accomplish the announced purposes of the bill, in this case, namely, to raise more revenue for the conduct of the war in Vietnam, we will continue to confuse the taxpayer and make it more difficult to solve the problem.

How much more simple it would be if we would decide just how much money is needed and then provide an increase in the form of a surtax or an "excise" tax on personal and corporation income taxes, with the understanding that after the specific need has been met the tax will be automatically eliminated.

As I have said before, I realize it is so simple it will not be considered by the bureaucrats who make the recommendations to Congress, but I am willing to put my money where my mouth is that before this session of Congress adjourns, the administration will be back to Congress requesting another increase in taxes, and Congress will go along with the request. I don't relish the idea of increasing taxes, and would welcome reductions in expenditures, but I do believe it is better to pay as we go, and face the issues as they arise.

Mr. MILLS. Mr. Speaker, I yield 10 minutes to the gentleman from Wisconsin [Mr. BYRNES].

Mr. BYRNES of Wisconsin. Mr. Speaker, I certainly sympathize with the position taken by the gentleman who just left the floor, and the position taken by my colleague, the gentleman from Missouri [Mr. CURTIS], with respect to the amendments which were put on by the other body which would not have been germane if presented here. In fact we prevent any Member of the House from even proposing such amendments, even if germane, by reason of the fact that we consider this type of legislation in the House under a closed rule.

Of course, this creates a situation which we all recognize is overly fair to the Senate and completely unfair so far

as many Members of the House are concerned.

However, what we are talking about here now is a conference report. There is the problem of compromising between the position taken by the other body and the bill as it passed the House. There were some very adamant positions taken by the Senate.

But I would also point out that here in this tax bill we do have some problems as far as timing is concerned. Should this bill be delayed for any length of time, it could mean that badly needed revenue would be lost as the result of that delay. Frankly, Mr. Speaker, I hope this conference report will be adopted because I think it is essential in view of the current fiscal situation and the inflationary pressures that exist today that we provide the additional revenue that will be produced by this bill.

I would go one step further and say, however, that unless there are some changes made in our thinking in the area of governmental expenditures and Government fiscal policy, we are today on a collision course toward increased taxes. The only question seems to be as to the date when those taxes will be asked for by the administration. Unless there is some retrenchment, and unless there is some recognition that we are in a wartime situation, and must accommodate to that situation and provide for those increased costs of that war, not by increased taxes but by a reduction in expenditures, then the only alternative open to us will be an increase in taxes which I am sure the administration will then recommend. I assume that it will probably try to avoid doing so before the November election. But a tax increase is in the making unless this Congress and this administration at an early date—and today is not too soon—changes some of its attitudes with reference to some of the domestic spending that is being proposed here at home.

For this reason, I think the adoption of this conference report is essential at this time. As I said in the debate on this bill, I do not think at this time we can enjoy the luxury of the alternative as to whether we raise taxes or cut expenditures, because we have already incurred a deficit for fiscal 1966 that approaches $6.5 billion at a time of unprecedented economic activity. It is too late to change the spending picture for fiscal 1966 to the degree that would obviate the need for this additional revenue.

Today we have no alternative but to provide the increased revenue that is in this bill. But, if we act properly today, we can still have an alternative for the future. We have the alternative of cutting back and retrenching by establishing some priorities for our domestic expenditures, and if we fail in that, the only alternative—and, make no mistake about it—will be an early and heavy increase in taxation to prevent economic chaos in this country.

Let me say just a few words about some of the amendments that were adopted.

Mr. CURTIS. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Missouri.

Mr. CURTIS. I should like to point out, and I want to see if the gentleman agrees, if there is a heavy increase in taxes, it will have to be partly in individual income taxes. It cannot be done merely in corporate taxes.

Mr. BYRNES of Wisconsin. There is no easy way to increase taxes. Let us make up our minds about that. If we have to get even $500 million more in revenue, it will be painful and it will be tough. Some of it we will, of course, have to find in the individual income tax sector.

Let me briefly make a few comments about the amendments that were adopted in the Senate.

I agree with my colleague from Missouri that the blanketing-in, that is, the coverage of our older people who, as I have pointed out, were either born too soon or Congress acted too late to provide them with the basic benefits we have provided for the great majority of our people, has long presented a problem that should be taken care of. Some 7 years ago I introduced the first bill to try to remedy this particular problem by a so-called blanketing-in process. What the Senate has done here is to adopt that principle. The conference report is in accord with the general philosophy and general purpose of proposals that I have been making for some 9 or 10 years.

As I have said, I do agree with my colleague from Missouri that it would be much better to do it in the normal procedure. To consider the proposal and report it out by the Ways and Means Committee for passage by this House instead of on the basis of a Senate floor amendment which is then adopted in principle by the conference.

The same thing is true as far as the duty on gifts is concerned.

In both of these cases, however, I must agree fully with the results. It is a step in the right direction. I cannot argue with the merits.

Nor would I argue with the merits of another amendment that was adopted, as far as general principle is concerned. That is the amendment related to the deductibility of an advertising expense that, in a sense, is really intended for political purposes.

Mr. BURTON of California. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from California.

Mr. BURTON of California. I would like to state my most emphatic commendation to the gentleman from Wisconsin for his farsighted, initial, and continuing leadership in the effort to see to it that the older people in our country who have not had the benefit of social security coverage not be penalized in their waning years.

I would hope that the gentleman would pursue his efforts and see to it that the Members of this House have, before the end of this session, an opportunity to expand the concept contained in the conference committee report because, as the gentlemen well knows, this report contains within it a dramatic change in the financing structure of the Social Security Act, but along sound conceptional lines. I am sure the gentleman from Wisconsin knows, most lamentably, it is the low-income veteran and it is the low-income person on public assistance that, as a result of the understandable compromise in the conference committee, does not get any increase in weekly or monthly benefits under this bill.

I am certain that the gentleman from Wisconsin shares my concern, that in the effort to correct this injustice that the gentleman from Wisconsin has been battling for so long—an injustice not remedied by this bill as to either first the lower income veteran of this Nation and second, the lower income aged who have to look to public assistance to maintain a minimal standard of living. These are among the people who should receive our primary interest, not our secondary consideration.

I am going to support the conference committee report, noting in fact that in many instances it will be the better-to-do, rather than the worst off of our older people, who are going to get the benefit. I do not quarrel with it. I would merely request that the gentleman from Wisconsin respond to my hope that he will pursue this matter.

Mr. MILLS. Mr. Speaker, will the gentleman from Wisconsin yield?

Mr. BYRNES of Wisconsin. I yield to my chairman.

Mr. MILLS. Mr. Speaker, let me say in the first place that we have not excluded veterans from the benefits of this program. On the contrary, we have specifically provided, in the "definition" subsection that a "governmental pension system," for purposes of the offset, does not include any payment by the Veterans' Administration to disabled veterans for service-connected disability. The conference report, on page 4, states "not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death."

In that instance, we have specifically excluded any such compensation that a veteran may receive in order to determine whether or not he comes up to the $52.50 of the family's payment.

Then with respect to the people on welfare, the gentleman from Wisconsin recognizes, I am sure, that if we provide this amount for those who are on public assistance, all in the world we will be doing will be, in effect, reducing the amount that the State makes available and increasing the amount that the Federal Government makes available. We would not increase by $1, in all probability, the total amount that is received by the average recipient from both sources.

I would think that the gentleman from California would appreciate the action of the conference committee in bringing back a proposition that takes care, to the extent that we have, of the people who are without any type of retirement system. Perhaps in time the gentleman from Wisconsin and the gentleman from Arkansas—all of us—will find it possible or advisable to do more. I think that at least this is a good beginning, and the conference committee should be at least commended for making this step.

I want to pay tribute to my friend from Wisconsin for having started the idea of doing something in the later years of their life for these people who, as he said, either were born too soon or the Congress acted too late to bring them under social security.

I remind the Congress that two-thirds of the people we are talking about in total are women, and 80 percent of that two-thirds are widows, signifying the fact that perhaps we did act too late with respect to the coverage of their spouses under social security. Here we are making up, at least, for that failure on our part.

Mr. BURTON of California. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from California.

Mr. BURTON of California. Mr. Speaker, I am sure the gentleman from Arkansas does not choose to leave the impression that those receiving the veteran's benefits, apart from the disability payment—the low-income veterans—by definition, those receiving a veteran's pension—as distinguished from disability payments—do not receive a nickel under this proposal. I am certain that the gentleman from Arkansas does not want to leave the record ambiguous in that regard.

Mr. MILLS. Of course I did not want to leave a wrong impression. That is why I read specifically what the conference report states. The gentleman from California is not anymore interested in veterans than are any of the members of this conference. And I do not want him to feel that any of us were deliberately trying to do something to these whom he describes as the poor veterans of the country.

We thought we were making a step in the right direction, that we would provide, out of the general funds of the Treasury, this particular benefit for those people who are included here. We can look at it later on and see whether we should do more and whether it is possible to do so.

Mr. BYRNES of Wisconsin. Mr. Speaker, we have taken a very important step by the action of the conferees toward the problems of these older people who have been our concern for some considerable period of time.

I would hope, with the gentleman, that we would continue to look at the problem that does exist in this area because of factors beyond the control of these people who are today over 72 and who have been left by the side of the road while we were going ahead, making social security universal, while we were increasing benefits, and so on. At least we are moving in the right direction.

I am pleased that the conferees did move at least this far.

I would conclude, Mr. Speaker, by reiterating what I said at the beginning. I would hope that this conference report would be accepted. I think it is essential that we act to pass this bill at the earliest possible date. In my judgment, it is the only responsible thing for this Congress to do.

Mr. POLANCO-ABREU. Mr. Speaker, the conference report on the Tax Adjustment Act of 1966 does not include the aged of Puerto Rico as beneficiaries of the social security amendments added to the bill.

This is a tragic circumstance which must have been an oversight on the part of the conferees who were working under great pressure.

There has been no opportunity for me to obtain an extension of these benefits for the people of Puerto Rico. The social security provisions of the bill were not included in the Tax Adjustment Act of 1966 when it was before the House of Representatives.

The pity of it is that the amendment does not have too much real meaning for most residents of the States or the District of Columbia. It provides for a fill-up pension to $35 for persons having a pension below this amount from Government sources. However, it would apply to all persons now over 72 who are not now receiving a Government pension and would give them $35 per month.

In Puerto Rico we have so many elderly citizens to whom $35 a month would be a godsend in the sense of providing them with the necessaries of life.

I am taking immediate corrective action by the introduction of legislation to take care of this situation.

Mr. HICKS. Mr. Speaker, when this bill to reimpose some excise taxes originally appeared on the floor of the House, I voted against it. Not because I am blind to the need for increasing revenues to finance the Vietnam war and to combat inflation, but because I regarded this means of doing so as too little and too late. I voted in protest against a palliative, a treatment of symptoms instead of the disease. Because of some vital changes in the bill by the other body and by the conference committee, I am obliged to change my vote today to "aye."

But I still consider it a palliative. I still think it indicates an unfortunate reluctance to face the issues squarely on the part of the Congress and of the executive branch.

Mr. Speaker, I do not like even to think of raising taxes. Apparently that attitude is not limited to myself. But I am convinced that I must think of it, that all of us must think of it very seriously. And, Mr. Speaker, I do not like to reduce spending on our worthy social program.

But the effect of inflation is both to raise taxes and reduce the effective financing of our social and all other programs. And in respect to inflation, it is later than most of us care to think.

Inflation, Mr. Speaker, to me is worse than a tax increase. At least the increased tax which is taken from the American taxpayer brings more money into the U.S. Treasury. Inflation is a penalty. It takes money from the taxpayer and puts it nowhere. And it takes money from the U.S. Treasury, too, in that it decreases the Government's buying power just as it decreases the individual's buying power.

A tax increase, while odious to all of us, is used for Government purposes. Inflation, just as odious, is a penalty which all of us pay and from which nobody benefits. And it is particularly hard on the poor and the people who must live on fixed incomes.

I am aware that there is another way to assist in curbing inflation aside from cutting spending and increasing taxes. The other way is wage and price controls.

Such controls will be a last desperate effort in the battle against inflation. None of us wants such controls. That is why we should take other and less painful action while there is still time.

I wish it were not necessary to increase taxes. But inflationary pressure is forcing us to do so, Mr. Speaker, and the need will become intense in a terribly short time. That is the way inflation works, something like a forest fire: it starts small and spreads wildly; it is much easier to put out when it starts than after it has spread.

The fire lookouts already have observed the smoke of the fires of inflation in our economy. I fear the economic forest is dry as tinder, that the wind is rising, that the prospects for rain are dim.

That being the case, it is my belief that right now we should be formulating a program to combat inflation. The administration is taking some action. The Congress is making some motions in this direction. Private interests are acting. But, if I may return to the forest fire analogy once more, our combined actions to date have been in the nature of clearing away smoke. We must face the uncomfortable fact that more drastic action is needed.

If we do not now make ready, at a minimum, standby remedial action with full deliberation and complete attention to all ramifications, we may well find ourselves in the position of being unable to halt inflation before tremendous harm is done, and find ourselves in the equally unhappy condition of overreacting to a situation that has gotten out of hand—and thus probably causing equal harm to the economy in another way.

I repeat, Mr. Speaker, that I am not happy about the prospect of an increase in taxes. If that is what is needed as the lesser of evils, however, then I say we had better face that issue squarely, and begin our deliberations at once.

Mr. CHAMBERLAIN. Mr. Speaker, I shall vote against passage of the conference report on H.R. 12752, the Tax Adjustment Act of 1966.

When this bill was before the House last month I stated that in view of the provision it contains for reimposing excise taxes on automobiles and telephone service, acknowledged by the President to be unfair and burdensome only last year, I simply could not in good conscience support it. At that time nor at this time however, would I want my actions to be interpreted as suggesting in any way an unwillingness to provide the needed funds for our fighting men in South Vietnam. I fully recognize that we are going to need more tax revenue, but I further believe that it can and should be raised on an equitable basis.

Neither should my vote today be construed to indicate a lack of interest and sympathy for certain of the amendments added to this bill by the other body which I would, in fact, be inclined to support

had they come to us on their own two feet and in not such objectionable company.

Mr. Speaker, since I have been in Congress I have protested these discriminatory taxes in good times and bad—in time of budget deficits and budget surpluses. There is simply no right time to vote for an unfair tax. I submit that the administration has not tried hard enough either through economies here at home or through recommendations for tax equality to properly provide the revenue needed to fulfill our most pressing commitments.

Mr. HORTON. Mr. Speaker, since the President's state of the Union message, which contained his request for postponing the repeal of telephone and automobile excise taxes, I have been on record as strongly opposed to reinstituting these regressive taxes as a means of procuring the needed funds to finance the war in Vietnam.

I was most encouraged when the Senate last week adopted the amendment to keep the excise on residential phone service at its present 3-percent rate. Unfortunately, the conference committee deleted the Senate amendment, with the result that the tax on local telephone service will again rise to 10 percent. Without any wavering in my strong support for well-reasoned legislation to obtain the needed additional funds for use in Vietnam, I am reluctant to support the conference report because of the unnecessary burden it places on people in the lower income levels, to whom an automobile and telephone service are necessities, not luxuries, today.

With this hesitation, I have decided to vote in favor of the conference committee's compromise, because of another provision it contains. I am referring to the provision that will provide social security benefits to over 300,000 American citizens who are reaching the age of 72 and are not covered by social security under present law. This provision is an important step in broadening our social security system to cover those who had retired or were near retirement when Congress acted to cover jobs they had held.

I have been urging the passage of this amendment to the Social Security Act for over a year now. Across-the-board monthly benefits for persons reaching age 72 who do not meet normal quarter-coverage requirements was a major part of H.R. 5039, which I introduced last year—many provisions of which were later enacted into Public Law 89-97.

Under this enlightened provision, persons who are not now receiving any State, Federal, or local pension, in most cases persons who are most in need, will receive $35 monthly through the social security system if they reach age 72 before 1968. For persons reaching age 72 after 1967, this new provision provides that fewer quarters of covered employment will be required for eligibility for social security benefits. Thus, over $120 million will be made available to persons who qualify under this section.

While I have very serious reservations about the wisdom of reimposing the same excise taxes which Congress worked so diligently to repeal just last year, I cannot with conscience vote down this very necessary and enlightened step in the broadening of our social security laws to cover needy senior citizens. I am gratified at the inclusion in this report of a major portion of my own social security legislative program.

Thus, with noted reluctance, I am casting my vote in favor of the conference committee's report on the Tax Adjustment Act.

Mr. CLEVELAND. Mr. Speaker, I rise to state that I will again vote, very reluctantly, for this tax increase measure, called the Tax Adjustment Act of 1966. As I stated on February 23, when the bill was first approved by the House—see page 3552 of the RECORD—only the administration's refusal to cut back on its unprecedented high level of domestic spending constrains me to vote for this bill. In this absence of fiscal restraint on the part of the administration, which increases the dangers of inflation it becomes necessary to provide the additional revenues in this legislation. The costs of the war in Vietnam and threat of inflation demands it.

At the same time, I wish to add a word of high praise for the amendment adopted in the Senate to give older persons at least some assistance by extending a measure of social security protection to many of those excluded from the program through no fault of their own. I am proud of the fact that my State's senior Senator, NORRIS COTTON, played such a prominent role in sponsoring this amendment and getting it adopted. With all the money being poured out by the Government on various welfare programs, it is good to know that at least some will now go to relieve the needs of senior citizens directly, without Federal controls or new battalions of bureaucrats. This is an antipoverty measure which I can support. It follows the precedent we established at Republican insistence, when we provided medical care for the elderly not covered by social security.

GENERAL LEAVE TO EXTEND

Mr. MILLS. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may include their remarks at this point in the RECORD on the conference report. Also, Mr. Speaker, I ask unanimous consent that I, the gentleman from Missouri [Mr. CURTIS], the gentleman from Wisconsin [Mr. BYRNES], and others who have spoken on this conference report may have permission to revise and extend our remarks and to include certain tables and charts that refer to this conference report.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the requests of the gentleman from Arkansas?

There was no objection.

Mr. MILLS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

Mr. MILLS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 288, nays 102, not voting 41, as follows:

[Roll No. 36]

YEAS—288

Adams	Glaimo	Murray
Addabbo	Gibbons	Natcher
Albert	Gilbert	Nedzi
Anderson, Ill.	Gilligan	Nix
Anderson, Tenn.	Gonzalez	O'Brien
Annunzio	Goodell	O'Hara, Ill.
Ashley	Grabowski	O'Konski
Aspinall	Gray	Olsen, Mont.
Ayres	Green, Oreg.	Olson, Minn.
Bandstra	Green, Pa.	O'Neill, Mass.
Barrett	Greigg	Patman
Bates	Grider	Patten
Battin	Griffin	Pelly
Beckworth	Griffiths	Pepper
Belcher	Halpern	Perkins
Betts	Hamilton	Philbin
Bingham	Hanley	Pickle
Blatnik	Hansen, Iowa	Pirnie
Boggs	Hansen, Wash.	Poage
Boland	Hardy	Poff
Brademas	Harvey, Mich.	Price
Bray	Hathaway	Pucinski
Brooks	Hawkins	Purcell
Broomfield	Hays	Quillen
Broyhill, Va.	Hébert	Race
Burke	Hechler	Redlin
Burleson	Helstoski	Rees
Burton, Calif.	Herlong	Reid, N.Y.
Byrne, Pa.	Hicks	Resnick
Byrnes, Wis.	Holland	Reuss
Cabell	Horton	Rhodes, Ariz.
Cahill	Hosmer	Rhodes, Pa.
Callan	Howard	Rivers, S.C.
Callaway	Hull	Rivers, Alaska
Carey	Hungate	Roberts
Carter	Huot	Rodino
Casey	Irwin	Rogers, Colo.
Celler	Jacobs	Rogers, Tex.
Chelf	Jarman	Ronan
Clark	Jennings	Rooney, N.Y.
Clausen, Don H.	Joelson	Rooney, Pa.
Cleveland	Johnson, Calif.	Rosenthal
Clevenger	Johnson, Okla.	Rostenkowski
Cohelan	Johnson, Pa.	Roush
Colmer	Jones, Ala.	Ryan
Conte	Karsten	St Germain
Cooley	Karth	St. Onge
Corbett	Kastenmeier	Saylor
Corman	Kee	Scheuer
Craley	Keith	Schisler
Culver	Kelly	Schmidhauser
Curtin	Keogh	Schneebeli
Daddario	King, Calif.	Schweiker
Dague	King, Utah	Senner
Daniels	Kirwan	Shipley
Davis, Wis.	Kluczynski	Shriver
Dawson	Krebs	Sickles
de la Garza	Kunkel	Slack
Dent	Kupferman	Smith, Iowa
Denton	Laird	Smith, N.Y.
Diggs	Leggett	Smith, Va.
Dingell	Lipscomb	Springer
Donohue	Long, La.	Stafford
Dorn	Long, Md.	Staggers
Dow	Love	Steed
Duncan, Oreg.	McDade	Stratton
Duncan, Tenn.	McDowell	Stubblefield
Dwyer	McFall	Sullivan
Dyal	McGrath	Sweeney
Edmondson	Macdonald	Teague, Calif.
Edwards, Calif.	Machen	Tenzer
Edwards, La.	Mackay	Thompson, N.J.
Ellsworth	Mackie	Thompson, Tex.
Evans, Colo.	Madden	Thomson, Wis.
Evins, Tenn.	Mahon	Todd
Fallon	Mailliard	Trimble
Farbstein	Marsh	Tunney
Farnsley	Martin, Mass.	Tupper
Farnum	Martin, Nebr.	Udall
Fascell	Matsunaga	Ullman
Feighan	May	Van Deerlin
Findley	Meeds	Vanik
Fino	Mills	Vigorito
Flood	Minish	Vivian
Flynt	Mink	Watkins
Fogarty	Mize	Watts
Foley	Moeller	Whalley
Ford, Gerald R.	Monagan	White, Idaho
Ford, William D.	Moore	White, Tex.
Frelinghuysen	Moorhead	Widnall
Friedel	Morgan	Wilson, Charles H.
Fulton, Pa.	Morris	Wright
Gallagher	Morrison	Yates
Garmatz	Morse	Young
Gathings	Moss	Zablocki
	Multer	
	Murphy, Ill.	
	Murphy, N.Y.	

NAYS—102

Abbitt	Fisher	Passman
Abernethy	Fountain	Pike
Andrews, George W.	Fulton, Tenn.	Quie
Andrews, Glenn	Gettys	Randall
Andrews, N. Dak.	Gross	Reid, Ill.
Arends	Grover	Reifel
Ashbrook	Gubser	Robison
Ashmore	Gurney	Rogers, Fla.
Bennett	Hagan, Ga.	Roybal
Berry	Haley	Rumsfeld
Bolton	Hall	Satterfield
Bow	Hansen, Idaho	Scott
Brock	Harsha	Secrest
Brown, Ohio	Henderson	Selden
Broyhill, N.C.	Hutchinson	Sikes
Buchanan	Jonas	Skubitz
Burton, Utah	Jones, Mo.	Smith, Calif.
Cameron	Jones, N.C.	Stalbaum
Cederberg	King, N.Y.	Stanton
Chamberlain	Kornegay	Stephens
Clancy	Langen	Talcott
Conable	Latta	Taylor
Cramer	Lennon	Tuck
Cunningham	McClory	Tuten
Curtis	McCulloch	Utt
Derwinski	McEwen	Walker, N. Mex.
Devine	McMillan	Watson
Dickinson	MacGregor	Weltner
Dole	Michel	Whitener
Dulski	Minshall	Whitten
Edwards, Ala.	Morton	Williams
Erlenborn	Nelsen	Wilson, Bob
	O'Hara, Mich.	Wolff
	O'Neal, Ga.	Wydler
	Ottinger	Younger

NOT VOTING—41

Adair	Fuqua	Mosher
Baring	Hagen, Calif.	Pool
Bell	Halleck	Powell
Boiling	Hanna	Reinecke
Brown, Calif.	Harvey, Ind.	Roncalio
Clawson, Del	Holifield	Roudebush
Collier	Ichord	Sisk
Conyers	Landrum	Teague, Tex.
Davis, Ga.	McCarthy	Toll
Delaney	McVicker	Waggonner
Dowdy	Martin, Ala.	Walker, Miss.
Downing	Mathias	Willis
Everett	Matthews	Wyatt
Fraser	Miller	

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Teague of Texas for, with Mr. Waggonner against.

Mr. Downing for, with Mr. Davis of Georgia against.

Mr. Delaney for, with Mr. Roncalio against.

Until further notice:

Mr. Baring with Mr. Harvey of Indiana.

Mr. Holifield with Mr. Collier.

Mr. Sisk with Mr. Adair.

Mr. Miller with Mr. Reinecke.

Mr. Willis with Mr. Roudebush.

Mr. Hagen of California with Mr. Martin of Alabama.

Mr. Brown of California with Mr. Bell.

Mr. Toll with Mr. Wyatt.

Mr. Fuqua with Mr. Mosher.

Mr. Landrum with Mr. Walker of Mississippi.

Mr. Powell with Mr. Fraser.

Mr. Ichord with Mr. Dowdy.

Mr. Matthews with Mr. McVicker.

Mr. Conyers with Mr. McCarthy.

Mr. Hanna with Mr. Pool.

Mr. RUMSFELD, Mr. LANGEN, Mr. BROYHILL of North Carolina, Mr. FOUNTAIN, and Mr. SKUBITZ changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TAX ADJUSTMENT ACT OF 1966—CONFERENCE REPPORT

Mr. LONG of Louisiana. 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. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes. I ask unanimous consent for the present consideration of the report.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. WILLIAMS of Delaware. Will the Senator yield so that we may have a quorum call in order to alert Senators that the tax measure is before the Senate?

Mr. LONG of Louisiana. Yes, after the conference report is laid before the Senate.

Mr. WILLIAMS of Delaware. Surely.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of Mar. 14, 1966, pp. 5527–5528, CONGRESSIONAL RECORD.)

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

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

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LONG of Louisiana. Mr. President, we have before the Senate at the present time the conference report on H.R. 12752, the Tax Adjustment Act of 1966. This is the bill that was passed by the Senate only last Wednesday. As you can see, the conferees acted expeditiously, and the legislative history demonstrates once again that the Congress can act on tax legislation with dispatch appropriate to the occasion.

It is just 2 months since the President sent his recommendations to the Congress. These recommendations, unlike those which resulted in the Excise Tax Reduction Act of 1965, called for raising tax revenues through excise tax increases and revisions in the timing of current payments of individual and corporation income taxes. Careful consideration was given to the President's recommendations and their objectives, but Congress did not overlooked the effect of those provisions which would cause unusual difficulties for taxpayers.

The bill, as agreed to by the conferees, does not depart appreciably from the revenue raising objectives of the President's recommendations. The conference report will raise $1,130 million in revenue in fiscal year 1966, and $4,800 million for the administrative budget, and a net additional $105 million for the social security trust fund in fiscal year 1967.

There were 36 amendments added to the House bill by the Senate, 14 of which involved technical amendments or corrections of clerical errors. The House readily concurred with the Senate's action on them. The remaining 22 amendments concerned 10 substantive provisions from which the House receded on 7, and the Senate receded on 3.

Three of these ten substantive issues were related to the introduction of the graduated withholding schedules on wage and salary income. The first issue represented Finance Committee amendments modifying the withholding allowances on graduated withholding for those with large itemized deductions. These amendments simplified the calculation of the withholding allowance by reducing the percentage on the first $7,500 of income above which allowances are taken into account from 12 percent to 10 percent. They also reduced the underwithholding implicit in the House-passed provision by requiring a full $700 excess of itemized deductions over the percentage minimum base before the first withholding allowance could be claimed. These adjustments met the requirement of reducing overwithholding on taxpayers in the $5,000 to $10,000 income class without providing underwithholding to any significant degree. The House receded on these amendments which will increase revenues by $35 million in fiscal year 1967.

On the second issue, the House also receded on Senate amendments added by the Finance Committee which provide a procedure for determining the withholding allowance for itemized deductions by taxpayers who used the standard deduction in the preceding year. The taxpayer in this case may treat as itemized deductions for the prior year the lesser of 10 percent of wages shown on his return for that year, or $1,000.

The third issue relates to the option of taxpayers to disregard a difference of up to $5 between the tax liability shown on their return and the amount of withholding and declaration payments that they have made. This was a floor amendment submitted by the junior Senator from Louisiana. In the discussions in conference, the House conferees pointed out that it involved a revenue loss of $10 million, which was not directly associated with any consideration of taxpayer equity. The House conferees urged further that it would be preferable to allow some passage of time to test how the withholding schedule in the bill would function and to check the accuracy of the system relative to the final tax liability. We can reconsider this provision after we have had that experience, if we find that a large number of taxpayers find themselves within this $5 range of their final tax liability and that the revenue losses involved for the Internal Revenue Service for the forgiveness of up to $5 is not large. Accordingly, your conferees receded on this amendment, with the understanding that the Treasury Department will conduct a thorough study of its feasibility.

On the fourth, the House receded on Finance Committee amendments which deleted a provision imposing a floor stock tax on 1 percent on passenger automobiles in the hands of dealers on the day the increased excise tax is to become effective on automobiles.

On the fifth issue also the House conferees receded on a Senate floor amendment that made April 1, 1966, the effective date for the restoration of the excise tax on telephone and teletypewriter service to 10 percent.

The sixth issue concerned the amendment the Finance Committee added to the bill which would allow deductions from income tax for certain indirect contributions to political parties. That was the amendment by the Senator from Delaware [Mr. WILLIAMS]. The House conferees also receded on this amendment.

The seventh issue involved the amendment the Senate Finance Committee added which would require the Department of Agriculture to supply farmers who receive $600 or more of annual payments under programs administered by the Department with copies of the same information returns which it presently is required to send to the Internal Revenue Service. The House conferees understood the problem at which the amendment was directed, but they insisted that it deserved careful, systematic study before legislation. Your conferees receded with the understanding that a study of the subject would be instituted.

The House conferees also receded to the Senate on the eighth issue—a floor amendment offered by Senator TOWER to raise the exemption level from duty for gifts sent by members of the Armed Forces serving in a combat zone to $50 retail value, from the present $10 exemption level applicable to all other U.S. citizens who send bona fide gifts to this country from abroad. The $50 duty-free provision will apply to articles purchased in or through authorized agencies of the Armed Forces and which enter the United States after the date of enactment, but on or before December 31, 1967. It is estimated that this will involve an additional outflow of $10 million with respect to the balance of payments, but its effect on customs duties will be negligible.

The two remaining amendments adopted by the Senate involve substantial amounts of money—a revenue loss of $315 million a year on local, residential telephone service and increased expenditures of $790 million for broadening coverage under the social security system for persons 70 years or olders presently ineligible for its minimum benefits. The conferees from the House, since both of these involved a large loss in the net funds which would otherwise be obtained under the bill, resisted them strongly.

With respect to the floor amendment offered by the Senator from Indiana [Mr. HARTKE] to retain the present 3 percent excise tax on local residential telephone service, the House conferees maintained that the $315 million revenue loss in fiscal year 1967 is much too great to sustain in a bill designed to increase revenues to avoid inflation in this period of increased military commitment. They also believed that since this tax will affect almost all the taxpayers in this country, its burden will be spread broadly and therefore not be particularly burdensome with respect to any single taxpayer or group of taxpayers. The House conferees were adamant about retaining this provision, and your conferees finally receded, but only after substantial concessions were obtained on the amendment I am about to discuss.

Mr. President, we found the House conferees were strongly opposed to the amendment offered by the Senator from Vermont [Mr. PROUTY] to provide persons age 70 years or older with monthly social security benefits of $44 and an additional $22 for a spouse.

The House conferees pointed out that this Senate amendment was drafted with loose language involving extremely complex considerations. They pointed out these aspects had broad implications which had not been fully considered. They further pointed out that neither the Finance Committee not the Ways and Means Committee had held hearings on its provisions to determine the full extent of the problems of the elderly poor, that is, how many are without any

retirement or assistance benefits, how many receive inadequate benefits, or how the Congress best can meet their needs?

The House conferees pointed out that this amendment provided benefits for many more persons than the needy aged now inadequately provided for under other systems. They noted that its provisions seriously contradicted the fundamental concepts of the self-supporting, contributory social security system, in that it did not require any minimum eligibility in covered work. They indicated that it repealed the transitional requirements for persons 72 years or older enacted last year, provided greater monthly benefits than the $35 a month made available to them last year, and authorized payment of this benefit in addition to other benefits an aged person may be receiving under pension plans.

Because of this feature, the Railroad Retirement Board estimated that the Prouty amendment as passed by the Senate would have cost the Railroad Retirement Fund $170 million in the first year and approximately $90 million yearly on a level basis thereafter. The chairman of the Subcommittee Railroad Retirement of the Committee on Labor and Public Welfare, the Honorable CLAIBORNE PELL, advised me that such additional benefit payments could have put the Railroad Retirement Fund in an unsound actuarial position, and that he strongly supports the conference substitute.

After considerable discussion and consideration, the conferees worked out a substitute for the Senate amendment. This substitute achieves the basic objective sought by the Senator from Vermont. It provides social security benefits for aged retired persons who do not now receive adequate benefits under any Government retirement program.

Under the conference agreement, an estimated 370,000 persons who become 72 before 1968 may qualify for a $35 monthly benefit—plus $17.50 for a spouse 72 or over—if they are not otherwise eligible for social security benefits.

The hardship cases recited by Senator PROUTY during discussion of his amendment are included among the 370,000 aged persons to which the conference substitute applies. These are persons who either do not receive any benefits from another public retirement system, or who receive less than $35 a month, $52.50 a month for married couples.

Individuals age 72 and over who receive less than $35 a month from Federal, State, or local government retirement systems will have their benefits built up to $35 per month under the conference agreement. Similarly, married couples aged 72 and over who receive less than $52.50 per month under Government retirement systems will have their aggregate benefit built up to $52.50.

Persons who receive old-age assistance under any Federal-State aid program will not be eligible for the $35 payment under the conference substitute while they are receiving the assistance. However, they may receive the $35 benefit in the event cash assistance should be terminated. Veterans and widows receiving compensation payments from the Veterans' Administration for service-connected disability or death will be eligible for the monthly $35 or $52.50 benefit without regard to these VA payments. Similarly, receipt of workmen's compensation will not reduce an eligible individual's benefits.

The conference substitute merges the provisions of this amendment with the existing provisions of the Social Security Act. Thus, individuals who become 72 before 1968 may qualify for the $35 monthly benefit without covered work contributions, persons who reach 72 in 1968 must have three quarters of covered work. Persons who reach 72 in 1969 will need six quarters of covered work, and those reaching 72 in 1970 will need nine quarters of coverage, and thereafter three additional quarters a year until the permanent maximum level is reached.

Those eligible this year may apply for benefits beginning in July, and the first benefit payments will be made sometime in November 1966. The initial benefit payments will come from accrued reserve funds in the old-age and survivors insurance trust fund. In fiscal year 1968, the actual payments will be totaled, and an appropriation equal to the total payments plus interest will be requested in the next budget to enable the general fund to reimburse the trust fund for these expenditures. The first year cost—for three quarters of fiscal year 1967—is estimated at $95 million. Under the procedure for reimbursement, the first payments from the general fund will be made to the trust fund in fiscal year 1969. The estimated cost in the second year is $115 million, which will be incurred by the trust fund in fiscal year 1968. This cost will be reimbursed to the trust fund from the budget for fiscal year 1970. Thereafter the cost will decline by about $10 million per year.

CONCLUSION

Mr. President, as conferees on the part of the Senate, I and the other Senate conferees fulfilled our obligation to the best of our abilities. We represented the Senate on these amendments without regard to what our personal position had been with respect to them during the Senate consideration. This is the practice that I intend to follow at all times.

As I indicated earlier in my statement, 10 substantive amendments were made by the Senate, and the conferees succeeded in maintaining the Senate position on all but three of these amendments. One of the three on which we did not insist was my own amendment, the amendment which would have made it unnecessary for taxpayers to pay amounts of less than $5 where withholding or declaration payments accounted for most of their tax liability. The second amendment on which we failed to obtain House conferee approval was an amendment offered by another Senate conferee, the senior Senator from Delaware [Mr. WILLIAMS]. Technically, this was a Finance Committee amendment but was one offered by the senior Senator from Delaware in the committee consideration, agreed to by the committee, adopted by the Senate, and taken to conference. I am referring to the amendment he offered to require reporting by the Department of Agriculture to farmers with respect to payments made to them which they must take into account for tax purposes.

Apart from these two amendments—my own amendment and the amendment of my fellow conferee—we brought back to the Senate all but one of the amendments placed on this bill by this body. It was impossible to bring back both the amendment retaining the local telephone tax at 3 percent and the Prouty social security amendment. The House conferees were completely unwilling to lose the more than $1 billion which these two amendments would have entailed in the form as passed by the Senate. We did, however, bring back the heart of the Prouty amendment, because we are providing minimal social security coverage to all persons over age 72 who do not already receive this minimal amount in the form of some other governmental pension—be it a military, Federal civil service, or State or local government pension. Even persons receiving old-age assistance can obtain such a pension in lieu of their public assistance payment if the pension is larger.

I believe that we have brought back the maximum amount possible as a result of our conference with the House. We have done this at the same time that we have managed to provide the additional revenue necessary for the Government in the period immediately ahead.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HOLLAND. Since we do not have a printed conference report, will the Senator from Louisiana state for the RECORD, if he has not already stated it, the difference between the original request of the administration and the amount agreed to in the report, apart from the social security amendment, which I think I understand?

Mr. LONG of Louisiana. In terms of the administrative budget, the amount resulting from the conference action is almost the same as the recommendation of the President.

Mr. HOLLAND. As I understood from the press yesterday, when a short statement appeared on the news ticker, the President's request originally involved slightly more than $6 billion a year, both in increased taxes and advance payments, while as reported by the conference committee the amount was reduced to about $5.9 billion.

Mr. LONG of Louisiana. It is $5,930 million. The President's recommendation was, roughly, $6 billion, and the amount provided in the conference report is about $5,930 million. So the difference is about $70 million.

Mr. HOLLAND. I thank the Senator.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. HARTKE. In view of the fact that the conference committee decided to continue the selective sacrifice method of taxation on telephone service and automobiles, rather than to approach the question as a comprehensive tax policy,

I wonder if the Senator from Louisiana, both in his capacity as chairman of the Committee on Finance and as assistant majority leader, has any special information he can give the Senate as to future tax laws, especially in view of the fact that the Secretary of the Treasury yesterday, in a statement to the Economic Club of Detroit, indicated a possibility that new taxes would be necessary.

Mr. LONG of Louisiana. I know of no plan presented to the Committee on Finance for any increase in taxes. I am not saying that among Senators or among Members of the House someone might not have a plan for tax adjustment, one way or another; but I do not know of any plan before the Finance Committee for any general increase in taxes.

So far as the conference was concerned, as the Senator from Indiana well knows, the Senate had adopted an amendment that provided for the repeal of the floor stock tax on automobiles, and we succeeded in persuading the House to accept that amendment. As a result we made at least that much headway in the direction in which the Senator from Indiana would like to see us move.

Mr. HARTKE. Yes; but does the Senator from Louisiana, in his capacity as a member of the leadership of this body, have any information from the Treasury as to any plan they are pursuing with respect to future taxation: whether any plan will be submitted to Congress, and whether the Committee on Finance will have an opportunity to discuss this matter on a later date? Is a study in depth to be made at the recommendation of the Treasury or the recommendation of the committee?

Mr. LONG of Louisiana. I can only say that the Treasury has presented no plans either to the committee or to me to increase any tax. I am sure that the Treasury is constantly studying the situation and, if it determines that it is necessary to raise taxes it will recommend this to us.

However, I think it is safe to say that as of this time no recommendation is before us for a tax increase beyond what is provided in this bill.

Mr. HARTKE. Does the Senator from Louisiana have any information to indicate any change in the estimate of the cost of the war in Vietnam or any change in aspects in this regard which would indicate that we could expect or anticipate in the reasonably near future a change in the present overall budget toward an increase in general taxation?

I am not speaking about the correction of inequities and fairness in administration, which I am sure the Senator from Louisiana would always welcome, as would the Senator from Indiana. However, with regard to the cost of the war in Vietnam, do we have any more definitive figure? Has the Secretary of Defense submitted any further information which would define the matter more specifically? Has the Director of the Budget given any indication that he has a better estimate as to what we may expect within the net 4 or 5 months, an estimate which would be more in line with anticipations and more reasonable?

It will be recalled that when we adjourned last fall, we found, within a period of less than 6 months, that the excise taxes which we hailed with a great deal of enthusiasm as a means of lessening the burden on the poor and the low-income groups had to be reinstituted because the war had to be borne and paid for by the poor.

We made a mistake. Although the Senator from Minnesota and I were discussing a few moments ago that the Senate acted with great dispatch, I wonder if the Senate acted with the same amount of intelligence.

Mr. LONG of Louisiana. The Senator is certainly privileged to have his opinion on these matters. I too would like to make improvements in the tax system and I should like to see the taxes of many people reduced if we could afford to do so. However, we need this money to carry out the commitments that have been made and to carry out the military requirements of our country. So far as I know, we have taken care of these in this measure.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. WILLIAMS of Delaware. The Senator from Indiana is correct. The administration, to my knowledge, has not suggested any increase in taxes as far as our committee is concerned. However, I think it should be pointed out that the administration is well aware of the fact that the pending bill is only a stopgap measure and would provide approximately $6.5 billion in one-shot revenue. This money will not be from additional taxes, but merely from an acceleration of the rate of payments. The money would be used to reduce the projected deficit for next year. The country will be operating next year, not on a deficit of $1.8 billion as claimed, but on a deficit of approximately $10 billion. The only tangible evidence I see that the administration is trying to solve this problem is its effort to get further authority to sell the assets of this country and use the proceeds to pay for the current operating expenses of the Government today. It is a shortsighted policy. It is a policy which will come back and haunt the administration later. The administration is deliberately laying the groundwork for a boom-and-bust period.

Mr. LONG of Louisiana. Mr. President, this bill would provide the funds with which to see us through our plans for next year. If we need more revenue later, something can be done then.

Mr. WILLIAMS of Delaware. The Senator is correct. This bill will see the administration through the 1966 election, and after that, watch out.

Mr. LONG of Louisiana. If we need more revenue thereafter, we will take all of these matters into account.

I think that this measure would see us through our deficit that would otherwise exist in fiscal 1967, and keep it within reasonable bounds. It seems to me that, without this measure, the deficit would be very high.

Mr. HARTKE. Mr. President, I am in favor of holding down the deficit. Is it true that this measure would raise approximately $1.2 billion in additional, new revenue?

Mr. LONG of Louisiana. The bill would raise this much from new excise tax revenue in the fiscal year 1967.

Mr. HARTKE. That is the only new revenue that would be raised by this measure.

Mr. LONG of Louisiana. The measure would bring in several billions of dollars more, however, from adjustments in collection procedures, including an additional $3.2 billion by speeding up the collection of corporate income taxes.

Mr. HARTKE. Those taxes would be collected anyway. It is not a matter of new taxation. It is merely a matter of collection.

Mr. LONG of Louisiana. It is a one-time gain.

Mr. HARTKE. The Senator is correct.

Mr. LONG of Louisiana. The Senator is informed and knows what a one-time gain is. We collect it one extra time and never have to pay it back. That makes the deficit that much less for that year.

We anticipate that we shall continue to have a growing economy, as we presently do. This means we should have approximately $6 billion in additional revenue in the following year. Moreover, many economists think that is a very conservative estimate and that we will have as much as $7 billion or $8 billion in additional revenue in each year with our present growth. If that is the case, and we do not substantially increase our expenditures, we would have a balanced budget in the years ahead without having to levy any additional taxes.

Mr. HARTKE. At this point no one in a responsible position has indicated that we will have a 1-year war. This war effort in all likelihood will continue for a longer period than will the acceleration of taxes.

Mr. LONG of Louisiana. I hope that we shall eventually be able to bring this war to an end and in the near future to get the war sufficiently under control so that it will not cost any more than it presently does.

Mr. HARTKE. As the Senator knows, I do not intend to ask for a rollcall. I compliment the Senator for at least following his own admonition to this body. Following the action of the Senate, and I believe the measure was passed by the Senate on March 1, the measure went to conference on March 10. It is now March 15, and the bill is ready to go to the White House this afternoon. That is a totally elapsed time of from the 1st of March to the 15th of March.

I should like to call to the attention of the Senator the fact that, while the Senator was not in charge of that measure, he indicated that there was some attempt to stall or filibuster the measure.

I hope the Senator will state who the filibusters were. The measure was passed by the Senate on March 1, and no conference was held until March 10. In fact, the conferees were not appointed until March 9. It has taken until today, March 15, for that very important measure—which everyone indicated at that

time was so necessary in order to provide ammunition and help to the boys in Vietnam—to be ready to go to the White House for signature by the President.

Mr. LONG of Louisiana. I was not one of the conferees on that measure. I am not in a position to speak for them. I presume that every conferee does his best as the merciful Lord gives him the talent to see the right and to do it.

In my judgment, while we spent 3 weeks on that measure, it could have been disposed of in 1 week. If we had done so, it would have probably shortened the session by that much.

EFFECT OF VIETNAM ON THE STOCK MARKET

Mr. President, an editorial appearing in the Chicago Tribune for March 8 comments on the relationship between the uncertain tax policy involved in our Vietnam expense and the war in Vietnam.

The editorial quotes from comments in the same paper made by the financial columnist Eliot Janeway, who points out that the tax bill, whose final passage we are voting upon today, by its concentration on a "one-shot" method of tax collection does little to dipsel forthrightly the existing uncertainty about future tax policy.

Mr. President, I ask unanimous consent that this editorial may appear in the CONGRESSIONAL RECORD.

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

[From the Chicago (Ill.) Tribune, Mar. 8, 1966]

THE STOCK MARKET AS SOUNDINGBOARD

Eliot Janeway, writing on our financial page, discusses the financing of the war in Vietnam and its effect on the stock market. He says that we are mobilizing to fight a destructive war, but that the administration is acting as if it could be fought on the cheap.

President Johnson's tax proposals, Mr. Janeway feels, are altogether inadequate if the administration continues to insist on huge expenditures at the same time for domestic "welfare." Once the troops are committed, the backup decision to levy taxes to support the troops becomes a necessary followthrough.

But the administration's fiscal stance clings to the fairly tale that the luxuries of domestic spending, as well as Vietnam, can be paid for with one-shot tax gimmicks improvised to meet the bills that are now piling up. The $1.2 billion to be raised by reinstating auto and telephone excise taxes are, Mr. Janeway says, the equivalent of a tip to the waiter, while the scheme to accelerate collections from individuals and corporations leaves everybody up in the air.

"Fear of shaking up business and consumer confidence," says Mr. Janeway, "is no excuse for the failure to close the 'credibility gap' on the tax front. The deterioration in the stock market leaves no doubt that business likes uncertainty even less than it likes taxes. The combination of a 'quickie' tax plan for a long war, of costs inflating, and of liquidity deflating is giving the stock market and the taxpayers plenty to be uncertain about."

To this we would add that Mr. Johnson is quite aware that national congressional elections lie ahead this fall, and he knows that a sharp rise in taxes at this time would not commend his administration to the voters. The bad news, however, is only deferred if he persists in demanding butter along with guns, without the means to pay the price. The tax boost will come, but meanwhile the stock market shows its trepidation as prices recede ever further from the breakthrough envisioned not so long ago in the magic 1,000 point level of the Dow-Jones index.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. ALLOTT. Mr. President, do I correctly understand the Senator to say that under the conference report there would be actually $1.3 billion in new taxes as a result of this measure?

Mr. LONG of Louisiana. There would be excise tax revenue in the fiscal year 1967 of $1.2 billion.

Mr. ALLOTT. That would involve chiefly the automobile and the telephone tax.

Mr. LONG of Louisiana. The Senator is correct. The speeding up of the corporate payments would be a one-time gain in revenue to the Government. It will also be a one-time additional cost to the corporations paying the taxes. I do not want to mislead anyone concerning that. When we tell somebody that he must pay his taxes 6 months earlier, and he has to continue paying similar taxes 6 months earlier than he otherwise would have had to, a large amount of additional revenue may be collected.

Mr. ALLOTT. A lot of revenue would be collected. This has been repeatedly referred to as a "one-shot deal." What we have actually done is to accelerate the collection of taxes this year at the corporate and individual level. But the amount of payments that are accelerated and paid into the Federal Government, by the same token, would not be paid next year, because it is only a "one-shot deal." The Government would not be collecting any additional revenue from people by this bill, other than on the two items that the Senator has mentioned.

Mr. LONG of Louisiana. It is true that we would only collect any given tax liability once. However, if the Government obtains an additional amount of revenue in just one year but collects no less in subsequent years than it would otherwise do it would still be ahead by that much revenue. That is what has happened as a result of the Revenue Act of 1964, which began this speed up in collections which this bill still further speeds up. The corporations will know that they are out more in taxes over this period.

Mr. ALLOTT. But the Government would not be ahead, because what they collect this year would have been collected next year, when income tax time comes around.

Mr. LONG of Louisiana. But in the following year, the Government will collect just as much money as it would otherwise have done in the absence of these two acts. In other words, when we speed up tax collections in one year, the following year we do not give it back, we simply in that year collect amounts which otherwise would have been collected in later years, and so on. In this manner we eventually gain 1 year's revenue.

Mr. ALLOTT. But we have not raised the rate, and so, even though the people pay it next year at the same rate, all we have done is accelerate the payment of taxes.

Mr. LONG of Louisiana. This bill will cause us to collect $3,200 million more from corporations in the fiscal year 1967 than we would have collected otherwise.

In fiscal 1968, we will still collect a full year's taxes from corporations, even though we may receive considerable additional revenue if the corporations are making more profits.

Mr. ALLOTT. If they do.

Mr. LONG of Louisiana. If they are they will pay more taxes for that reason. We hope they will. But they do not get that $3,200 million back in the following year; they simply pay a full year's taxes in that year.

Mr. ALLOTT. I understand that. I think this is simply government by gimmickry. It is an attempt to bring in more cash so that the deficit does not look so large, and I think it should be made clear that that is what it is. It is nothing else. It does not raise new taxes; it just staves off the day a little bit, until we do it again.

Mr. LONG of Louisiana. May I say to the Senator that what we are doing is putting the corporations more on a more current basis for paying the taxes as they accrue. It is something that should be done in any event. However, it is something we would not want to do on occasions where we did not have full employment, and when people did not have enough money to invest in plant and equipment. On such occasions, we would want them to be investing their money and expanding plant and equipment, providing new employment, and distributing the money in dividends to their stockholders, as a result in such cases we would want people to be able to spend more money and generate more investments and consumer spending.

The same thing is true with regard to the money we pick up by the graduated withholding rates on individuals. On a short-term basis, it makes the Government a substantial amount of money. However, we would not wish to do that if we were at the same time trying to stimulate spending, either consumer spending or spending for capital investments.

Mr. ALLOTT. I do not wish to continue the argument, but it does not make the Government any money; it merely precollects that money, and that is all it does.

Mr. LONG of Louisiana. I would say yes; it "precollects" if the Senator wishes to call it precollecting, although as a practical matter, we are not making anybody pay taxes ahead of the time when the liability accrues, however, by this action of making the tax all payable earlier than would otherwise be the case the taxpayer is not able to keep the money and use it as long as he formerly could. By making him pay it sooner, we gain revenue for the Government.

Mr. PROUTY. Mr. President, before addressing myself to the conference report, I should like to try to dispel some of the confusion and misconceptions which have arisen since the adoption of my social security amendment by the Senate last Tuesday.

A rather critical editorial appeared in the New York Times on March 10, and

I wish to quote excerpts from a letter which I subsequently wrote to the editor of that great paper:

I take great issue with the allegation that my proposal is a perversion of the social security system. Medical care under social security brings those who never contributed a penny toward hospitalization under a program of benefits at age 65. The transitional amendments of 1965 bring under social security those who contributed only a very small percentage toward the benefits they ultimately receive. My proposal is not a perversion but an extension of these existing principles and programs.

Nor does my proposal merit the label "share-the-wealth scheme" you imposed, as under existing social security laws the beneficiaries of my proposal would be subject to the same earned income limitations imposed on present beneficiaries. Of the 1.5 million beneficiaries of my proposal, 1.1 million are already under some form of welfare program.

My proposal attacks poverty in a class of people statistically identified as, man for man, woman for woman, the poorest in the United States.

Their retirement income, if any, is often based on wages and salaries of the 1930's and 1940's. Many retired teachers, for example, receive as little as $25 a month and have never been permitted to contribute to or participate in the social security system.

Your editorial was critical of funding my plan from general revenues. Research discloses that the Social Security Act of 1935 as amended in 1943 provided funding for certain programs out of general revenues of the Treasury. The same principle is used under the Medicare Act to pay for health insurance for those age 65 who have made no contributions to the trust fund.

Again my proposal utilizes an existing principle. Finally, the class of people sought to be protected by my proposal will diminish in number as social security coverage approaches universality. It is designed, therefore, to offer a minimum program of retirement benefits ($44 a month) to those age 70 and above who would not be eligible for social security, who have been denied the opportunity since 1935 to participate in the social security system.

I think it should be pointed out, also, that under existing social security law, an individual may have an unearned income of millions of dollars each year, plus a very lavish private pension, and still draw maximum social security benefits. The people that I am trying to protect are not in that class.

Under existing law, Members of Congress may draw social security payments, if they come under the program, and also draw their congressional pensions. Any Member of Congress who is 65 is entitled to participate in the medicare program, regardless of whether he has ever been under social security or not.

On the basis of his study of the world's great civilizations, the Historian Toynbee concluded that a society's quality and durability could best be judged by the respect and care given its elderly citizens.

By that standard we have not measured up too well. You know it, I know it, and the Senate knew it when it adopted my amendment to provide $44 a month to anyone age 70 or over who never qualified for social security. This amendment, which withstood a challenge of three votes, would have aided 1.5 million older Americans.

Who are these million and a half elderly people? Do they really need the money the Senate voted for them? Here is my answer. One million one hundred thousand of these retired folks must now lean on public assistance in their effort to cling to survival. Looking at the money income received by older persons not covered by social security, we notice a shocking thing. Only about 12 percent of this income comes from retirement benefits of any kind. In fact, less than one-half of 1 percent of the money expended by older folks not protected by social security comes from private pensions. Only one-half of 1 percent of the money spent by nonbeneficiaries comes from contributions by relatives.

Nonbeneficiary couples—by that I mean couples not covered by the Social Security Act—who have reached retirement age, receive more than two-thirds of their income from employment, only 12 percent from retirement benefits for railroad and Government employees, and less than 1 percent from private pensions.

In a word, Mr. President, many of these people are forced to work when they are no longer able to work. They have virtually nothing in the way of pension income, and even retired Federal employees, who are in a better position than many other age 70 or older, have far from an adequate income.

Of the more than 200,000 surviving widows and children of civil service employees, 79 percent receive less than $100 a month. Ninety-three percent receive less than $150 a month. And 99 percent of all surviving widows and children receive less than the so-called poverty level of $3,000 a year.

These are the facts, Mr. President. I ask you: Was the Senate justified in voting a modest pension of $44 to each person and $66 to each couple age 70 or over?

I say that it was not only justified, I blush at the thought that we offered so little to so many who need so much.

To those who stood side by side fighting to provide pensions to one and a half million Americans, I say do not lose heart.

It is true that the number of beneficiaries has been reduced by the conference committee from 1.5 million to 300,000.

It is true that the conference committee reduced the benefit level from $44 to $35.

It is true that the age at which the social security benefit is first available has been raised by the conference committee from 70 to 72.

It is true that the conference language will require all Government pension recipients, Federal, State, or local, to offset against the new benefit any income they may receive from public pensions, while their neighbors with private pensions may receive the full benefit.

And lastly, it is true that the conference committee language would deny social security benefits to those who fail to attain the age of 72 before 1968 unless they have three quarters of coverage for each calendar year elapsing after year 1966 and before the year at which they attain the age of 72.

These people, who worked perhaps as long as 50 years, will be forced to go out and get a job, whether physically able or not, in order to qualify for the meager benefits.

I shall not contend that this requirement is absurd, unreasonable, or downright callous. Let the language speak for itself and deduce from it what we may.

Mr. President, nothing I have said here can take away from the fact that even in its substantially altered form my amendment represents a victory.

It is a victory for the principle that this Nation owes an obligation to the forgotten people age 70 and over who never had a chance to obtain social security coverage during their working years.

It is a victory for the principle that general revenues must be used to increase the incomes of elderly Americans.

It is a victory for the 300,000 older citizens who will receive an increase in income, in many cases as much as $35 a month.

Finally, it is a victory for the brave souls who fought in conference to uphold the action of the Senate and who, despite heavy and severe pressures from the administration to kill my amendment, managed to come out with at least something of substance.

I think the conferees for waging this fight under the most difficult conditions imaginable and for standing by the decision of the Senate. I might well include the conferees in the other body, because they were under great pressure as well.

Some well-heeled editorial writers, who undoubtedly will retire with plush private pensions plus social security, have branded the Prouty amendment a "share the wealth" scheme—and I commented on this earlier. To those comfortably situated writers, I can only say: If to put $1.45 per day in the homes of over a million older Americans who have known little but hardship and fear for at least 70 years of their life is to share the wealth, then I plead guilty. And further than that, I intend to continue to fight to improve the incomes of these people, in Congress and on the public platforms of this country, until that one day when justice has been done and every retired American obtains enough income to purchase the bare necessities of life.

It has been said that a journey of a thousand miles must begin with one step. We have taken that one step and we are going to make the entire journey.

And it will be made with or without the help of the occupant of 1600 Pennsylvania Avenue.

It will be made with or without the help of powerful newspaper publishers.

The journey will be made because the American conscience will no longer tolerate witnessing thousands of elderly folks feebly marching in the ranks of destitution.

Mr. President, I thank the Senate sponsors of my amendment. I thank those who voted for the amendment. I thank those who fought in conference to retain it.

I thank Ernest Giddings, legislative director of the American Association of Retired Persons, for his unflagging and constant interest.

I thank most of all the older Americans who make up the lost battalion in our war on poverty. God bless them for their courage, their patience, their help in past endeavors, and for the aid which I know they will give in the struggle which lies ahead.

We have not seen the last of this issue, Mr. President. I shall seize every opportunity to bring it before the Senate so that all may know where we stand on one of the greatest social problems of our time.

To those who are downhearted or disappointed about the narrow scope of our victory, I would offer these words from the Psalms:

The needly shall not always be forgotten; the expectations of the poor shall not perish forever.

Mr. President, in conclusion, I ask unanimous consent to have printed in the RECORD excerpts from the thousands of letters which I have received since the Senate adopted my amendment. These letters from older people are written from the heart and they are written from heartbreak. They tell a story no Senator could equal. I commend them to your attention and to the attention of the public conscience.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

Thank you so much for your sponsorship of legislation to include certain older people in social security. Many of these people, like my mother, have no way to qualify under the present system, and as she (now 89) will be greatly relieved by even a small monthly assistance. These grants will not continue long but will be of great help in the meantime.

Thanking you again for your human compassion.

My mother will be 85 years old in July. She resides in North Dakota, and was widowed 20 years ago. She owned a farm until early 1950 when she could no longer take care of it even as far as the business end. She thought at the time that the proceeds from it would carry her for the remainder of her life, but with inflation and her expenses for living and maintaining her small home in a small town, her savings has dwindled to nothing. She gets no State aid and the only help she gets is from her children. She raised eight children, and I might add that they all are working and paying into social security, men and women. Her one wish in life was to be able to support herself, and a check, regardless how small, would add dignity to her life and many others who are not now covered.

Here is a bird's eye view of what happened to just one family and such benefits as veterans' benefits, social security benefits, medicare benefits etc.

I have been denied all veterans' service, connected, or nonservice disability; we have been denied dependency allowance on a son killed in action in World War II.

Three of us in this one family have paid into social security and have been denied all benefits, viz—

I paid in for all of 1937 and until August 1, 1938, but somehow my record for 1938 has been lost, so I am denied any social security benefits and that denies me part of hospital or medicare.

My wife and I have what is termed the uniform plan, of the Federal Healths Benefits Act; we have basic family and as under a new law, when medicare goes into force July 1, 1966, it will be illegal to collect duplicating coverages and all that will be left of part 2, or supplementary medical of medicare, after the parts that conflict with basic family of the uniform plan, will not be worth the $6 per month it would cost my wife and I, so while persons who never worked under social security are given both parts of medicare and thousands who paid into social security are denied it and medicare.

So, I am denied all social security, VA benefits, medicare and as I draw my disability pay from the Bureau of Employees Compensation, I am denied all pay raises granted other civil service employees.

On behalf of my 79-year-old mother I wish to thank you for the social security provision you offered, and which we hope will receive final congressional approval.

This is a first for me. I have never written a letter of this type. This measure you have introduced will bring a semblance of independence to thousands of dependent "oldsters" like my mother, and I had to let you know how grateful these wonderful people will be.

My mother is wholly dependent on myself for the necessities of life. I am her only living child and the fact that I have had to support her—along with my two fatherless children—has been a bitter pill for her to swallow. My father died 13 years ago, was self-employed and therefore never participated in the social security fund. All of their savings were used up during his 5-year illness. When he died I naturally assumed the complete responsibility of caring for my mother.

If your measure is approved my mother will hold her head high once again, because she will have a dollar in her pocket that has not come from—as she puts it—"the sweat of my daughter's brow." $35 a month may not seem like much, but to her it is almost like being the recipient of a million dollars.

I am 86 young and receive $58 a month and give $3 back for medicare. I was a small farmer and wasn't in on social security except 1 year in shipyard and what little I had saved up is nearly gone.

My experience as head of the trust department of this bank and previously in the same capacity in a bank in Florida, indicates a drastic need to supplement the income of individuals not presently covered by social security. So many of these individuals, now in advanced years, retired before being covered by social security and many widows, whose husbands died prior to their coverage, are actually living a substandard existence, and even a meager $44 a month will mean a great deal to them. These aged individuals who are now destitute or who invested their life savings in U.S. Treasury bonds or insurance annuities many years ago, have seen inflation gradually reduce their ability to live a decent life in their last years.

God bless and keep you in the best of health.

I am so glad someone remembers the unpaid employees of the city of Chicago. I am a widow of a Chicago policeman who has suffered extreme hardships due to unpaid salary of my husband.

My children were deprived of college education. My oldest son deprived of a high school diploma because his tuition wasn't paid. Due to the death of my girl who was a victim of a doctor's blunder in administering a shot and who was later removed from a lot in the cemetery because we couldn't pay $50 per month on it. I owe $1,500 on my home today. I owe $3,500; I draw $51.52 pension from city of Chicago police division. Our salary at that time was $99.21 every 2 weeks take home pay. I had 7 children.

I am a former railroad man and we men were forced to have the railroad retirement instead of social security.

I had to retire due to illness and have been unable to work for 22 years. I am drawing only $129 per month.

I wish to call your attention to a small group who are in need of some legislation for their benefit. They are the widows of totally and permanently disabled veterans of World War I with service-connected disability. There is no social security and no income other than the $64 per month given to all widows of veterans.

I read of the bill you were trying to get through to help older people not covered by social security and I truly hope you can get it passed. I am a Spanish War widow trying to get along on a pension of $65 a month. I'm 80 years old and not well, so I'm having a pretty hard time. My husband was in bad health for many years before he passed away last July, was never able to work under social security, therefore I don't get anything except the $65 pension, not even any welfare help.

I am a veteran's wife of World War I. I get a widows pension $64 a month from the Government. No other income. I pay $30 rent $5 electric, $8 for gas. Now what I would like to know why us widows can't get no more. The relief was raised. The social security was raised but not us widows. Next question I would like to ask you. I made 4 quarters on social security.

You see my mother will be 77 years of age this March 11, and I was wondering if she came under the law. My father died March of 1936 and left mom a widow, my sister and I were just 11 and 9 at the time. We had to go on relief as mom could not work due to us children being to young and also he hearing was very bad from a child. So she brought us up to be good children and kept a good home for us and made every penny count. When I became 18 I went to work for a short time, and then into the service in March 1943. I was sent overseas and wounded, this only gave mom more to worry about. Then when I got out in 1945 I went to work and have been working ever since. You see I wanted to make it much easier for mom. Then in 1950 I got married. We now have 2 children, and also mom lives with us. I try to give mom some spending money but it is hard today to bring up a family and keep everyone happy.

I have mom registered under medicare with extended coverage. I am hoping your bill that was passed in the Senate will cover her, because our parents are only here on earth a short time, and they went through a lot to help us all trough life and we owe them just a little something extra in life. It was not their fault that they could not completely work under social security. If this is something she comes under this would tend to make her feel a little independent. God bless you and speed you in your work and thanks and thanks again from the bottom of my heart for thinking of those few Americans left that could benefit, if only for a short time, on some type of payment.

I am a widow of 66. I am still under a doctor's care after suffering a coronary heart attack and arthritis.

I pay Crouse-Irving Hospital $10 each month, doctor bills here, board and room, all out of $77.80.

I could not live in my trailer we have been fixing up because I cannot afford to buy oil for furnace, and gas for cook stove, along with my other bills. Now I wonder if I am supposed to go begging to the Welfare Department for some assistance?

My mother, Mrs. Grace E. Donahue, 114 North Fairview, North Prairie, Wis., an 87-year-old widow has never been eligible for social security, because my father was a country storekeeper in North Prairie (not Sun Prairie), a town of 292, in the 1930's and early 1940's. One clerk was employed, and my parents, when social security became a law, not only paid what they were required to but also paid the clerk's share of the social security payment. You see, there was not much profit in an independent (nonchain) general store's business; consequently, my parents could not aflord to pay a large salary—and so to keep the clerk from leaving, paid her total social security. My father died suddenly of a coronary at the age of 68 in 1942, and my mother carried on alone (with the help of the clerk) until it became too much of a burden and strain on her, and she sold the store in 1944.

And so my mother has never been eligible for social security all these years—because she was unfortunate enough not to have come under the social security law when it was passed originally. She does not have a pension or any retirement benefits.

My brother's mother-in-law, is 78 years old. Her husband, a pattern maker in a toolshop. was paralyzed by a stroke in 1929—died in 1939. The children all helped support their mother when they were at home. The 45-year-old home was later remodeled to provide an income—Mrs. K living alone down stairs now—the upstairs rented. Mrs. K cannot obtain social security because her husband was not covered.

These two widows deserve social security if any one does. They struggled to rear their families. Certainly all of the children help as much as possible to see that they are not in want. But is it fair to exclude them from badly needed social security checks?

I am a retired New York City teacher who has been penalized. I retired 6 months before the present law was passed. My health failed, and the health department of the board of education would not permit me to return to become eligible for the benefits.

DEAR SENATOR PROUTY: I want to express my appreciation to you for your amendment to the tax bill which would blanket under social security all persons over 70 not now covered. Even if your amendment should be defeated in committee, you have performed an outstanding public service in bringing to the attention of the Nation the needs of our "forgotten" citizens.

My 76-year-old mother-in-law is a perfect example of this segment of our population. This dear, gentle lady never worked a day in her life and never had to. The vicissitudes of life have left her penniless.

I do not mind supporting her but it is a sore affliction to her morale and to her spirit to be completely dependent on me. Her hopes and prayers are centered around dying quickly and inexpensively. It is cruel that this all-powerful, rich Nation should neglect its elderly. Even in China, the elderly are treated with greater care and respect than we do in the United States.

I only wish that I was a voter in your State and could show my appreciation in a more forthright manner.

I have retired from the New York post office, since May 31, 1958. I havetried many places to get a job but because of my age, all the applications I filled out were never answered, so I never got the chance to work under social security.

Mr. PROUTY. Mr. President, I also ask unanimous consent to have printed in the RECORD various memorandums relative to this subject.

There being no objection, the memorandums were ordered to be printed in the RECORD as follows:

BRIEF SUMMARY OF THE CONFERENCE REPORT ON THE SOCIAL SECURITY AMENDMENTS TO THE ADMINISTRATION TAX BILL

The compromise version pays $35 ($17.50 to a wife) to everyone attaining age 72 or over before 1968 without regard to quarters of coverage. Commencing with 1968 and subsequent years the beneficiary must have three quarters for every year elapsing after 1966 up to the year the beneficiary reaches age 72.

Reductionts from the benefit amount are made in the case of recipients of governmental pensions less than the benefit amount.

In the case of a husband and wife, only one of whom is entitled to benefits under this amendment, the benefit shall be reduced, first, for any public pension received and, second, shall be further reduced by the excess of the periodic governmental pension of the spouse, not entitled to benefits under this amendment, over $17.50. For example, if A is eligible for the new benefit, and B, his wife, is not, and A receives a civil service retirement annuity of $10 a month, and his wife receives a civil service retirement annuity of $25 a month, A's new benefit of $35 is first reduced by his public pension of $10, leaving a new benefit of $25, less the subsequent reduction of the excess over $17.50 received by the wife, namely, $7.50. Hence, the eligible husband's benefit would be $17.50.

If both husband and wife are entitled to the new benefit, the benefit of the wife ($17.50) shall be first reduced by the excess (if any) of the eligible husband's public pension over $35. In the case of the husband, his new benefit shall first be reduced by the amount of his public pension and then further reduced by the excess of his wife's public pension over $17.50.

For example, if the wife receives a public pension over $17.50 and the husband receives one in excess of $35, no new benefit is payable. If the wife receives a public pension in excess of $17.50 per month while the husband receives a public pension less than $35 per month, the wife receives no new benefit, and the husband's new benefit is reduced by the amount of his public pension and the excess of his wife's public pension over $17.50. Conversly, if the wife receives a public pension less than $17.50 per month, but the husband receives one of more than $35 per month, the husband get no new benefit, and the wife's new benefit of $17.50 is reduced by the amount of her public pension and the excess of her husband's public pension over $35.

Persons receiving State public assistance moneys under State plans funded by social security are not eligible for the new benefit. Where the needs of the husband or wife of a public assistance beneficiary are taken into account by the State in determining the benefit payable to the recipient, the husband or wife is not eligible for the new benefit.

The cost of the new benefit program is funded out of general revenues in fiscal 1969, with the OASDI trust fund being reimbursed so as to put it in the same position at the end of fiscal 1969 as it would have been if the new benefits had not been paid. The trust fund is also to be reimbursed out of general revenues for expenses of administration and the interest loss to the fund.

Entitlement to benefits commences the first month after September 1966 that the beneficiary first becomes eligible.

MEMORANDUM ON FEDERAL RETIREMENT ANNUITIES

Of the more than 200,000 surviving widows and children of civil service retirees, 38 percent receive less than $50 a month; 79 percent receive less than $100 a month; 93 percent receive less than $150 a month. Ninety-nine percent of all surviving widows and children receive less than the so-called poverty level of $3,000 per year. Of the 170,000-some widows on the civil service retiremcnt rolls as of June 30, 1965, the average age was 65.8, the average annuity a meager $80 per month.

The situation of surviving widows and children is not necessarily the most desperate. Look at the unfortunate figures relating to employee annuitants: 49,700 receive less than $50 a month; 126,100 receive less than $100; 214,300 receive less than $150 per month; 307,600 receive less than $200. Viewing the so-called poverty level as $250 per month, 377,500 civil service employee annuitants out of a grand total of 508,500 receive less than poverty-scale annities.

Alarmingly enough, nearly 74 percent of all civil service employee annuitants receive less than the magical poverty level.

Mr. COTTON. Mr. President——

The PRESIDING OFFICER (Mr. PELL in the chair). The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, I have listened with keen interest and appreciation to the words of the distinguished Senator from Vermont [Mr. PROUTY]. I commend him highly for the fight he is making for his amendment.

It was my privilege to stand with him in the last session of Congress when we tried to increase the social security of those receiving the minimum. It was my privilege to share with him some of the attacks which were made; that it was an attempt to debase the social security system which was a system of insurance—although almost everyone who faces the facts realizes that it has ceased to be an insurance system and has now become, to a large extent, partly an insurance system and partly a system of benefits extended from the Treasury.

I shared with him the fight for his amendment last week.

I do not share with him—and I say this with all appreciation and without any attempt to differ with him—quite the sense of encouragement which he expresses about the result of the conference committee and the so-called compromise which was brought back.

No words of the psalmist can reconcile me to the fact, which is the pungent, outstanding fact, that this group of aged persons who, through no fault of their own, do not qualify for social security, are going to be compelled to wait 2 long years before they will have an opportunity to enjoy even the limited benefits of this bill as it comes from conference.

Mr. President, a 2-year wait for a person 70 years old who is on relief and who is living in conditions of poverty is an exceedingly serious and cruel punishment to inflict upon that person. And the consolation that they will not wait forever will not be true of those who do not survive those 2 years.

The obvious answer, I suspect, that might be made to this statement is the fact that they are waiting 2 years as their contribution and as their sacrifice to the

expenses of maintaining the war in Vietnam. I fail to see why it should be placed on the shoulders of this particular group of aged Americans.

We all listened to the impassioned words of the President of the United States—those eloquent words—in his state of the Union address. To remind the Senate, I will read what the President said:

> I have not come here tonight to ask for pleasant luxuries and for idle pleasures. I have come here to recommend that you, the Representatives of the richest Nation on earth, you the elected servants of the people who live in abundance, unmatched on this globe, you bring the most urgent decencies of life to all of your fellow Americans.
>
> There are men who cry out that we must sacrifice. Well, let us rather ask them, Who will they sacrifice? Are they going to sacrifice the children who seek the learning, or the sick who need medical care, or the families who dwell in squalor that are now brightened by the hope of home? Will they sacrifice opportunity for the distressed, the beauty of our land, the hope of our poor?

Those were glowing words, and the question propounded to the Congress was a mighty question: Whom shall we sacrifice? And now we have the answer. We will maintain all of the benefits scattered throughout this Nation by the myriad programs of the Great Society. Those will not be sacrificed. We shall have, as the President has declared, both guns and butter, because this great, rich Nation can afford both guns and butter. The only ones we are going to sacrifice is that little group of aged people. They are the ones who are being compelled to wait for 2 years, from the age of 70 until the age of 72. Outside of the men who fight, that little group is the first group I have heard designated by this administration and its spokesmen on the floor of the Senate, and even the joint conference of the two bodies of the Congress of the United States, as being compelled to make the sacrifice and wait so we can fight a war.

I do not consider this compromise a satisfactory compromise. I consider that it is one of the most cruel and heartless resolutions I have witnessed since I have been a Member of the Congress. I do not intend, now or hereafter, to have every tax increase, that is requested crammed down my throat on the ground that it is being raised to finance the war effort in Vietnam, because we have had the word—and we have had the word from the most high—that with this burgeoning economy, with the rich resources of this country, we can maintain these humanitarian programs, many of which are essential, all of which seem desirable, but we can maintain them all, and we are not going to defer the glorious benefits of the Great Society for one moment.

The larger portion of the dollars raised under this tax bill will come straight from the pockets of the people who need them most. Whatever we do to corporations taxwise is simply passed on to the consumer. I have heard Senators wring their hands and cry out day after day after day how friendly and solicitous they are about the consumers. Do not forget that a portion of every single dollar that will be realized by this tax increase will be going, if you please, to maintain all these programs of the Great Society.

In general terms, the total cost of the Great Society programs for the coming year, fiscal year 1967, is estimated to be $22.5 billion.

Over the next 5 years, these new domestic programs of the Great Society, more than 50 new and expanded ways of spending money, if they are carried out and if appropriations are made, will cost the taxpayers $98 billion.

Certainly, no one can be critical of all of these programs. Some of them, like water pollution, air pollution, health research facilties, including heart, stroke, and cancer, and mental health, are highly desirable programs. But the bulk of the Great Society spending represents the fluff and frosting of Government beneficence. This type of program will cost the taxpayers more than $19.5 billion next year, and $83 billion over the next 5 years.

The cost of these new and expanded spending programs of the Great Society will be a real factor in the Federal budgets to come, and they will be a real burden on the taxpayers.

I have not heard anybody speaking for the administration who has questioned that directive—that because of the rich resources of this country and because of the booming business conditions in this country and the full employment, we can continue the program and fight the war. If I can understand plain English, most eloquently phrased, that is precisely what the President told us in his state of the Union message, and that is precisely what he has said on every occasion. If that is so, how can anyone justify picking a group of old people who through no fault of their own do not qualify for social security, and insisting that they wait 2 years and insisting further that not at 70 but at 72 this great Government, this great, rich country, able to do all of these mighty things, will then give them not even $44 a month but $35 a month. I cannot comprehend that kind of action.

I wish to suggest, Mr. President, that there were some things said here last Monday that were very illuminating. I recall that the spokesman for the bill, after the amendment of the distinguished Senator from Vermont has been adopted—I suspect rather unexpectedly—stood on the floor of the Senate and, to my amazement, began to talk about that portion of these people over 70 who did not need $44 a month. They were rich. They had millions in income. They were retired bank presidents and retired business executives. It was ridiculous.

Somebody else—I have forgotten who it was—looked at the Senate and said:

> The idea that Senators would vote themselves $44 a month after they are 70 years old when they do not need it.

That is true. That is the gospel truth and I agree with it. But I was amazed to hear it because when we had the medicare bill before the Senate, the Senator from New Hampshire offered a sensible amendment, and others offered similar amendments. We stood on the floor and called for a needs test, not the kind of needs test that sends social workers out to call on oldsters to determine how much they spend each week for tobacco, but simply one providing that those who reported incomes of over a certain amount should not be eligible and would not receive the special health benefits under medicare because they were well able to pay for it themselves.

Now, friends on the other side held up their hands in holy horror. It was absolutely incomprehensible to them that we should suggest such a needs test. There was something degrading about it. It was an insult to those who were poor. It was something we should pull away from and scorn, and they attacked the Kerr-Mills law, which would have gone a long way to take care of the health problems in this country if the bureaucrats had not stifled it and refused to push it. They attacked that law because it did have an income needs test. Do Senators remember that?

Then, all of a sudden last Monday, out of the clear sky, they jump up and say that we should have a means test for this pittance, this minimum allowance that we had the audacity to request for this group of people who were left out. I agree with that. It is a good place to start. We should have started sooner.

We have no need to pay $44 a month or $35 a month to any Member of the Senate who becomes 70 or 72. We have no need to pay a benefit to a retired bank president or anyone who has ample income.

If they meant what they said I wonder why the conferees did not come back to us with the needs test for the $44 a month and the $66 a month for the aged over 70 who are not eligible for social security.

It would have been a compromise and a perfectly sound and just one, as it would have been sound and just in the case of medicare.

The war-on-poverty program carries a needs test. The benefits of the war on poverty have a needs test, which is roughly $3,000 income with a family of four, with some variations. But whatever it is, it was very carefully and thoughtfully worked out to determine who is poor, who needs help, and who should have help.

What in the name of all that is great and good prevented these distinguished conferees for the Senate and the House of Representatives from proposing a needs test when they were worried about the $1 billion that was going to be wasted. Incidentally, I do not accept that figure. I do not accept that figure for many of those who would receive this had already been on welfare and the Federal Government is paying a lion's share of that welfare.

But they could have taken care of all of it. They could have stopped at a billion dollars or three-quarters of a billion dollars or a half a billion dollars. They could have put this money right where it is needed and needed the most by letting them have it at the age of 70 and not after 72, if they live that long; not after the war is won in Vietnam, not by and by, and then only a part of it, by simply turning out their

own words when they stood in the center aisle of the Senate and held up their arms and said, "Why, you can't do this thoughtless thing. You have to have a needs test. Why, you can't do that."

Why could they not give us a needs test.

I do not want to vote a cent for someone who does not need it and is not on social security. I see no reason why any Member of the Senate when he passes the required age, with his retirement privileges, should draw a dollar from this amendment to the bill. I see no reason why the wealthy people should participate. It is a simple thing to see that they do not. That is one of the glaring inconsistencies.

I have enumerated other inconsistencies. The first one is that in a situation where it has been declared the national policy that we should have both guns and butter—and that we should not hold up for a moment the great programs of the Great Society—that we should insist on holding up this one benefit to this one small group who need it the most, hold it up for 2 years and then only give them part of it. That is the first inconsistency.

The second inconsistency is on all the discussion about this money going to the rich and that there should be some kind of qualifying test. It is a simple enough matter to write into this bill exactly and precisely the same needs test that is in the war-on-poverty program and give it to them now and not ask that one group to wait for 2 years and then get only a portion of it.

So far as I am concerned, I must say that I am not happy about this compromise brought back by the conferees.

I am sure they did their best. I am not criticizing them personally, of course. But to me, it is not much encouragement. To me it is the most grotesque and inconsistent proposition that I have heard for a long time.

I was not enthusiastic about voting for this tax bill; in fact, I had determined to vote against it. We must face the expenses of the war in Vietnam and I have unhesitatingly voted to meet those expenses. I voted for the military authorization bill to meet our requirements in Vietnam and just last week I voted for the supplemental authorization bill providing foreign aid in southeast Asia. I do not intend to withhold what is needed or to have anybody think for a single moment that the Senator from New Hampshire is not ready to help present a united front to the world, and let the world know that we intend to stand firmly behind the President, now that we are at war, and now that the world is looking at us to ascertain whether this Nation is resolute and determined, or is irresolute and faltering.

But, by the same token, I would rather see the increase in taxes that is coming. I doubt whether a single Member of the Senate, either within sound of my voice or in his office or somewhere else, is not perfectly aware that we shall have further increases in taxes; that they are imperative; that they are a must; and that the increases are coming just as fast as night follows day. We should meet this need head on, not piecemeal.

The subterfuge of reinstating some excise taxes—and excise taxes are a fancy name for sales taxes—is the worst form of taxation, the most unfair form of taxation, in the world. They are pickpocket taxes. They reach into the pockets of the poor and extract pennies from their purses when they do not even know or realize that it is being done.

The taxes are leveled, so far as the world is concerned, at the great corporations, but there is not a corporation that will pay a cent of them. They will pass them on, and the taxes will come out of the homes of the people of the land.

But I finally held my nose and voted for this tax bill, even though I wanted to oppose it for that reason and for the reason that it merely defers the evil day when we shall find out how much money will be needed, when we shall determine an overall policy of authorizing the revenue bills to raise the taxes.

I predict that the day will come when either the President and the administration or the Committees on Appropriations of Congress will decide that we must forgo some of the luxuries of our domestic programs until the war in Vietnam is fought and won.

But I voted for the tax bill. I voted for it because I was so deeply concerned in the Prouty amendment. Perhaps the distinguished Senator from Vermont consoles himself with a victory of principle, but that amendment, as I see it, has been emasculated. This tax bill is not merely to raise money for the war. It is designed to raise money for our domestic programs. It does not face head-on the whole tax problem. The Prouty amendment, which was so necessary, has been destroyed.

The Hartke amendment, which would have taken out of the tax bill that part which bears most heavily on those who can afford it least—the local charge for telephone service, which is not a luxury but a necessity—has been thrown out. So far as I am concerned, one feature of the bill has been emasculated; the other has been thrown out.

I shall not go along with either the Senator from Indiana [Mr. HARTKE] or the Senator from Vermont [Mr. PROUTY] when the time comes to vote on agreeing to the conference report. I hope we may have the yeas and nays. I want the opportunity to do what I desired to do in the first place, but did not do because of the amendments that I thought were so important. I want the opportunity to vote "nay," and I do not want anyone to try to tell me that when I vote "nay" I am taking the guns out of the hands or the food out of the mouths of the boys in Vietnam, because that is pure hogwash.

The bill provides $6 billion; spread it where they will. It will go into the Treasury; and whatever portion is intended for the war will be allocated for that purpose. More taxes will be coming later. I hope they will be fairer taxes.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. COTTON. I am glad to yield.

Mr. PROUTY. I wish to commend the distinguished Senator from New Hampshire for making an outstanding statement on the floor of the Senate this afternoon. I hope that Senators who were not present will have the opportunity to read it carefully. I hope the press of the country will report it adequately, because it is a statement with which the American people should become familiar.

The so-called Prouty amendment might well be called the Prouty-Cotton amendment, because the Senator from New Hampshire has been by my side fighting for the elderly people this year and in the past. I appreciate his help and support.

While I, too, am dissatisfied with the compromise developed by the conferees, a set of principles has been adopted—a first step down a long, hard road has been taken. The conferees preserved these principles and took this despite powerful pressure from the White House. I frankly say that the conferees deserve great credit for standing up to the Presidential emissaries and withstanding the phone calls from high places which everyone knows were being made right and left. Betty Beale, reported in her society column that the Secretary of the Treasury and top Presidential aids were late in arriving at the Embassy of Kuwait the night my amendment was adopted because of consternation at the White House. Battle plans were being laid against the amendment the very night it was adopted. The conferees overcame great obstacles.

So I hope the Senator from New Hampshire will change his mind and feel that we are doing something for the elderly people, even though it is not by any means nearly enough.

Mr. COTTON. I thank the distinguished Senator from Vermont for his kind words, which I deeply appreciate. I wish to make it clear that I am not withholding credit from the conferees; I am sure they acted in good faith. I am sure they did the best they could. The conferees stood by their guns—and butter.

I do not know about the telephone calls from the White House; I never received one. But perhaps Senators stood by their guns. Perhaps half a loaf is better than none, even for the group of elderly people who are being left out.

However, I should like to reassure the distinguished Senator from Vermont and tell him something that I think he already knows. Even if we rejected the conference report, we would still have another chance. The Senate could send the report back with a mandate to find a different type of compromise, if we had to have one. But I can reassure the Senator from Vermont that neither his vote nor mine is needed; the majority party has the votes. They will adopt the conference report. All that I ask, all that I hope to get, is an opportunity to make one more speech on the report, and that is to stand up in my place and say "No."

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. WILLIAMS of Delaware. Mr. President, I shall be very brief. There is one further amendment in the bill which is most important.

I wish to comment on this amendment to be sure that all Senators understand exactly what we are doing. I refer to the amendment contained in section 301 of the bill, which amendment would disallow certain deductions for certain indirect contributions to political parties.

Mr. President, I ask unanimous consent that a copy of the amendment as approved by the Committee on Finance, by the Senate, and by the conferees, be printed at this point in the RECORD.

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

SEC. 301. DISALLOWANCE OF DEDUCTION FOR CERTAIN INDIRECT CONTRIBUTIONS TO POLITICAL PARTIES.

(a) DISALLOWANCE.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 276. CERTAIN INDIRECT CONTRIBUTIONS TO POLITICAL PARTIES.

"(a) DISALLOWANCE OF DEDUCTIONS.—No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred for—

"(1) advertising in a convention program of a political party, or in any other publication if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate,

"(2) admission to any dinner or program, if any part of the proceeds of such dinner or program directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate, or

"(3) admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified with a political party or a political candidate.

"(b) DEFINITIONS.—For purposes of this section—

"(1) POLITICAL PARTY.—The term 'political party' means—

"(A) a political party;

"(B) a National, State, or local committee of a political party; or

"(C) a committee, association, or organization, whether incorporated or not, which directly or indirectly accepts contributions (as defined in section 271(b)(2)) or make expenditures (as defined in section 271(b)(3)) for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any Federal, State, or local elective public office, or the election of presidential and vice-presidential electors, whether or not such individual or electors are selected, nominated, or elected.

"(2) PROCEEDS INURING TO OR FOR THE USE OF POLITICAL CANDIDATES.—Proceeds shall be treated as inuring to or for the use of a political candidate only if—

"(A) such proceeds may be used directly or indirectly for the purpose of furthering his candidacy for selection, nomination, or election to any elective public office, and

"(B) such proceeds are not received by such candidate in the ordinary course of a trade or business (other than the trade or business of holding elective public office).

"(c) CROSS REFERENCE.—

"For disallowance of certain entertainment, etc. expenses, see section 274."

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"Sec. 276. Certain indirect contributions to political parties."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1965, but only with respect to amounts paid or incurred after the date of the enactment of this Act.

Mr. WILLIAMS of Delaware. Mr. President, I point out that this amendment would prevent using as a deduction any advertising in any publication of a political party. Likewise, in the event of advertising in any other publications the amendment would prevent the taking of a deduction if any part of the proceeds inured, or would inure if there were a profit, either directly or indirectly to the benefit of a political party or a political candidate.

A question has been raised whether this amendment would cover so-called almanacs which are being printed by some parties in different States. A question is raised whether this amendment would cover advertising when turned over to a so-called nonprofit research organization. A question is raised whether it would be permissible to turn the funds over to the so-called voter education clubs. The answer most emphatically, as agreed on by the conferees and by the Treasury Department, is yes, it would cover all procedures that have been used heretofore as well as procedures which might be dreamed up at a later time.

This amendment covers them all. Under no circumstances is advertising in any type of publication by a political party or by some other organization which plans to turn the proceeds over to a political party or candidate to be allowed as a deduction for tax purposes.

To make sure that we covered all of it we said "or similar organizations." We do not intend that there be any loopholes in this law.

The second part of the amendment provides that in the event of charges for admissions or charges for dinners or for programs—such as the $100 dinners or the $1,000 presidential clubs—no deductions may be taken. In all cases where any part of the proceeds inures, or if any part would inure if there were a profit, either directly or indirectly, to the benefit of a political party or a political candidate they cannot be claimed as deductions for tax purposes.

I repeat that if any part of the proceeds were to go either directly or indirectly to a political party or to a political candidate, or if any part were intended to go to a political party or a political candidate if there were a profit, no deduction either for the advertising or for the cost of the tickets, and so forth, may be made. I think that is clear.

The advertising contained in those programs and the purchase of tickets for a dinner are covered and are not permissible deductions for income tax purposes under any circumstances.

The third part of the amendment provided that no deductions are to be allowed for the cost of tickets to inaugural balls, galas, or other similar events. This part of the bill is likewise quite clear.

Let there be no misunderstanding. I call attention to a new suggestion that I have just received and which is likewise covered. This represents an elaborate plan for a new fund raising. A map of the United States was included with the suggestion.

This new proposal points out how $25 million can be raised by having annual White House balls. They have a breakdown to show how much money should come from each of the 50 States.

It is pointed out that this celebration could be held on the birthday of the President. The promotors pointed out that the Republicans could use this same plan to celebrate the birthday of a former President. They suggest a presidential ball at numerous places in the country. The top officials of the parties and other celebrities could attend these celebrations in the various States and raise as much as $25 million for the committee.

This is an elaborate plan, but let there be no misunderstanding—such a plan is covered by this amendment.

A political party may have a presidential ball; however, under this amendment those who attend that presidential ball will pay for the privilege of attending without the benefit of any tax credit or tax deduction. That point should be made very clear.

By selling advertising in the booklet "Toward an Age of Greatness" the Democratic Party raised approximately $1.5 million last year. There was also a campaign brochure issued at the 1964 convention in Atlantic City with a multimillion-dollar advertising scheme. All of the advertising in such booklets or brochures is covered under this amendment and are not deductible. In fact, in my opinion they are not deductible under existing law either. There is complete agreement on the part of the conferees, the Finance Committee, and the Treasury Department as to the manner in which this amendment should be interpreted. Likewise, this amendment does not propose to legalize those old transactions. They can continue to work out their problems with the Department.

I want to make it clear so that we do not pick up a newspaper tomorrow and find some other imaginary scheme whereby someone proposes to finance campaigns out of the Treasury of the United States as a result of Department rulings.

I agree that we do have a duty to find a method by which we can enlarge the source of smaller contributions and will work toward that objective.

In that connection I introduced a bill for our committee study and have submitted it to the Treasury Department. We should make a step in that direction. In that bill I proposed that the first $25 contribution be afforded some form of tax credit. I suggested 70 percent of the first $25 as a tax credit and that consideration be given to affording a deduction for the next $75.

The reason for suggesting a tax credit for the smaller contributors is that those

who use the standard deduction and do not itemize deductions would get no credit if some such formula were not provided.

When the representatives of the Treasury Department testified before our committee the Secretary of the Treasury said that the President was interested, and he expected to come up with a legislative proposal to encourage small contributions for political parties in a legitimate way.

We should take some action toward this objective, but let us approach the problem with legislation and not through back-door rulings where one taxpayer gets a deduction and another does not.

We must spell out in the law what is permissible. I did not press for action on this proposal at this time because the Secretary asked that we withhold it with the clear understanding on the part of the committee and the Treasury Department that the administration will be coming before Congress in the near future with a proposal which would expand the source of revenue and make some provision to attract smaller contributions.

Whatever the formula may be, however, whether it be something that I suggest or a plan that the Treasury Department suggests, is immaterial. What is important is that we must spell it out in the law. Let us do it through legislation and not on the basis of which party is able to get a favorable Treasury Department ruling that the other party will not find out about until 6 or 8 months later.

I am getting a little impatient at what has happened. This is the second time it has happened where the Democratic Party has dipped into the Federal Treasury to finance an election. I most advisedly say that the third time it happens I will be a little rougher in my comments than I have been thus far.

Mr. President, I ask unanimous consent that an analysis of the bill and its legislative intent, and the interpretation of this amendment as prepared by the staff of the Joint Committee on Taxation be printed at this point in the RECORD.

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

AMENDMENT ON INDIRECT POLITICAL CONTRIBUTIONS

My amendments is designed to clear up the tax treatment of what really are indirect political contributions. It is the committee's view that political contributions either generally should be deductible or not deductible. I see no reason for special treatment just because we call some of them advertising, admissions, or anything else.

Under existing law political contributions generally are not deductible. Nevertheless, it is common knowledge that this rule has, for some time, been circumvented by the simple expedient of framing contributions in the form of purchases of advertising space in various party-sponsored publications. In spite of the obvious transparency of this device, I am informed that it is by no means certain that deductions for such "advertising expenses" will be disallowed. I am not only concerned with the lack of clarity in present law as to the deductibility of these contributions. I am also concerned about the participation of political parties in schemes which by indirection attempt to create tax deductions for payments which, if made directly, would not be allowable.

For these reasons I proposed this amendment to the bill (H.R. 12752) to make it unmistakably clear that political contributions made in the form of advertising, payments for admissions, or payments by other indirect means, are not to be deductible for income tax purposes.

Under this amendment amounts paid for advertising in a political convention program are not to be deductible under any circumstances. In addition, amounts paid for advertising in any other publication are not to be deductible, if any part of the proceeds of the publication inures, directly or indirectly, to a political party or a political candidate. In determining whether proceeds inure to a political party or candidate the use to which they are put by the party or candidate is completely irrelevant. The fact that such proceeds are used by a political party or candidate only for educational and research purposes, or for any other similar purposes, does not make the advertising deductible.

In addition, my amendment specifies that no deduction is to be allowed for the admission charge to any dinner or program, if any part of the proceeds of the dinner or program inures, directly or indirectly, to a political party or a political candidate. A charge for admission for this purpose includes not only amounts paid for the right to attend the event, but also includes any additional amount paid to entitle the person to participate in activities carried on at the event.

My amendment also provides that charges for admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified wih a political party or political candidate are not to be allowed as deductions. This provision applies regardless of the sponsorship of the event or of the disposition of the proceeds. Under this provision, charges for admission to an inaugural ball sponsored by a nonpartisan or bipartisan committee or organization are not deductible. This is true even if the proceeds are used only to defray the expenses of the ball or similar event. The provision applies whether the inaugural celebrated is for a Federal, State, or local official (elected or defeated).

A political party for purposes of my amendment includes (in addition to a political party as commonly understood) a National, State, or local committee of a political party. It also includes any committee, association, or organization, whether incorporated or not, which directly or indirectly accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any elective public office, or the election of presidential or vice-presidential electors. These organizations are treated as political parties whether or not the individual succeeds in being selected, nominated, or elected.

In general, this amendment is patterned after the provision of present law denying deductions for worthless debts owed by a political party. However, it differs slightly to make it clear that (as was intended under the worthless debt provision) it applies to candidates at primary elections.

Mr. WILLIAMS of Delaware. Mr. President, I repeat—this is not the first time that this has happened. I call attention to one prior incident which happened in the 1948 and 1951 period but which was not discovered until 1958. This situation was corrected by legislation in 1958 and is not a part of this pending legislation. I review this merely to emphasize to anyone in the Treasury Department who on some future occasion may try by rulings to do something that Congress never thought the law intended. I want to impress upon them the importance of coming to Congress in order to change the law and not to attempt to do it in conference with the national committee of either political party.

It was called to my attention around 1958 that large political contributions were being made to the Democratic Party and that the contributions were being written off under the guise of bad debts. These contributions to the Democratic Party before the election were called loans. Of course every political party is out of money by election day. The Treasury Department, after the election ruled that the party had no money and therefore the contributions could be written off as bad debts and would not be subject to a gift tax. There was no basis for any such rulings but they were made and kept secret for nearly 8 years.

I shall put these rulings in the RECORD. By the way, one of these rulings was issued less than 48 hours after it was applied for; the application was mailed from North Carolina, and the ruling was approved in Washington in less than 48 hours, which is an all-time speed record for the Treasury Department. Under this ruling of December 30, 1948, Mr. Richard J. Reynolds was permitted to write off as a bad debt a $310,110.45 contribution which he had made to the Democratic committee in New York.

They said, "Since you can't collect it you write it off as a bad debt, and it will not be subject to a gift tax."

Likewise, Mr. David A. Schulte had contributed $50,000 to the Democratic Party and called it a loan, and on May 18, 1949, he also received a ruling that he could consider it as a bad debt, and it was not even subject to a gift tax. Mr. Marshall Field contributed—or should we say loaned—$50,000 to the Democratic Party, and he too was allowed to classify it as a bad debt, and it was not subject to a gift tax.

I review these old rulings to show just how tax laws can be changed without Members of Congress knowing anything about it. Never again do we want to hear of a secret ruling on political contributions.

Next I read a ruling issued to Mr. William Neal Roach, the assistant treasurer of the Democratic National Committee, Ring Building, Washington, D.C., under date of July 26, 1951:

JULY 26, 1951.

Mr. WILLIAM NEALE ROACH,
Assistant Treasurer, Democratic National Committee, Ring Building, Washington, D.C.

DEAR MR. ROACH: Reference is made to your letter of July 12, 1951, transmitting a letter from Mr. Wilson Gilmore, president of the Young Democratic Clubs of America requesting a ruling concerning the deductibility by corporations of contributions to the Young Democratic Clubs of America for their convention.

He has stated that such clubs will hold their national biannual convention at the

Jefferson Hotel in St. Louis, Mo., on October 4–6, 1951. In order to defray the large amount of expenses that will be incurred by the convention program, they are seeking contributions. It is stated that it has been their idea to organize a convention corporation under the benevolent corporation laws of Missouri and to obtain a pro forma decree for this nonprofit corporation. Such corporation would be the recipient of all convention funds and would pay all expenses and attend to all other official business of the convention. After the convention such corporation would be dissolved. A ruling is requested as to (1) whether contributions from corporations would be deductible by them for Federal income tax purposes as business expenses if given to the Young Democratic Clubs of America, and in the alternative; (2) whether such contributions would be deductible if given to the proposed convention corporation.

On the basis of the information submitted it is held that contributions for the purposes of the convention made to either the Young Democratic Clubs of America or in the alternative to the convention corporation when organized by corporations engaged in a trade or business in the city of St. Louis and its environs would constitute allowable deductions as ordinary and necessary business expenses under the provisions of section 23(a) of the Internal Revenue Code in the Federal income returns provided that such donations are made with reasonable expectation of a financial return commensurate with the amount of donations.

Very truly yours,

GEO. J. SCHOENEMAN,
Commissioner.

I am sure all those who contributed had a reasonable expectation of getting value received in return; most of them were defense contractors. Let us face it, this was just a procedure to shake down some contributors and ease their burden by allowing them to claim their contributions as tax deductions.

Proof that those who made these rulings recognized the impropriety of their actions is evidenced by the fact that they went to such great lengths to keep it a secret for 10 years.

Mr. COOPER. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS of Delaware. I will yield in a moment.

Mr. President, I ask unanimous consent that the four rulings to which I have referred be printed at this point in the RECORD.

There being no objection, the rulings were ordered to be printed in the RECORD, as follows:

TREASURY DEPARTMENT,
Washington, D.C., December 30, 1948.

Mr. RICHARD J. REYNOLDS,
Reynolds Building,
Winston-Salem, N.C.
(Attention: Mr. Stratton Coyner.)

DEAR MR. REYNOLDS: Reference is made to a letter written in your behalf by Mr. Stratton Coyner, attorney, dated December 28, 1948, in which it is stated that you have received a final settlement offer from the Democratic State Committee of New York of 10 percent of the aggregate face amount of unpaid demand notes issued by the committee, which you now hold for collection.

A ruling is requested as to whether (1) the acceptance of such offer would, for Federal income tax purposes, constitute a gift, and (2) the loss representing the difference between the aggregate face value of the notes and the amount received in full settlement would be considered as a nonbusiness debt.

The letter states that you now hold the following notes of the Democratic State Committee of New York:

Note dated February 27, 1947, payable on demand, signed by Carl Sherman, treasurer, $75,000.

Note dated February 27, 1947, payable on demand, signed by Carl Sherman, treasurer, $100,000.

Note dated October 14, 1944, payable on demand with interest after demand at rate of 1 percent, signed by Carl Sherman, treasurer, $96,000.

Note of Democratic State Committee of New York dated February 27, 1947, payable on demand to Democratic State Committee of New Jersey, endorsed without recourse by the Democratic State Committee of New Jersey, by (not stated in letter), $39,110.45.

The notes presently held by you are represented to have been issued in consummation of a series of transactions involving advances to the Democratic State Committee of New York. In all transactions it is represented that the advances were in the nature of loans inasmuch as notes were received as evidence of the obligations incurred by the committee. The representations in respect of advances made over a period of years extending back to the year 1940, the notes issued in respect of the obligations and the payments made on such notes are fully disclosed in the letter of your attorney.

It is stated in the letter that you were assured at the time the loans were negotiated that repayment of the loans, fully covered by demand notes, would be made on an annual basis. Subsequent events, however, precluded the committee from discharging, as contemplated, the several notes issued as evidence of its obligation to repay the advances made by you. It is stated further that demands have been made at various times for the payment of the notes which have resulted only in the receipt of renewal notes.

The possibility of instituting legal action against the committee, it is stated, was of no avail inasmuch as reducing the notes to judgment and throwing the committee into bankruptcy would have accomplished nothing toward the payment of the obligations. Furthermore, it is stated that the Democratic State Committee of New York has no assets of any consequence, and no uncollected enforcible pledges. A certified page from the official report of the Democratic State Committee of New York dated November 2, 1948, showing the outstanding loans payable by that committee has been submitted and, supplementary thereto, it is stated that the Democratic State Committee of New York has only a small bank balance of less than $5,000 and office furniture for four offices and a reception room in the Biltmore Hotel in New York City.

It appears that your demands for payment of the notes finally resulted in the submission of an offer on the part of the Democratic State Committee of New York to pay in full setlement, in cash, 10 percent of the aggregate face amount of the outstanding notes. The offer is contained in a letter addressed to you under date of December 23, 1948, and signed by Mr. Carl Sherman, treasurer, Democratic State Committee of New York.

In view of the representations and data submitted it is concluded that (1) the acceptance of the offer of the treasurer, Democratic State Committee of New York, would not, for Federal income tax purposes, constitute a gift, and (2) any loss incurred resulting from such acceptance would be considered as a nonbusiness debt within the meaning of section 23(k)(4) of the Internal Revenue Code.

Very truly yours,

E. I. MCLARNEY,
Deputy Commissioner.

MAY 18, 1949.

Mr. DAVID A. SCHULTE
New York, N.Y.
(Care of Gale, Bernays, Falk & Eisner).

DEAR MR. SCHULTE: Reference is made to a letter written in your behalf by Gale, Bernays, Falk & Eisner dated April 26, 1949, in which it is stated that you have received an offer from the Democratic State Committee of New York, hereinafter referred to as committee, of 10 percent of the face amount of a note of the committee in full settlement thereof. The letter dated April 8, 1949, from Mr. Carl Sherman, treasurer of that committee making such offer was submitted with the letter of April 26, 1949. In the absence of a power of attorney authorizing Gale, Bernays, Falk & Eisner to represent you this letter is being addressed to you.

A ruling is requested as to (1) whether the acceptance of such offer would, for Federal income tax purposes, constitute a gift; and (2) whether the loss incurred by your acceptance of said offer would constitute a nonbusiness bad-debt loss.

It is stated that in 1944 you were asked to lend the committee $50,000; and that you were assured that after the campaign in 1944 the note would be gradually repaid as different finance programs made funds available. The $50,000 was loaned to the committee and you were given a promissory note in that amount. Such note has not been paid, and the committee has informed you that it would be unable to make payment on the note or to its other note-holding creditors, but that it has been promised sufficient money to offer in settlement 10 cents on the dollar to all of its creditors.

The committee has also informed you that its principal creditor, Mr. Richard J. Reynolds, has accepted its offer and received payment, and that Mr. Marshall Field, another noteholder, has also consented to accept the offer.

Based upon the information submitted it is the opinion of this office that acceptance of the offer of the committee will not, for Federal income tax purposes, constitute a gift, and that the loss resulting from such acceptance will be considered as a nonbusiness bad debt within the meaning of section 23(k)(4) of the Internal Revenue Code.

Very truly yours,

E. I. MCLARNEY,
Deputy Commissioner.

MAY 18, 1949.

Mr. MARSHALL FIELD,
New York, N.Y.
(Care of Mr. Howard A. Seitz).

DEAR MR. FIELD: Reference is made to a letter written in your behalf by Mr. Howard Seitz, your attorney, dated April 15, 1949, in which it is stated that you have received an offfer from the Democratic State Committee of New York, hereinafter referred to as committee, of 10 percent of the aggregate face amount of a note of the committee in full settlement thereof.

A ruling is requested as to (1) whether the acceptance of such offer would, for Federal income tax purposes, constitute a gift; and (2) whether the loss thus incurred by your acceptance of the offer of settlement would be considered a nonbusiness bad-debt loss.

It is stated that in 1940 you were asked to lend to the committee the sum of $50,000. The loan was made and you accepted a promissory note. The matter of payment has been discussed with the committee, and the officers of the committee have informed you that they have insufficient funds to make payment. In December, 1948, you were informed by the committee that it would be unable to make payment of the note to you or its other note-holding creditors. You have decided to accept the offer of settlement of 10 cents on the dollar.

You have been informed that Mr. Richard J. Reynolds, the principal creditor of the committee, has already accepted a similar offer of the committee, and that Mr. David A. Schulte, another creditor, has consented to do likewise.

Based upon the information submitted it is the opinion of this office that acceptance of the offer of the committee will not, for Federal income tax purposes, constitute a gift, and that the loss resulting from such acceptance will be considered a nonbusiness bad debt within the meaning of section 23(k)(4) of the Internal Revenue Code.

Very truly yours,

E. I. McLARNEY,
Deputy Commissioner.

APRIL 19, 1950.

Mr. STUYVESANT PEABODY, JR.,
Morris Hotel,
Chicago, Ill.

DEAR MR. PEABODY: Reference is made to your inquiry as chairman of the Chicago Host Committee for National Jefferson Jubilee to be held in Chicago on May 13, 14, and 15, 1950, with respect to whether contributions made to the Committee by corporate and individual taxpayers engaged in business in the city of Chicago would be deductible for Federal income tax purposes.

You state that the Chicago Host Committee is playing host to thousands of guests who will participate in extensive panel discussions pertaining to the issues of the day. It is also intended to pay tribute to Thomas Jefferson through parades and pageants depicting his contributions to the welfare of our country. It is expected that the thousands of guests and visitors spending three days in the city of Chicago will bring new money into the community and will benefit the business of the community.

The contributions from local tradesmen are solely intended to defray the expenses to be incurred in playing host and running the above-mentioned functions. It is understood that the contributions referred to in your letter will not be used to defray the expenses of the political aspects of the event.

On the basis of the information submitted, it is held that contributions made to the Chicago Host Committee for National Jefferson Jubilee by corporate and individual taxpayers engaged in a trade or business in the city of Chicago would constitute allowable deductions as ordinary and necessary business expenses under the provisions of section 23(a) of the Internal Revenue Code, in their Federal income tax returns, provided that such donations are made with a reasonable expectation of a financial return commensurate with the amount of the donations.

Very truly yours

GEO. J. SCHOENEMAN,
Commissioner.

Mr. WILLIAMS of Delaware. There is one other ruling which I shall read. This ruling was dated September 22, 1950, and it was solicited by the Republican Committee of New Jersey. Significantly the Republicans received an adverse ruling. I ask unanimous consent that this ruling also be printed in the RECORD at this point.

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

SEPTEMBER 22, 1950.

Hon. JOHN E. MANNING,
Collector of Internal Revenue,
Post Office and Courthouse,
Newark, N.J.

MY DEAR MR. MANNING: Reference is made to your letter dated September 12, 1950, in which you request advice with respect to a letter from Mr. John J. Dickerson, chairman of the New Jersey Republican State Committee.

In his letter Mr. Dickerson states that the New Jersey Republican State Committee is sponsoring a dinner in Atlantic City on September 30, 1950, and that a question has arisen as to whether or not the purchase of tickets would constitute a deduction for Federal income tax purposes. Mr. Dickerson further states that it is his "understanding of the State law that if the taxpayer can clearly show that the purchase of the ticket was in the ordinary course of business and if his business was benefited thereby, he is entitled to deduct the cost of the ticket as a business expense."

It appears that the view expressed by Mr. Dickerson is based upon his belief that the purchase of the tickets in question may be deducted under section 23(a)(1) of the Internal Revenue Code as an ordinary and necessary business expense. The application of this provision of the law, however, depends upon the existence of facts which have not been given by Mr. Dickerson, such as the purpose in the purchase of such tickets and the use to which the money so expended will be put. It is well established that political contributions are not deductible. See section 29.23(q)–1 of regulations 111; *Textile Mills Securities Corporation* v. *Commissioner* (1941) 314 U.S. 326, C.B. 1941–2, 201; I.T. 3276, C.B. 1939–1 (pt. I), 108. On the other hand, contributions made by local tradesmen to business or civic organizations for the purpose of attracting and playing host to conventions or similar gatherings which will draw sizable numbers of guests and visitors to the community, may be deducted provided that such contributions are made with a reasonable expectation of a financial return commensurate with the amount contributed. See section 29.23(a)–13 of regulations 111, and I.T. 3706, 1945, C.B. 87. Accordingly, if the tickets are purchased to support the political aspects of the occasion in question (as distinguished from the business aspects attendant on obtaining new money and customers from the event, regardless of its nature), a deduction is not allowable.

Since the occasion for which the tickets are to be purchased is apparently a political one, it cannot be assumed that the purchase of such tickets by a business concern will give rise to a deduction.

Mr. Dickerson also asked to be advised whether or not a corporation is permitted to purchase tickets. Since this question concerns matters not necessarily in the jurisdiction of the Bureau and detailed information is not furnished, it does not appear to be appropriate for comment by the Bureau.

Very truly yours,

GEO. J. SCHOENEMAN,
Commissioner.

Mr. WILLIAMS of Delaware. I shall read excerpts from the ruling. This ruling is addressed to the Honorable John E. Manning, Collector of Internal Revenue, Newark, N.J.:

DEAR MR. MANNING: Reference is made to your letter dated September 12, 1950, in which you request advice with respect to a letter from Mr. John J. Dickerson, chairman of the New Jersey Republican State Committee.

In his letter Mr. Dickerson states that the New Jersey Republican State Committee is sponsoring a dinner in Atlantic City on September 30, 1950, and that a question has arisen as to whether or not the purchase of tickets would constitute a deduction for Federal income tax purposes.

Continuing, I read the next to the last paragraph:

Since the occasion for which the tickets are to be purchased is apparently a political one, it cannot be assumed that the purchase of such tickets by a business concern will give rise to a deduction.

This ruling was negative, but notice that the rulings for the Democratic Party were all favorable.

At that time in 1958 I asked the Secretary of the Treasury to have his Department check back through the history of that Department and to furnish copies of all rulings that had been made to either political party, regardless of whether they were affirmative or negative, and they were able to furnish only these six rulings, five of them in the affirmative, all to the Democratic Party, and one negative to the Republicans.

This situation was corrected by legislation in 1958, and we thought then that the Democratic Party had learned that it was not to use Treasury rulings to help finance its political campaigns.

At that time I introduced a bill which spelled out that neither Democrats nor Republicans could classify their contributions as bad debts. That bill was passed by the Congress, and I thought we had closed the loophole; but we underestimated the ingenuity of some warped bureaucrat.

In 1964 we found that someone had come up with the ingenious idea that campaign contributions could purchase what they called advertisements, but what I prefer to call shakedowns, at $15,000 a page, and deduct the cost as a business expense. Their names were printed in the book called "An Age of Greatness" and in the 1964 Democratic Convention programs.

It is lucky they did not go higher than $15,000. If a company has a multi-billion-dollar defense contract, why not $50,000 or $100,000? There is nothing sacred about the amount when a corporation is confronted with a shakedown.

We understand that these so-called advertisers, too, were given to understand that they could write such expenditures off as a business expense for income tax purposes.

Before I leave the subject I regret to say that after the success of these two money-raising schemes had been demonstrated by the Democratic Party some in our own party thought, "Here is a rather neat idea; all that is wrong with it is that we didn't get into it first," and as a result an effort has been made by some Republicans to use this same devious device. I said then and I repeat now, you do not correct an error by copying a wrong that has been done by the other party. The only way to correct a wrong decision is to stop it—spell out in the law that neither party can do it; and that is what we have done in this bill. The Senate Finance Committee, the Treasury Department, and the conferees are unanimous in agreement that this was an ironclad amendment, and it is intended to be interpreted as completely closing this loophole. I do not intend that there be any misunderstanding in the days to come. In 1958 we corrected the bad debt rulings, and today we are correcting another highly irregular procedure of allowing contributions to be called advertisements. As one who introduced both bills in this connection, I close with this advice. If

anyone has any ideas as to how the law should be changed in the future let him spell it out in a legislative program and send it to Congress so that every taxpayer in America, I do not care whether he be Republican, Democrat, or independent, will know exactly what the rules are.

As I say, this is the second time such an incident has happened, and I most respectfully suggest that it would not be wise for it to happen a third time. If a doubt arises as to how the law should be interpreted let the Treasury Department come to Congress or to the Joint Committee on Taxation and obtain a clarification as to the congressional intent. Frankly I do not think this was a misunderstanding in the first place; I consider it a deliberate attempt to finance a political campaign out of the Federal Treasury.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield to the Senator from Colorado.

Mr. DOMINICK. I wonder whether the Senator could answer this kind of inquiry: Would an advertisement in any kind of pamphlet published by an organization such as COPE also be nondeductible under the terms of the amendment, COPE being not directly a political party; but is the amendment designed to cover that kind of organization as well?

Mr. WILLIAMS of Delaware. That question has been raised before, and the answer again is yes, advertisements in any program are not deductible when any part of the proceeds may be used to help any political party or candidate. The amendment spells out very clearly that any organization is covered when any part of the proceeds derived therefrom accrue to the benefit of either political party, or if they are intended to accrue in the event there is a profitable operation. So that the answer is that this amendment covers any and all organizations when any part of the proceeds accrue or are intended to accrue either directly or indirectly to the benefit of a political party or to a political candidate.

Mr. DOMINICK. I thank the Senator very much.

Mr. WILLIAMS of Delaware. I should like to express my appreciation to the Senator for asking me that question. I meant to mention it before because I, too, have received a letter raising the same question. The answer is that it does not make any difference who sponsors the affair. If any part of the proceeds of the advertisements, either directly or indirectly, it is directed to the support of a political party or any candidate they are covered by this amendment and are not deductible.

Mr. COTTON. Mr. President, will the Senator yield to me for the purpose of asking for the yeas and nays on the conference report?

Mr. WILLIAMS of Delaware. I am glad to yield to the Senator from New Hampshire for that purpose.

Mr. COTTON. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. One final point, the question has been asked, would the so-called almanacs, newspapers, and so forth, that are published in various States by political parties be covered, and the answer again is "Yes." Likewise, it covers voter education and research committees and any other label that may later be designated. We have tried to think of all the various ingenious proposals that have been mentioned as well as any new labels that may later be coined. To the best of our ability we have covered them all.

I want to express my appreciation to the Senate, to the members of the Senate Finance Committee, and to the conferees for their cooperation in having this amendment approved.

Mr. CARLSON. Mr. President, I would feel remiss if a yea-and-nay vote was called on this particular conference report without expressing my commendation to the Senator from Vermont for his untiring efforts in behalf of a large number of our citizens—a substantial group who have been ineligible heretofore for coverage under the social security system. This has been a problem with which the Finance Committee has wrestled for many years.

I remember that last year, under the Revenue Act, we covered 370,000 persons. Three hundred and thirty-five thousand were based on a three-quarters coverage. There has been a lot of discussion in the Senate about the Prouty amendment and the fact that we have covered persons who have not paid into the social security fund.

In order to keep the record straight, the 335,000 persons whom we covered last year with three-quarters coverage, paid an average of $1.50 per person.

In this particular bill we cover 370,000 at a cost of $125 million, without any charge to the Federal Treasury.

There are still a few hundred thousand citizens in this Nation who are still ineligible for social security, for the reason that they were not eligible to apply at the time the act was passed. Of the 370,000 covered under the Prouty amendment, 335,000 are covered for the full $35 per month, and 35,000 are for a portion of the $35 per month. Under this proposal, a husband and wife can draw a total of $52.50, $35 for the husband and $17.50 for the wife—or reversed, if that should be the situation in the instances that this would apply.

It is interesting to note that two-thirds of those covered under the Prouty amendment are women. Not only that, 80 percent of them are widows. There has been a lot of talk in the Senate this afternoon, and in previous sessions of the Senate, about these people. I am not happy about the amounts. I wish it were more. But I believe that the Senator from Vermont [Mr. PROUTY] is entitled to a great deal of credit for starting out on a program of this kind. I hope that the Senate in the future will increase the amounts, which I believe to be niggardly amounts, but at least it is a start. There are still several hundred thousand citizens, who should be qualified, and who would have been qualified had they had an opportunity to comply with the law.

Mr. President, again I say that the Senator from Vermont is entitled to great commendation for his efforts.

Mr. DOMINICK. Mr. President, I take the floor partly to make sure that I am completely accurate in my thoughts regarding this bill.

It is my understanding—and I would ask the Senator from Louisiana [Mr. LONG] if he would be kind enough to try to give me the answers, as the Senator in charge of the bill—that the major portion of the revenues which the Government anticipates raising will come from the acceleration of payments in the income tax; is that not correct?

Mr. LONG of Louisiana. Yes; the Senator is correct. Similar steps have been taken in the past under the both Democratic and Republican administrations.

Mr. DOMINICK. Let me say to the Senator in charge of the bill that I appreciate his frank answer.

We used this approach in our State at one point, under a Democratic Governor and we later referred to this approach as "Golden Gimmick No. 1." The Governor followed this golden gimmick with a couple of similar schemes. The net result of these schemes was a subsequent tax increase on individuals and corporations.

Obviously, the problem with this approach is that we get the revenue up to a high level by accelerating as much of the income tax as we can, then in order to keep up that high level of revenue, we have to raise the tax rates. We then come back to a situation which we might as well face now, where it becomes necessary, if we are going to have to do it, to raise taxes.

The other major portion of revenue is going to be raised in this bill by an increase of excise taxes on telephones and automobiles; is that not accurate?

Mr. LONG of Louisiana. From the taxes on telephones and new automobiles.

Mr. DOMINICK. Again, I appreciate the frank answer of the Senator in charge of the bill. I would say that, here again, we are restoring a tax on which we have spent literally months and years trying to eliminate; a tax which was originally imposed as a wartime tax. The Senator from Indiana offered an amendment eliminating the local tax on telephones which carried, but was eliminated from the conference report. It is my understanding that at no time did the administration oppose putting excise taxes on what might well be considered luxuries instead of necessities. I am talking about the tax on cabarets. I am talking about all kinds of luxuries which could be classified as luxuries in time of war. That is what we are in now—a period of war. It seems to me that to put the taxes on some necessity items as opposed to luxury items without taking real cognizance of what is needed in the income tax field, is a shortsighted approach.

I thank the Senator from Louisiana for his answers.

Mr. LONG of Louisiana. Mr. President, we have reduced taxes by over $20 billion in the period 1962 through 1965. Despite this very large reduction, our revenues in the fiscal year are estimated at $98.8 billion, higher than in any prior year. This was in no small part due to the fact that these tax reductions brought better business conditions and more employment, more income and more profits than would have been true in the absence of these bills. These reductions have brought the growth to our economy—which we must in this bill keep under control—which will reoccur in future years. The so-called, "one-shot" revenue gains in this bill, together with the other revenue raised in this bill we hope will be sufficient to tide us over to the time when the continuing growth in our revenues will again be adequate to meet budget requirements.

Let me say that we predicted an increase in revenues as a result of those prior bills, and such revenues did materialize to an even greater extent than predicted. The only part we could not predict was the great increase in expenditures required because of the war in Vietnam. This bill is intended to provide such revenues to the extent needed to meet the added military expenditures in the period immediately ahead. It is hoped—although I cannot know whether they will be enough—that the growth in revenues occurring in the period after this "one shot" gain wears off, will provide the additional funds needed at that time without further tax increases.

Mr. MANSFIELD. Mr. President, because Senator SMATHERS is necessarily absent, he has asked me to make the following statement, which he has prepared, in support of the conference report on the Tax Readjustment Act of 1966.

STATEMENT BY SENATOR SMATHERS READ BY SENATOR MANSFIELD

Mr. SMATHERS. Mr. President, I compliment the distinguished chairman of the Committee on Finance for his able presentation of the conference report on this important tax bill. As one of the conferees on this bill, I can tell the Senate of the difficult position we were in, having to argue for nontax amendments added to the bill by the Senate. There were 36 amendments added to this bill in the Senate. The Senate was forced to recede on only three of them. On another, we effected a compromise.

The amendment we compromised was offered on the floor by the junior Senator from Vermont [Mr. PROUTY]. It would have provided minimum social security benefits for persons who attain age 70 without requiring that they have prior covered employment. Without going into the details of the Prouty amendment, let me state that the House conferees were strongly opposed to this amendment for several reasons. First, they insisted it was not germane. They felt we had no right to amend a tax bill with nontax amendments. Secondly, they felt the amendment went too far in providing benefits for those who did not need them. Thirdly, they insisted it cost too much. Fourthly, they pointed to problems we had not faced when we acted on the Senator's amendment.

Despite this, the distinguished chairman of the committee insisted that he would not take a bill back to the Senate which did not contain benefits for our older citizens. Fortunately, there was some support among the House conferees for amendments of the type approved by the Senate. With this breach in their ranks we were able to work out provisions which go a long way toward filling the need upon which the Prouty amendment was premised.

Under the conference agreement, persons who reach 72 before 1968 are going to be assured a pension under the social security program of $35 a month, even though they have no prior work experience in covered employment. If a married couple is involved, the combined pension under the substitute will be $52.50. To make certain that these benefits go only to those who are in greatest need, the conference substitute provides that the $35 amount or the $52.50 amount will be reduced by amounts these persons may already receive under other Federal, State, or local retirement programs. This is the biggest single difference between the Senate amendment and the conference substitute. Benefits under the Senate amendment would have been in addition to other payments the elderly person might be receiving, while the conference agreement makes the new benefit available only where there is no other governmental pension available, or where the other benefit is quite small.

The principal amendment on which the Senate conferees had to yield was offered in the Senate by the senior Senator from Indiana [Mr. HARTKE]. It would have left the telephone tax at 3 percent on local residential service while permitting a tax of 10 percent on business calls and on long-distance service. The House conferees refused to accept this amendment for two important reasons. First, they would not permit the revenue under their bill to be depleted by the $315 million involved under this amendment. Secondly, they felt a 2-bracket tax system for telephone service raised problems for both the telephone companies and their subscribers, as well as for the tax collector. They insisted such a tax system would be administratively difficult and set bad precedents. Because of their strong position on this amendment and because of our insistence for preserving some social security benefits for our aged citizens, the Senate conferees were compelled to yield on this telephone tax.

I need not go into the other changes made by the conferees—the chairman has ably described them. Let me just add that, on balance, I believe the Senate will agree that the Senate conferees did a remarkable job of retaining important elements of the Senate's most important amendment—social security for our needy elderly citizens.

Like the chairman, I urge the conference report be agreed to.

Mr. COOPER. Mr. President, I support the conference report on H.R. 12752 the proposed Tax Adjustment Act of 1965.

The purpose of this act is to provide revenue of approximately $6 billion which is needed for the war in Vietnam. The provisions to raise these funds should be voted, but in my view, it would have been better if the President had proposed a general tax measure for consideration by the Congress.

I say this, because if the war continues, I believe it will be necessary to provide additional revenues through a broader measure of tax adjustment. Also, I do not think it entirely fair to consider adjustments piecemeal and thus impose the burden on some groups rather than others.

When the bill was before the Senate last week, I voted for the amendment which would have exempted local telephone calls and local residential service from the reimposition and payment of additional excise taxes. It would have reduced these additional revenues, but the telephone is a necessity and not a luxury. The amendment was adopted by the Senate, and I am sorry it has been stricken in conference.

Now I would like to speak of the Prouty amendment to provide monthly benefits to older citizens who are not presently included in the social security system. I have wanted to see a change to provide this coverage, and last year when the Congress enacted new social security benefits in a bill I spoke and voted for, I supported the Prouty amendment in a vote in the Senate because I thought it just and needed. Important also, the amendment offered last year provided funds to pay for the benefits.

Last week, when this tax adjustment bill—a bill to provide revenues to carry on the war in South Vietnam—was before the Senate, I voted against the amendment offered by Senator PROUTY because it did not provide revenues to pay the cost. The cost would have come from taxes being levied especially to support our men who are fighting in Vietnam, and I did not feel it would have been responsible to vote new benefits without a means of payment.

I said at the time in the Senate, that if the House agreed to provide funds to pay for new benefits, so that an amendment to extend social security coverage would not cripple the war effort, I could vote for the Prouty amendment and for its benefits as I have done in past years.

The tax adjustment bill has now been reported back to the Senate after a conference with the House, and the House has agreed to provide a means of paying the cost from social security funds. The cost of extending this needed coverage to our older citizens who are 72 and over will not reduce the revenues to be raised by this bill for the requirements of the war in Vietnam in 1966 and 1967, and payments from the trust fund will be replaced in coming years.

I believe the bill reported from the conference meets the purposes I have discussed, and I will vote for it, and for the amendment which will provide social security benefits to our older citizens who are not presently eligible for benefit payments under the provisions of the Social Security Act.

The chief feature of this amendment to provide coverage for our older citizens in this bill is a monthly payment of $35 to persons who are 72 or older, or who reach the age of 72 before 1968. In the

case of a husband and wife who are qualified, payments will be $35 for the husband and $17.50 for the wife, and they will begin on October 1, 1966. In the case of persons receiving benefits under other social security and retirement programs, the payments will amount to the difference between the new benefits and the amounts already being received.

I shall explain other helpful provisions of the bill to the people of my State of Kentucky, but I note the chief advance is the provision of monthly benefits to many thousands of people who could not qualify for coverage under social security and who deserve the benefits which will be provided by the provisions of this bill. The funds have been provided for these monthly payments in the bill before the Senate today, and I am happy to vote for the tax adjustment bill with the amendment providing monthly benefits for our older citizens.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Tennessee [Mr. BASS], the Senator from Indiana [Mr. BAYH], the Senator from Virginia [Mr. BYRD], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from New York [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Georgia [Mr. RUSSELL], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Mississippi [Mr. EASTLAND], the Senator from North Carolina [Mr. JORDAN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Wyoming [Mr. MCGEE], the Senator from Michigan [Mr. MCNAMARA], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Indiana [Mr. BAYH], the Senator from Maryland [Mr. BREWSTER], the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from North Carolina [Mr. JORDAN], the Senator from New York [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Wyoming [Mr. MCGEE], the Senator from Michigan [Mr. MCNAMARA], the Senator from Florida [Mr. SMATHERS], and the Senator from New Jersey [Mr. WILLIAMS] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from California [Mr. KUCHEL] is absent because of illness.

The Senator from California [Mr. MURPHY] is absent on official business.

The Senator from Pennsylvania [Mr. SCOTT] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

The Senator from Kansas [Mr. PEARSON] is detained on official business.

If present and voting, the senior Senator from California [Mr. KUCHEL], the junior Senator from California [Mr. MURPHY], and the Senator from Pennsylvania [Mr. SCOTT] would each vote "yea."

On this vote, the Senator from Kansas [Mr. PEARSON] is paired with the Senator from South Carolina [Mr. THURMOND]. If present and voting, the Senator from Kansas would vote "nay" and the Senator from South Carolina would vote "yea."

The result was announced—yeas 72, nays 5, as follows:

[No. 57 Leg.]

YEAS—72

Aiken	Hart	Muskie
Allott	Hartke	Nelson
Bartlett	Hill	Neuberger
Bennett	Holland	Pastore
Bible	Hruska	Pell
Boggs	Inouye	Prouty
Burdick	Jackson	Proxmire
Byrd, W. Va.	Javits	Randolph
Cannon	Jordan, Idaho	Ribicoff
Carlson	Kennedy, Mass.	Robertson
Case	Long, La.	Russell, S.C.
Church	Magnuson	Saltonstall
Clark	Mansfield	Simpson
Cooper	McCarthy	Smith
Curtis	McClellan	Sparkman
Dirksen	McGovern	Stennis
Dodd	McIntyre	Symington
Douglas	Metcalf	Talmadge
Ellender	Mondale	Tower
Ervin	Monroney	Tydings
Fannin	Montoya	Williams, Del.
Fong	Morton	Yarborough
Fulbright	Moss	Young, N. Dak.
Harris	Mundt	Young, Ohio

NAYS—5

Cotton	Hickenlooper	Morse
Dominick	Miller	

NOT VOTING—23

Anderson	Hayden	Murphy
Bass	Jordan, N.C.	Pearson
Bayh	Kennedy, N.Y.	Russell, Ga.
Brewster	Kuchel	Scott
Byrd, Va.	Lausche	Smathers
Eastland	Long, Mo.	Thurmond
Gore	McGee	Williams, N.J.
Gruening	McNamara	

So the conference report was agreed to.

Mr. LONG of Louisiana. Mr. President, I move that the vote by which the conference report was agreed to be reconsidered.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the successful adoption of the conference report on the Tax Readjustment Act marks another fine achievement for the junior Senator from Louisiana [Mr. LONG]. Its clearance today for the President's signature has been achieved in large measure by his effective leadership and his profound understanding of the Nation's financial structure.

As much as anyone, he is devoted to achieving effective and constructive tax measures, and we are indebted to him for his unfailing and undaunted efforts in doing so.

Additionally, the senior Senator from Delaware [Mr. WILLIAMS] is to be highly commended for his significant role in achieving success at last week's conference. He is always a tireless worker on behalf of fiscal matters, and we are grateful for his splendid assistance and unsurpassed cooperation.

To all members of the Committee on Finance, the Senate and the Nation as a whole, owe a debt of gratitude for expediting action on this vital legislation.

Public Law 89-368
89th Congress, H. R. 12752
March 15, 1966

An Act

To provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tax Adjustment Act of 1966.

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Adjustment Act of 1966".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

68A Stat. 3.
26 USC 1 et seq.

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SEC. 102. ESTIMATED TAX IN CASE OF INDIVIDUALS.

(a) INCLUSION OF SELF-EMPLOYMENT TAX IN ESTIMATED TAX.—Section 6015(c) (relating to definition of estimated tax in the case of an individual) is amended to read as follows: 26 USC 6015.

"(c) ESTIMATED TAX.—For purposes of this title, in the case of an individual, the term 'estimated tax' means—

"(1) the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year, plus 26 USC 1-1388.

"(2) the amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus 26 USC 1401-1403.

"(3) the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1." 26 USC 31-48.

(b) ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX.—

(1) Section 6654(a) (relating to addition to the tax for underpayment of estimated tax by an individual) is amended by inserting after "chapter 1" the following: "and the tax under chapter 2". 26 USC 6654.

(2) Section 6654(d) is amended to read as follows:

"(d) EXCEPTION.—Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all pay-

80 STAT. 63

ments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

"(1) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

"(2) An amount equal to 70 percent (66⅔ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid and by taking into account the adjusted self-employment income (if the net earnings from self-employment (as defined in section 1402(a)) for the taxable year equal or exceed $400). For purposes of this paragraph—

68A stat. 750; 76 Stat. 575. 26 USC 6073.

26 USC 1402.

"(A) The taxable income shall be placed on an annualized basis by—

"(i) multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

"(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

"(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment).

"(B) The term 'adjusted self-employment income' means—

"(i) the net earnings from self-employment (as defined in section 1402(a)) for the months in the taxable year ending before the month in which the installment is required to be paid, but not more than

"(ii) the excess of $6,600 over the amount determined by placing the wages (within the meaning of section 1402(b)) for the months in the taxable year ending before the month in which the installment is required to be paid on an annualized basis in a manner consistent with clauses (i) and (ii) of subparagraph (A).

"(3) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income and the actual self-employment income for the months in the taxable year ending before the month in which the installment is required to be paid as if such months constituted the taxable year.

"(4) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year."

26 USC 151.

(3) Section 6654(f) (relating to definition of tax for purposes of subsections (b) and (d) of section 6654) is amended to read as follows: 68A Stat. 823. 26 USC 6654. Ante, p. 62.

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term 'tax' means—

"(1) the tax imposed by this chapter 1, plus 26 USC 1-1388.

"(2) the tax imposed by chapter 2, minus 26 USC 1401-1403.

"(3) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)." 26 USC 31-48.

(4) Section 6211(b)(1) (relating to definition of a deficiency) is amended by striking out "chapter 1" and inserting in lieu thereof "subtitle A". 26 USC 6211.

(5) Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph: 26 USC 7701.

"(34) ESTIMATED INCOME TAX.—The term 'estimated income tax' means—

"(A) in the case of an individual, the estimated tax as defined in section 6015(c), or Ante, p. 62.

"(B) in the case of a corporation, the estimated tax as defined in section 6016(b)." 26 USC 6016.

(6) Section 1403(b) (cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to declarations of estimated tax on self-employment income, see section 6015."

(c) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Section 1402(e)(3) (relating to effective date of waiver certificates) is amended by adding at the end thereof the following new subparagraph: 74 Stat. 926. 26 USC 1402.

"(E) For purposes of sections 6015 and 6654, a waiver certificate described in paragraph (1) shall be treated as taking effect on the first day of the first taxable year beginning after the date on which such certificate is filed."

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1966.

* * * * *

* * * * *

SEC. 302. BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS.

42 USC 401-427. (a) MONTHLY BENEFITS.—Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS

"Eligibility

"Sec. 228. (a) Every individual who—

"(1) has attained the age of 72,

"(2) (A) attained such age before 1968, or (B) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,

"(3) is a resident of the United States (as defined in subsection (e)), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 210(i)) continuously during the 5 years immediately preceding the month in which he files application under this section, and

74 Stat. 937.
42 USC 410.

"(4) has filed application for benefits under this section,

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he becomes so entitled to such benefits and ending with the month preceding the month in which he dies. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

"Benefit Amount

"(b)(1) Except as provided in paragraph (2), the benefit amount to which an individual is entitled under this section for any month shall be $35.

"(2) If both husband and wife are entitled (or upon application would be entitled) to benefits under this section for any month, the amount of the husband's benefit for such month shall be $35 and the amount of the wife's benefit for such month shall be $17.50.

"Reduction for Governmental Pension System Benefits

"(c)(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he is eligible for such month.

"(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) $17.50.

"(3) In the case of a husband and wife both of whom are entitled to benefits under this section for any month—

"(A) the benefit amount of the wife, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the husband is eligible for such month, over (ii) $35, and

"(B) the benefit amount of the husband, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (i) the total amount of any periodic benefits under governmental pension systems for which the wife is eligible for such month, over (ii) $17.50.

"(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

"(A) such individual shall be deemed to have filed application for such benefits,

"(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

"(C) to the extent that entitlement depends on such individual or his spouse having retired, such individual and his spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

"(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Secretary shall allocate the amount of such benefit to the appropriate calendar months.

"(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than $1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for the month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

"(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

"(8) Under regulations prescribed by the Secretary, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than $5 may be accumulated until they equal or exceed $5.

"Suspension for Months in Which Cash Payments Are Made Under Public Assistance

"(d) The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

"(1) such individual receives aid or assistance in the form of money payments in such month under a State plan approved under title I, IV, X, XIV, or XVI, or

42 USC 301, 601, 1201, 1351, 1381.

"(2) such individual's husband or wife receives such aid or assistance in such month, and under the State plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance,

unless the State agency administering or supervising the administration of such plan notifies the Secretary, at such time and in such manner as may be prescribed in accordance with regulations of the Secretary, that such payments to such individual (or such individual's husband or wife) under such plan are being terminated with the payment or payments made in such month.

"Suspension Where Individual Is Residing Outside the United States

"(e) The benefit to which any individual is entitled under this section for any month shall not be paid if, during such month, such individual is not a resident of the United States. For purposes of this subsection, the term 'United States' means the 50 States and the District of Columbia.

"Treatment as Monthly Insurance Benefits

42 USC 402, 1395s.

"(f) For purposes of subsections (t) and (u) of section 202, and of section 1840, a monthly benefit under this section shall be treated as a monthly insurance benefit payable under section 202.

"Annual Reimbursement of Federal Old-Age and Survivors Insurance Trust Fund

"(g) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the

Secretary of Health, Education, and Welfare deems necessary on account of—

"(1) payments made under this section during the second preceding fiscal year and all fiscal years prior thereto to individuals who, as of the beginning of the calendar year in which falls the month for which payment was made, had less than 3 quarters of coverage,

"(2) the additional administrative expenses resulting from the payments described in paragraph (1), and

"(3) any loss in interest to such Trust Fund resulting from such payments and expenses,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if such payments had not been made.

"Definitions

"(h) For purposes of this section—

"(1) The term 'quarter of coverage' includes a quarter of coverage as defined in section 5(1) of the Railroad Retirement Act of 1937.

"(2) The term 'governmental pension system' means the insurance system established by this title or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (A) pensions, (B) retirement or retired pay, or (C) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen's compensation law or any payment by the Veterans' Administration as compensation for service-connected disability or death). 60 Stat. 733. 45 USC 228e.

"(3) The term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

"(4) The determination of whether an individual is a husband or wife for any month shall be made under subsection (h) of section 216 without regard to subsections (b) and (f) of section 216." 71 Stat. 519. 42 USC 416.

(b) CERTAIN APPLICATIONS UNDER 1965 AMENDMENTS.—For purposes of paragraph (4) of section 228(a) of the Social Security Act (added by subsection (a) of this section), an application filed under section 103 of the Social Security Amendments of 1965 before July 1966 shall be regarded as an application under such section 228 and shall, for purposes of such paragraph and of the last sentence of such section 228(a), be deemed to have been filed in July 1966, unless the person by whom or on whose behalf such application was filed notifies the Secretary that he does not want such application so regarded. Ante, p. 68. 79 Stat. 333. 42 USC 426 note.

* * * * *

Approved March 15, 1966, 8:15 p.m.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1285 (Comm. on Ways & Means) and No. 1323 (Comm. of Conference).

SENATE REPORT No. 1010 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 112 (1966):

Feb. 23: Considered and passed House.

Mar. 4, 7, 8: Considered in Senate.

Mar. 9: Considered and passed Senate, amended.

Mar. 15: House and Senate agreed to conference report.

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 38 March 16, 1966

SOCIAL SECURITY LEGISLATION

To Administrative, Supervisory,
and Technical Employees

As you know, on March 8 the Senate added an amendment to H. R. 12752, "The Tax Adjustment Act of 1966," to provide for the payment of social security cash benefits for all persons age 70 or over. The House-approved version of H. R. 12752 contained no provision for the payment of social security benefits. After settlement of the differences in the two versions of the bill by the Conference Committee, the agreed-upon compromise was approved by both Houses and signed into law by President Johnson on March 15. The bill became P. L. 89-368.

Under the new law, monthly payments of $35 will be made to certain people who are not insured under the regular provisions or the transitional provisions enacted last year and who reach age 72 before 1972 (1970 for women). A woman otherwise eligible who is married to a man who qualifies will get a benefit of $17.50. People who are now age 72 and over, or who will attain age 72 before 1968, can qualify for the payments under the new provision without any social security coverage; beginning in 1968, people age 72 or over can qualify if they have at least 3 quarters of coverage for each year elapsing after 1966 and up to the year in which they attain age 72. The following table shows the quarters-of-coverage requirements under the provision:

Year in Which Person Attains Age 72	Required Quarters: Men — Regular or Transitional Provisions	Men — New Provision	Women — Regular or Transitional Provisions	Women — New Provision
1966 or earlier	3-8	None	3-5	None
1967	9	None	6	None
1968	10	3	7	3
1969	11	6	8	6
1970	12	9	9	*
1971	13	12	10	
1972	14	*	11	

*The new provision becomes ineffective since it would require as many quarters of coverage as the regular insured status provisions.

The payments to the uninsured under the new provision are more limited in several respects than benefits payable under the regular or transitional insured status provisions: They will have no retroactivity; the payment to a person receiving a pension, retirement benefit or

annuity under any governmental system, other than workmen's or veteran's compensation, will be reduced by the amount of that benefit; and payments will be suspended for any month for which the beneficiary (or his spouse, if the public assistance payment take the spouse's needs into account) receives payments under a Federally aided public assistance program. Also, payments can be made only to people residing in one of the 50 States or the District of Columbia; they will not be made to residents of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

The payments under the new provision are effective for the month of October 1966.

The cost of making the payments to people who have less than 3 quarters of coverage will be met from the general funds of the Treasury; the cost of paying people who have 3 or more quarters of coverage will be met from the Federal Old-Age and Survivors Insurance Trust Fund. It is estimated that 370,000 people will get payments under the new provision, and that it will result in additional payments of about $95 million in the fiscal year ending June 30, 1967. The amount paid out will, of course, decline over the years as the size of the group grows smaller.

Applications filed to establish eligibility for hospital insurance will be valid for the new monthly cash payment.

P. L. 89-368 also contains a provision which requires nonfarm self-employed people to make estimated payments of their social security tax contributions on a quarterly basis effective for taxable years beginning after December 31, 1966. Under the law as in effect now, a nonfarm self-employed person is required to estimate and make quarterly installment payments only on his income tax and only if the estimated tax is at least $40. Under the change, the nonfarm self-employed person would have to make quarterly installment payments if the amount of his combined estimated income tax and social security tax is at least $40. It is estimated that the provision would increase revenue collections in fiscal year 1967 by $200 million.

Additional information on the new provisions is being prepared and will be sent to you shortly.

In signing the bill the President called attention to the need to provide for higher social security benefits and stated that he had asked Secretary Gardner to "complete a study of ways and means of making social security more adequate while keeping the program financially sound." The President said that he wanted the proposals ready to present to the Congress in 1967.

I have today announced the organization of a coordinated effort within the Social Security Administration for the purpose of full-scale and intensive planning, part of which is already underway, to carry out the President's directive.

Robert M. Ball
Commissioner

No debate on social security issues.

The Committee rose, and the Speaker pro tempore, Mr. ALBERT, having resumed the chair, Mr. HANSEN of Iowa, 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. 12752) to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes, pursuant to House Resolution 736, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. 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 pro tempore. The question is on the passage of the bill.

For what purpose does the gentleman from California [Mr. UTT] rise?

Mr. UTT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. UTT. I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. UTT moves to recommit the bill (H.R. 12752) to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

Page 2, strike out lines 7 and 8.

Page 47, strike out line 4 and all that follows through line 9 on page 51.

Mr. MILLS. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that in the opinion of the Chair, the "noes" had it.

Mr. UTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 187, nays 207, not voting 38, as follows:

[Roll No. 19]

YEAS—187

Abbitt	Foley	Morse
Abernethy	Ford, Gerald R.	Morton
Adair	Ford, William D.	Mosher
Anderson, Ill.	Fountain	Nedzi
Andrews, George W.	Fulton, Pa.	Nelsen
Andrews, Glenn	Fulton, Tenn.	O'Hara, Mich.
Andrews, N. Dak.	Fuqua	O'Neal, Ga.
Arends	Gettys	Ottinger
Ashbrook	Giaimo	Passman
Ashmore	Goodell	Pirnie
Bandstra	Griffin	Poff
Baring	Griffiths	Quie
Belcher	Gross	Quillen
Bell	Grover	Race
Berry	Gurney	Randall
Betts	Haley	Reid, Ill.
Bolton	Hall	Reid, N.Y.
Bow	Halleck	Reifel
Bray	Halpern	Reinecke
Broomfield	Hanley	Rhodes, Ariz.
Brown, Calif.	Hansen, Idaho	Robison
Brown, Ohio	Hardy	Rogers, Fla.
Broyhill, N.C.	Harsha	Roncalio
Buchanan	Henderson	Rooney, Pa.
Burton, Utah	Hicks	Roybal
Cabell	Horton	Rumsfeld
Callaway	Hosmer	Satterfield
Cameron	Hull	Saylor
Carter	Hungate	Schisler
Chamberlain	Hutchinson	Schmidhauser
Clancy	Jarman	Schweiker
Clark	Jennings	Secrest
Clausen, Don H.	Johnson, Pa.	Selden
Clawson, Del	Jonas	Shipley
Clevenger	Jones, Mo.	Shriver
Collier	Jones, N.C.	Sikes
Conable	Kastenmeier	Skubitz
Conte	Keith	Smith, Calif.
Conyers	King, N.Y.	Smith, N.Y.
Cooley	Kornegay	Springer
Corman	Kunkel	Stalbaum
Craley	Landrum	Stanton
Cunningham	Langen	Stephens
Curtin	Latta	Taylor
Dague	Leggett	Thomson, Wis.
Davis, Ga.	Lennon	Tuck
Davis, Wis.	Lipscomb	Tupper
Derwinski	Long, La.	Tuten
Devine	McClory	Utt
Dickinson	McCulloch	Vivian
Diggs	McDade	Waggonner
Dole	McEwen	Walker, Miss.
Dulski	McMillan	Walker, N. Mex.
Duncan, Tenn.	MacGregor	Watkins
Dwyer	Mackie	Watson
Edwards, Ala.	Marsh	Weltner
Ellsworth	Martin, Nebr.	Whalley
Erlenborn	Mathias	Whitener
Findley	Michel	Whitten
Fino	Minshall	Williams
	Mize	Wilson, Bob
	Moore	Wyatt
		Wydler
		Younger

NAYS—207

Adams	Corbett	Garmatz
Addabbo	Culver	Gathings
Albert	Curtis	Gibbons
Anderson, Tenn.	Daddario	Gilbert
Annunzio	Daniels	Gilligan
Ashley	Dawson	Gonzalez
Aspinall	de la Garza	Grabowski
Ayres	Delaney	Gray
Barrett	Dent	Green, Oreg.
Bates	Denton	Green, Pa.
Battin	Dingell	Greigg
Beckworth	Donohue	Grider
Bennett	Dorn	Hagen, Calif.
Bingham	Dow	Hamilton
Boggs	Downing	Hanna
Boland	Duncan, Oreg	Hansen, Iowa
Bolling	Dyal	Hansen, Wash.
Brademas	Edmondson	Harvey, Mich.
Brock	Edwards, Calif.	Hathaway
Brooks	Evans, Colo.	Hawkins
Broyhill, Va.	Everett	Hays
Burke	Evins, Tenn.	Hechler
Burton, Calif.	Farbstein	Helstoski
Byrne, Pa.	Farnum	Herlong
Byrnes, Wis.	Fascell	Holifield
Cahill	Feighan	Holland
Callan	Flood	Howard
Carey	Flynt	Huot
Casey	Fogarty	Ichord
Celler	Fraser	Irwin
Cleveland	Frelinghuysen	Jacobs
Colmer	Friedel	Joelson
	Gallagher	Johnson, Calif

Johnson, Okla.	Multer	Ryan
Jones, Ala.	Murphy, Ill.	St Germain
Karsten	Murphy, N.Y.	Scheuer
Karth	Murray	Schneebeli
Kelly	Natcher	Senner
Keogh	Nix	Sickles
King, Utah	O'Brien	Sisk
Kirwan	O'Hara, Ill.	Smith, Va.
Kluczynski	O'Konski	Stafford
Krebs	Olsen, Mont.	Staggers
Laird	Olson, Minn.	Steed
Long, Md.	O'Neill, Mass.	Stratton
Love	Patman	Stubblefield
McCarthy	Patten	Sullivan
McDowell	Pelly	Sweeney
McFall	Pepper	Teague, Calif.
McGrath	Perkins	Tenzer
McVicker	Philbin	Thompson, N.J.
Macdonald	Pickle	Thompson, Tex.
Machen	Pike	Todd
Mackay	Poage	Trimble
Madden	Powell	Tunney
Mahon	Price	Udall
Mailliard	Pucinski	Ullman
Martin, Mass.	Purcell	Van Deerlin
Matsunaga	Rees	Vanik
May	Reuss	Vigorito
Meeds	Rhodes, Pa.	Watts
Mills	Rivers, Alaska	White, Tex.
Minish	Roberts	Widnall
Mink	Rodino	Wilson,
Moeller	Rogers, Colo.	Charles H.
Monagan	Ronan	Wolff
Morgan	Rooney, N.Y.	Wright
Morris	Rosenthal	Yates
Morrison	Rostenkowski	Young
Moss	Roush	

NOT VOTING—38

Baldwin	Hagan, Ga.	Rogers, Tex.
Blatnik	Harvey, Ind.	Roudebush
Burleson	Hébert	St. Onge
Cederberg	Kee	Scott
Chelf	King, Calif.	Slack
Cohelan	Martin, Ala.	Smith, Iowa
Cramer	Matthews	Talcott
Dowdy	Miller	Teague, Tex.
Edwards, La.	Moorhead	Toll
Fallon	Pool	White, Idaho
Farnsley	Redlin	Willis
Fisher	Resnick	Zablocki
Gubser	Rivers, S.C.	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Cramer for, with Mr. Hébert against.

Mr. Harvey of Indiana for, with Mr. Miller against.

Mr. Roudebush for, with Mr. White of Idaho against.

Mr. Martin of Alabama for, with Mr. Toll against.

Mr. Fisher for, with Mr. Cohelan against.

Mr. Cederberg for, with Mr. Farnsley against.

Mr. Scott for, with Mr. King of California against.

Mr. Talcott for, with Mr. St. Onge against.

Until further notice:

Mr. Teague of Texas with Mr. Smith of Iowa.

Mr. Rogers of Texas with Mr. Willis.

Mr. Slack with Mr. Moorhead.

Mr. Blatnik with Mr. Fallon.

Mr. Hogan of Georgia with Mr. Redlin.

Mr. Rivers of South Carolina with Mr. Matthews.

Mr. Pool with Mr. Kee.

Mr. Zablocki with Mr. Baldwin.

Mr. Resnick with Mr. Gubser.

Mr. Chelf with Mr. Edwards of Louisiana.

Mr. DE LA GARZA changed his vote from "yea" to "nay."

Mr. POAGE changed his vote from "yea" to "nay."

Mr. KUNKEL changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

The SPEAKER pro tempore. The question is on passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 246, nays 146, not voting 41, as follows:

[Roll No. 20]

YEAS—246

Adams	Gilbert	Moss
Addabbo	Gilligan	Multer
Albert	Gonzalez	Murphy, Ill.
Anderson, Ill.	Grabowski	Murphy, N.Y.
Anderson, Tenn.	Gray	Murray
Annunzio	Green, Oreg.	Natcher
Ashley	Green, Pa.	Nix
Aspinall	Greigg	O'Brien
Ayres	Grider	O'Hara, Ill.
Barrett	Hagen, Calif.	Olsen, Mont.
Bates	Hamilton	Olson, Minn.
Battin	Hanley	O'Neill, Mass.
Beckworth	Hanna	Patten
Belcher	Hansen, Iowa	Pelly
Bell	Hansen, Wash.	Pepper
Bennett	Hardy	Perkins
Bingham	Harvey, Mich.	Philbin
Boggs	Hathaway	Pickle
Boland	Hawkins	Pike
Bolling	Hays	Pirnie
Bow	Hechler	Poage
Brademas	Helstoski	Powell
Brock	Herlong	Price
Brooks	Holifield	Pucinski
Broyhill, Va.	Holland	Purcell
Burke	Hosmer	Redlin
Burton, Calif.	Howard	Rees
Byrne, Pa.	Hull	Reid, N.Y.
Byrnes, Wis.	Hungate	Reuss
Cabell	Huot	Rhodes, Pa.
Cahill	Ichord	Rivers, Alaska
Callan	Irwin	Roberts
Callaway	Jacobs	Rodino
Carey	Jarman	Rogers, Colo.
Carter	Joelson	Rogers, Fla.
Casey	Johnson, Calif.	Ronan
Celler	Johnson, Okla.	Rooney, N.Y.
Clark	Jones, Ala.	Rooney, Pa.
Cleveland	Karsten	Rosenthal
Collier	Karth	Rostenkowski
Colmer	Keith	Roush
Corbett	Kelly	Ryan
Corman	Keogh	St Germain
Culver	King, Utah	Scheuer
Curtis	Kirwan	Schisler
Daddario	Kluczynski	Schmidhauser
Daniels	Krebs	Schneebeli
Davis, Wis.	Kunkel	Schweiker
Dawson	Kupferman	Sickles
de la Garza	Laird	Sisk
Delaney	Leggett	Smith, Va.
Dent	Lipscomb	Springer
Denton	Long, Md.	Stafford
Dingell	Love	Staggers
Donohue	McCarthy	Steed
Dorn	McClory	Stratton
Dow	McDade	Stubblefield
Downing	McDowell	Sullivan
Dwyer	McFall	Sweeney
Dyal	McGrath	Teague, Calif.
Edmondson	McVicker	Tenzer
Edwards, Calif.	Macdonald	Thompson, N.J.
Evans, Colo.	Machen	Thompson, Tex.
Everett	Mackay	Todd
Evins, Tenn.	Madden	Trimble
Farbstein	Mahon	Tunney
Farnum	Mailliard	Tupper
Fascell	Marsh	Udall
Feighan	Martin, Mass.	Ullman
Findley	Martin, Nebr.	Van Deerlin
Flood	Mathias	Vanik
Flynt	Matsunaga	Vigorito
Fogarty	May	Vivian
Foley	Meeds	Watts
Fraser	Mills	White, Tex.
Frelinghuysen	Minish	Widnall
Friedel	Mink	Wilson,
Gallagher	Moeller	Charles H.
Garmatz	Monagan	Wolff
Gathings	Morgan	Wright
Giaimo	Morris	Yates
Gibbons	Morrison	Young
	Morse	

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Abbitt	Andrews, Glenn	Ashbrook
Abernethy	Andrews, N. Dak.	Ashmore
Adair	Arends	Baring
Andrews, George W.	Bolton	Berry
	Bray	Betts
	Broomfield	Quillen
	Brown, Calif.	Race
	Brown, Ohio	Randall
	Broyhill, N.C.	Reid, Ill.
	Buchanan	Reifel
	Burton, Utah	Reinecke
	Cameron	Rhodes, Ariz.
	Chamberlain	Robison
	Clancy	Roncalio
	Clausen, Don H.	Roybal
	Clawson, Del	Rumsfeld
	Clevenger	Satterfield
	Conable	Saylor
	Conte	Secrest
	Conyers	Selden
	Cooley	Shipley
	Craley	Shriver
	Cunningham	Sikes
	Curtin	Skubitz
	Dague	Smith, Calif.
	Davis, Ga.	Smith, N.Y.
	Derwinski	Stalbaum
	Devine	Stanton
	Dickinson	Stephens
	Diggs	Talcott
	Dole	Taylor
	Dulski	Thomson, Wis.
	Duncan, Tenn.	Tuck
	Edwards, Ala.	Tuten
	Ellsworth	Utt
	Erlenborn	Waggonner
	Fino	Walker, Miss.
	Ford, Gerald R.	Walker, N. Mex.
	Ford, William D.	Watkins
	Fountain	Watson
	Fulton, Pa.	Weltner
	Fulton, Tenn.	Whalley
	Fuqua	Whitener
	Gettys	Whitten
	Goodell	Williams
	Griffin	Wilson, Bob
	Griffiths	Wyatt
	Gross	Wydler
	Grover	Younger
	Gurney	
	Haley	
	Hall	
	Halleck	
	Halpern	
	Hansen, Idaho	
	Harsha	
	Henderson	
	Hicks	
	Horton	
	Hutchinson	
	Jennings	
	Johnson, Pa.	
	Jonas	
	Jones, Mo.	
	Jones, N.C.	
	Kastenmeier	
	King, N.Y.	
	Kornegay	
	Landrum	
	Langen	
	Latta	
	Lennon	
	Long, La.	
	McCulloch	
	McEwen	
	McMillan	
	MacGregor	
	Mackie	
	Michel	
	Minshall	
	Mize	
	Moore	
	Morton	
	Mosher	
	Nedzi	
	Nelsen	
	O'Hara, Mich.	
	O'Konski	
	O'Neal, Ga.	
	Ottinger	
	Passman	
	Poff	
	Quie	

NOT VOTING—41

Baldwin	Gubser	Rogers, Tex.
Bandstra	Hagan, Ga.	Roudebush
Blatnik	Harvey, Ind.	St. Onge
Burleson	Hébert	Scott
Cederberg	Kee	Senner
Chelf	King, Calif.	Slack
Cohelan	Martin, Ala.	Smith, Iowa
Cramer	Matthews	Teague, Tex.
Dowdy	Miller	Toll
Duncan, Oreg.	Moorhead	White, Idaho
Edwards, La.	Patman	Willis
Fallon	Pool	Zablocki
Farnsley	Resnick	
Fisher	Rivers, S.C.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Harvey of Indiana against.

Mr. Miller for, with Mr. Roudebush against.

Mr. King of California for, with Mr. Martin of Alabama against.

Mr. St. Onge for, with Mr. Fisher against.

Mr. Fallon for, with Mr. Cramer against.

Mr. Patman for, with Mr. Cederberg against.

Mr. Edwards of Louisiana for, with Mr. Scott against.

Until further notice:

Mr. Cohelan with Mr. Gubser.

Mr. Senner with Mr. Baldwin.

Mr. Matthews with Mr. Teague of Texas.

Mr. Toll with Mr. Rogers of Texas.

Mr. Farnsley with Mr. Slack.

Mr. Moorhead with Mr. Bandstra.

Mr. White of Idaho with Mr. Willis.

Mr. Zablocki with Mr. Duncan of Oregon.

Mr. Smith of Iowa with Mr. Kee.

Mr. Blatnik with Mr. Chelf.

Mr. Pool with Mr. Resnick.

Mr. Hagan of Georgia with Mr. Rivers of South Carolina.

Mr. HALPERN changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.