93D CONGRESS
1st Session
SENATE
REPORT
No. 93-202

RAILROAD RETIREMENT TEMPORARY BENEFIT INCREASE EXTENSION

JUNE 11, 1973.—Ordered to be printed

Mr. HATHAWAY, from the Committee on Labor and Public Welfare, for the Committee on Labor and Public Welfare and the Committee on Finance, submitted the following

JOINT REPORT

The Committee on Labor and Public Welfare and the Committee on Finance, to which was referred the bill (H.R. 7200) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise certain eligibility conditions for annuities; to change the railroad retirement tax rates; and to amend the Interstate Commerce Act in order to improve the procedures, pertaining to certain rate adjustments for carriers subject to part I of this Act, and for other purposes, having considered the same, report favorably thereon jointly with an amendment, and recommend that the bill as amended do pass.

COMMITTEE AMENDMENT

The Committee on Labor and Public Welfare, in its action on H.R. 7200, approved an amendment in the nature of a substitute for the provisions of House-passed bill. Under the committee bill, the provisions of title I of the House-passed bill have been included with four exceptions. First, the provision of the House-passed bill which would permit men to retire on full annuities at age 60 would be a permanent provision which would become effective on July 1, 1974. Under the committee amendment, the provision would be temporary and expire at the end of 1974 in the same manner as the temporary benefit increases in the House-passed bill. Second, the provision of the House-passed bill which would reduce employees railroad retirement taxes by 4.75 percent to 5.85 percent of wages and increase employer taxes by an equal percentage contains a temporary exception which would apply to the so-called "steel railroads." Under the committee amendment, the temporary exception would be extended to certain railway labor organizations which have problems similar to those which led the House to provide the exception for the steel roads. Third,

the committee amendment provides a substitute for the provision which would create a labor-management committee to recommend a restructuring of the railroad retirement program.

In addition, the committee amendment adds a new part B which would make the benefit provisions of the House-passed bill permanent after 1974. Under the provisions of the new part B, the cost of the permanent extension of these benefits along with the current actuarial deficit would be financed by a 7.5 percent increase effective January 1, 1975, in the combined employee and employer tax rates. However, the provision of part B would become effective only after legislation is enacted providing for a division of the 7.5 percent increase in taxes between employees and employers.

The committee amendment also includes a revision of title II of the House-passed bill which amends the Interstate Commerce Act. No position is taken on this section of the bill, as it is beyond the jurisdiction of this Committee and is being considered separately by the Committee on Commerce.

The Committee on Finance subsequently considered those portions of the amendment in the nature of a substitute which fall within the jurisdiction of that committee and approved these provisions (sections 102 and 121) without change.

Following is a letter from Senator Russell Long, the chairman of the Senate Committee on Finance:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., June 7, 1973.

Hon. HARRISON A. WILLIAMS,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On May 23, 1973, H.R. 7200, a bill affecting persons covered under the Railroad Retirement Act, was referred to the Committee on Finance at the same time as it was referred to the Committee on Labor and Public Welfare. On June 5, the Committee on Labor and Public Welfare met and ordered the bill reported with an amendment striking the text of the House bill and substituting instead a committee amendment. On June 6, the Committee on Finance met in executive session to consider those two sections of the bill approved by the Labor and Public Welfare Committee which fall within the jurisdiction of the Committee on Finance.

Section 102 of the bill would reduce railroad retirement taxes paid by employees by 4.75%, from 10.6% of taxable earnings to 5.85%, the same rate as that paid by employees under the social security program in 1973 and 1974. Taxes on employers would be increased by 4.75%, from 10.6% to 15.35%. These new tax rates would generally be effective for wages paid from October 1973 through December 1974.

Section 121 of the bill as approved by the Committee on Labor and Public Welfare provides for a railroad retirement tax of 7.5% of taxable wages in addition to any other railroad retirement taxes, effective January 1, 1975. The committee bill does not allocate the liability for the additional tax between employers and employees, but leaves the allocation to further legislation should the employer and employee representatives be unable to agree on an alternative solution to the long-range funding problems of the railroad retirement program.

In its June 6 executive session, the Committee on Finance agreed to report favorably these tax provisions in the bill.

I would appreciate it if you would include this letter in the joint committee report that will be filed on H.R. 7200.

With every good wish, I am

Sincerely,

RUSSELL B. LONG,
Chairman.

PRINCIPAL PURPOSE OF THE BILL

The bill carries out the terms of an agreement reached through nationwide collective bargaining between representatives of most major railroads in the United States and unions representing their employees. The agreement was entered into on March 7, 1973, as a preliminary step in the resolution of the financial difficulties facing the railroad retirement fund.

The bill extends the present temporary increases in railroad retirement benefits enacted in 1970, 1971 and 1972 for 18 months (until December 31, 1974); liberalizes retirement eligibility for certain employees; transfers to railroads the liability for payment of taxes otherwise payable by employees to finance the railroad retirement system to the extent such taxes exceed the current social security tax rates; establishes an expedited rate-setting procedure before the Interstate Commerce Commission to assist the railroads in meeting the costs imposed on them by the bill; and provides for recommendations to be made by March 1, 1974, by the parties through collective bargaining for a final resolution of the problems involving the railroad retirement system.

The Committee has been informed that, because the present temporary benefit increases are scheduled by law to expire June 30, 1973, the Railroad Retirement Board is contemplating taking internal administrative action necessary to terminate these benefits at considerable administrative expense. The Committee feels that, in view of the agreement by all parties that these increases should not be terminated, these administrative expenditures are unwarranted at this time.

Section 6 of Public Law 92–460 clearly contemplates some final congressional action with respect to the financial problems facing the railroad retirement system. In the committee's view, the present bill represents practical legislation as a first step in the resolution of these difficult and complex long-range problems. Moreover, the committee, like the House committee, is encouraged to believe that despite the task ahead, railroad labor and management have evidenced every intention of continuing to work together so that a solution to the problems will be arrived at within a reasonable length of time. In this connection the committee notes the hopeful expressions of the parties in their joint letter of February 27, 1973, reasserted in their testimony before the committee, that they will in the near future return "with a plan that not only meets the policy expressed by the Congress but also can be fully supported by both railroad labor and management." The committee is hopeful that this will occur.

COMMITTEE CONSIDERATION; COSTS

Hearings were held on May 30 and 31, 1973, with testimony being received from the Railroad Retirement Board, the National Railway Labor Conference, the Railway Labor Executives Association, the Congress of Railroad Unions, the International Association of Machinists and Aerospace Workers, the Office of Management and Budget, the American Association of Retired Persons, and the National Railroad Pension Forum, Inc. The committee considered the bill in executive session on June 5, 1973, adopted the amendment set

forth above, and ordered the bill reported to the Senate by a unanimous voice vote.

Section 101 of the bill, liberalizing retirement eligibility for men is estimated to cost the railroad retirement account $70 million a year on a level-cost basis. Section 103 extends for 18 months the temporary benefit increases enacted in 1970, 1971, and 1972.

Sections 104 and 105 of the bill provide for increases in benefits under the railroad retirement system if benefits are increased under the social security system between July 1, 1973, and December 31, 1974, but no cost estimate is possible with respect to these provisions. Section 102 of the bill shifts the liability for payment of 4.75 percent of taxable payroll from employees to carriers, but involves no cost to the United States or to the railroad retirement system. The other provisions of the bill involve no cost to the United States or to the railroad retirement system.

TABLE 1.—TAX RATES—SOCIAL SECURITY AND RAILROAD RETIREMENT, PRESENT LAW AND H.R. 7200

	Social security (present law and H.R. 7200) employer-employee, each		Railroad retirement (present law), employer-employee, each		Railroad retirement (H.R. 7200)			
					Employee		Employer	
	Rate (percent)	Maximum annual tax	Rate (percent)	Maximum annual tax	Rate (percent)	Maximum annual tax	Rate (percent)	Maximum annual tax
1973 [1]	5.85	$631.80	10.60	$1,144.80	5.85	$631.80	15.35	$1,657.80
1974 [2]	5.85	702.00	10.60	1,272.00	5.85	702.00	15.35	1,842.00
1975–77	5.85	[3]	10.60	[3]	5.85	[3]	15.35	[3]
1978–80	6.05	[3]	10.80	[3]	6.05	[3]	15.55	[3]
1981–85	6.15	[3]	10.90	[3]	6.15	[3]	15.65	[3]
1986–2010	6.25	[3]	11.00	[3]	6.25	[3]	15.75	[3]
2011 and after	7.30	[3]	12.05	[3]	7.30	[3]	16.80	[3]

[1] Maximum earnings taxed are $10,800 a year under social security and $900 a month under railroad retirement.
[2] Maximum earnings taxed are $12,000 a year under social security and $1,000 a month under railroad retirement.
[3] Maximum tax cannot be computed for these years because starting in 1975 the annual tax base will be automatically increased at the same rate as average earnings under social security increase.

LABOR-MANAGEMENT AGREEMENT

Nationwide bargaining was conducted in 1972 and early in 1973 between representatives of railroad employers and representatives of employees. The negotiations covered wages, provisions relating to union dues checkoff, extension of medical and group life insurance, along with liberalization of major medical benefits, and railroad retirement benefits.

An agreement was reached dealing with each of these issues, contingent upon the enactment of necessary legislation to carry out certain recommendations with respect to the railroad retirement system. This bill carries out those recommendations.

In addition the unions agreed to support legislation to be sought by the railroads to provide for modification of Interstate Commerce Commission procedures so as to permit prompt freight rate increases to cover increases in costs. Title II of the bill, dealing with this matter, is not within the jurisdiction of either of the committees and will be considered and reported by the Committee on Commerce.

The text of this agreement is set forth in Appendix A of this report beginning on page 35.

The agreement proposes dealing with the problems of the railroad retirement system in two steps. The first step is preliminary in nature, and consists of three major provisions; first, a liberalization of retirement eligibility for male employees (similar to the provision in present law which applies to female employees), which will permit them to retire at age 60 after 30 years of service, without the actuarial reduction presently required; second, an eighteen-month extension (until December 31, 1974) of the present temporary benefit increases applicable to railroad retirement benefits, with agreement on the part of the carriers not to object to making these benefit increases permanent after December 31, 1974; and third, an agreement on the part of the carriers to pay a portion of the taxes otherwise payable by employees to finance the railroad retirement system.

The second step in the eventual solution of the financial problems of the railroad retirement system involves an understanding between the parties that a joint standing committee will be established to consider all of the matters relating to restructuring the railroad retirement system, with recommendations to the Congress for the necessary legislative changes to be submitted on or before July 1, 1974.

PROBLEMS OF THE RAILROAD RETIREMENT SYSTEM

It is generally recognized that the railroad retirement system is faced with financial problems. Established initially in 1935, separate and distinct from the social security system, the railroad retirement program today provides about 1 million beneficiaries with monthly payments under the program and provides for payment of future retirement benefits to over 600,000 present employees and to all eligible former employees of the railroads and their dependents.

TABLE 2.—RAILROAD RETIREMENT BENEFITS AND BENEFICIARIES, MARCH 1973

		Amount
Total benefit payments:		
Regular		$207,862,000
Supplemental		7,109,000
	Number	Average
Annuities being paid end of month, total	1,098,000	
Retired employees:		
Regular	448,000	$268
Supplemental	104,000	66
Wives'	211,000	128
Aged widows'	285,000	159

Rapidly declining levels of employment in the railroad industry in recent years have brought about a situation in which there are 1.6 people drawing benefits each month from the railroad retirement fund for every one person paying taxes into the fund. This disparity between the numbers of recipients benefits and persons paying taxes to support the system will increase in future years until the effects of the decline in railroad employment begin to be reflected in declining numbers of persons entitled to monthly benefits under the system. As a result, income to the program is less than outgo, and if benefits are continued at present levels and if no additional revenues are provided, the railroad retirement system will be bankrupt in the mid-1980's.

Historically, whenever social security benefits have been increased, railroad retirement benefits have also been increased comparably. In 1970, in response to a 15-percent increase in social security benefits, the Congress enacted a 15-percent increase in railroad retirement benefits. At that time, the Congress received testimony from the chairman of the Railroad Retirement Board to the effect that, without additional financing, the railroad retirement system would become depleted in the 1980's by the increase. For this reason, the Congress established a Commission on Railroad Retirement to study the problems of the railroad retirement system and report thereon to Congress. Because of the complexity of the subject matter, it was necessary to extend the life of the Commission and the time for it to make its report, which was transmitted to the Congress September 1, 1972.

During the course of the Commission's deliberations, social security benefits were increased by 10 percent, and later by an additional 20 percent, and the Congress made corresponding increases in railroad retirement benefits. The cost of these increases was partially paid for through the financial interchange program, discussed below, and by increases in the amount of wages taxed.

FINANCIAL INTERCHANGE WITH SOCIAL SECURITY

The railroad retirement system contains a program usually referred to as "financial interchange," under which the railroad retirement system pays annually to the social security system an amount equal to the total in social security taxes which would have been paid by railroad employees into the social security system if railroad employment were covered employment under the Social Security Act. These payments have been made covering the entire period that the social security system has been in operation. In return for these payments, the social security system transfers to the railroad retirement system, each year, an amount equal to the total in social security benefits that would have been paid under the Social Security Act to all retirees and dependents, and survivors, if railroad employment had been considered as covered employment under the Social Security Act. Offsets are made against these latter transfers where the retiree is also in receipt of social security benefits.

During the period in which the social security system has been paying benefits, more in total benefits has been paid to the social security beneficiaries on the rolls than the total amount of the taxes paid on the earnings which are the basis for the benefit payments. This situation has also been reflected in the operation of the financial interchange program, under which about $7.5 billion net has been transferred into the railroad retirement system as a result of the financial interchange program over the years. The financial interchange program was designed to place the social security system in the same situation it would be in if all railroad employment had been covered employment under the social security system from the beginning of that system, and it has done so. Moreover, because of the amounts transferred from social security to the railroad program, the financial interchange program has to date contributed substantially to helping maintain the solvency of the railroad retirement system.

A serious problem for the railroad retirement system which the committee expects will be addressed by the labor-management group estab-

lished under section 107 involves the existence of large numbers of so-called "dual beneficiaries"; that is, persons receiving benefits under the Railroad Retirement Act and concurrently receiving benefits under the Social Security Act. As a practical matter, the amounts transferred from the social security system to the Railroad Retirement System on behalf of each dual beneficiary are reduced by the total amount of social security benefits received by the dual beneficiary. The net effect of these offsets is that a railroad retirement beneficiary who qualifies for social security benefits receives his social security benefits at the expense of the railroad retirement account.

The annual reduction in financial interchange income to the railroad retirement account arising out of these dual benefits, is currently about $500 million per year, and these losses are likely to increase in the future as more and more retirees and their survivors become eligible for social security benefits.

THE COMMISSION ON RAILROAD RETIREMENT

The Railroad Retirement Act is one of the more complex acts in Federal law. It contains its own formulae for the computation of benefits, and also provides a guarantee that no beneficiary under the Railroad Retirement Act will receive less than 110 percent of the amounts he or she would receive if the railroad employment had been covered under the Social Security Act. Approximately 10 percent of retirees (generally persons with short service or large families), and approximately two-thirds of widows, children, and dependent parents receive benefits computed under this fomula. This then means that the railroad retirement system contains all the complexities of the social security system built into its own inherent complexities. In addition, the financial interchange operates to render the determination of costs under the system extremely complex.

Serious questions of philosophy are involved in attempting to restructure this program, involving primarily questions concerning the extent to which persons who have not yet begun to receive benefits under either the railroad retirement or the social security system have a vested right to benefits. These questions become particularly crucial in attempting to deal with the problem of dual benefits.

In order to provide assistance to the Congress and to the interested parties, the Commission on Railroad Retirement was established and made its recommendations to the Congress. The principal recommendation of the Commission calls for the restructuring of the railroad retirement program into a two-tier system, under which railroad employees would receive a basic benefit payable exactly the same as social security benefits, with a second tier of benefits over and above the social security tier. A summary of these recommendations is set out in appendix C to this report, beginning on page 40.

PROVISIONS OF THE BILL

One of the purposes of title I of the bill is to extend to male employees in the railroad industry the same eligibility conditions for annuities now available to women employees, that is, eligibility for full annuities on the basis of age 60 and 30 years of service, effective for annuities first accruing after June 30, 1974. Another purpose is to extend the temporary increases in annuities (discussed below) from

July 1, 1973, through December 31, 1974. The bill would also reduce employee railroad retirement taxes to the social security tax rates with respect to compensation paid for service rendered after September 30, 1973 and would increase the employer railroad retirement tax rates by the same amount (4.75 percent) to compensate for the reduction in the employee tax rates. The bill also calls on railroad labor and management to establish a joint committee which will make recommendations, not later than March 1, 1974, to Congress as to how the railroad retirement program can be restructured on an equitable and actuarially sound basis. Also, it would provide for increasing the railroad retirement annuities any time social security benefits are increased in the period before January 1, 1975, by the same dollar amount by which they would have been increased if the service and compensation on which the annuities are based had been employment and wages, respectively, under the Social Security Act. Finally, title I, contains conbigent provisions for extending the temporary benefit provisions and providing for rate increases to place the program on a sound financial basis. The purpose of title II of the bill is to allow the railroads a more expeditious method of obtaining freight rate increases necessary to offset those cost increases which stem from railroad retirement tax increases. Title III of the bill is intended to protect the validity of the remaining provisions of the bill, if enacted, should any provision, or its application in a particular case, be held invalid.

TEMPORARY BENEFIT INCREASES

Benefits under the Railroad Retirement Act were increased on a temporary basis as follows:

(*a*) Public Law 91–377 increased benefits by 15 per cent.
(*b*) Public Law 92–46 increased benefits by 10 per cent.
(*c*) Public Law 92–460 increased benefits by 20 per cent.

All these temporary benefits are to expire on June 30, 1973. It was the intention of all concerned to provide finances sufficient to make all these temporary increases permanent. For this purpose section 6 of Public Law 92–460 provided as follows:

> SEC. 6. It is the policy of the Congress of the United States that the 20-percent increases in annuities of Railroad Retirement beneficiaries provided by this Act, as well as the 10-percent and 15-percent increases provided by Public Law 92–46 and Public Law 91–377, respectively, all of which will expire by the terms of such Acts on June 30, 1973, can be made permanent only if at the same time a method is adopted to insure the receipt of sufficient revenues by the Railroad Retirement Account to make such Account financially solvent based on sound actuarial projections. Accordingly, representatives of employees and retirees and representatives of carriers shall, no later than March 1, 1973, submit to the Senate Committee on Labor and Public Welfare and the House of Representatives Committee on Interstate and Foreign Commerce a report containing the mutual recommendations of such representatives based upon their negotiations and taking into account the report and specific recommenda-

tions of the Commission on Railroad Retirement designed to insure such solvency. A copy of the report of such representatives shall also be submitted to the Railroad Retirement Board, which, no later than April 1, 1973, shall submit to such committees of the Congress a report containing its views and specific recommendations, and those of the administration, with reference to the report submitted by such representatives.

Pursuant to the above-quoted section 6, representatives of railroad labor and management met on a number of occasions in an effort to comply with the congressional directive expressed in the above section 6. On February 27, 1973, the parties addressed a joint letter to the Chairmen of the Senate Committee on Labor and Public Welfare, and the House Committee on Interstate and Foreign Commerce, concerning the progress they had made. That letter is set out in appendix B to this report beginning on page 38.

The parties continued their efforts and agreed on the following: [For complete text of agreement, see appendix A, page 35.]

"MEMORANDUM OF UNDERSTANDING

"A. Railroad Retirement Legislation

"The carriers and the railway labor unions will jointly support legislation which will accomplish the following:

"(a) The temporary benefit increases of 1970, 1971 and 1972 (P.L. 91-377, P.L. 92-46, and P.L. 92-460, respectively) scheduled to expire June 30, 1973, will be extended through December 31, 1974.

"(b) A joint Standing Committee consisting of members representing the railway labor unions and the carriers will be established to consider all of the matters relating to restructuring the Railroad Retirement System, including but not limited to such matters as financing the deficiencies, dual Railroad Retirement and Social Security benefits, adoption of a two tier system (i.e., a Social Security tier and a supplementary Railroad Retirement tier), restructuring of the benefit formulas, consideration of any matters considered by the Commission on Railroad Retirement, and any other subjects which the parties may propose. The joint Standing Committee will report to the Congress by July 1, 1974. If the joint Committee can not agree on a joint report and recommendations, the railway labor unions and the carriers will submit ex parte reports to the Congress by July 1, 1974.

"(c) The Railroad Retirement Tax Act to be amended to provide that commencing October 1, 1973 the employers will assume the 4.75% of the employee taxable compensation in excess of the 5.85% employee Social Security tax (a maximum of $42.75 per employee per month in 1973, and a maximum of $47.50 per employee per month in 1974).

"(d) The Railroad Retirement Act to be amended to provide that commencing July 1, 1974 employees with 30 years of service and attained age of 60 may retire without actuarial reduction in their annuities.

"(e) If during the period July 1, 1973 through December 31, 1974 the Social Security Act is amended to provide for increased benefits,

the dollar amount of such benefit increases will be "passed through" to the Railroad Retirement benefit structure effective on the same date or dates the Social Security benefits are increased.

"(f) Except as specifically provided in this Part A, neither the carrier nor the railway labor unions will propose or support legislation seeking changes in benefit levels or new types of benefits to become effective prior to January 1, 1975."

It is the purpose of the bill to give legislative sanction to this memorandum of understanding.

GENERAL EXPLANATION OF THE BILL

The bill as reported is divided into three titles; title I of the bill contains provisions which would amend the Railroad Retirement Act and the Internal Revenue Code, title II would amend the Interstate Commerce Act, and title III contains a separability provision. Title I of the bill is further divided into three parts, only two of which are substantive; part A contains provisions which would be in effect until the end of 1974, while part B contains provisions which would become effective after 1974. As was mentioned previously, title II of the bill is not within the jurisdiction of this Committee and is being considered independently by the Committee on Commerce.

The first section of the bill would permit men to retire on full railroad annuities at age 60 provided that they had at least 30 years of railroad employment. Under the present law, men with 30 years of service who retire between ages 60 and 65 receive reduced annuities, while women of the same age who have at least 30 years of railroad employment are paid full annuities. The provision would become effective on July 1, 1974, and cease to apply after December 1974.

This section is identifical to a provision in House-reported H.R. 7200, except that under the House bill the provision would continue in effect after 1974. The Committee has no reason to believe that this provision will not be made permanent along with the temporary benefit increases, as soon as a method is found to put the system on a sound actuarial basis. The Committee felt, however, that because this provision does represent a drain on the fund of approximately $70 million a year, it should be put on the same temporary footing as the recent benefit increases. This is based upon the principle that permanent changes should not be made to the detriment of the fund until permanent financing is found.

The second section of the bill would reduce railroad retirement taxes paid by employees by 4.75 percent, from 10.6 percent of wages to 5.85 percent (the rate paid by employees under the social security program). Employer taxes would be increased by an identical 4.75 percent of wages, from 10.6 percent to 15.35 percent. The new tax rates would be effective generally for wages paid after September 1973 and before January 1975. This section is identical to a provision in House-passed H.R. 7200.

In another section, the House-passed bill would provide an exception to this provision for certain railroads and dock companies. Under the exception, the new rates would not apply to the so called "steel roads"

until the earlier of (a) the expiration of their current labor contracts, or (b) the time such contracts are re-negotiated. Under the committee amendment, the exception would be provided also for certain railway labor organizations which find themselves in the same position with regard to their labor contracts as the steel roads.

The third section would extend until December 31, 1974, the 15 percent increase in annuities which became effective in 1970, the 10 percent increase in annuities which became effective in 1971, and the 20 percent increase in annuities which became effective in 1972. This section is identical to a provision in House-passed H.R. 7200.

Sections 104, 105 and 106 of the bill provide automatic increases in railroad annuities if social security benefits are increased after June 1973 and before January 1975. If social security benefits are increased in this period, the increase in individual annuities will be the same dollar amount that would have been provided had the individual been receiving a social security benefit based on similar earnings covered under social security. These sections are identical to the provisions of House-passed H.R. 7200.

The House-passed bill would establish a joint labor-management group consisting of members representing the railway labor unions and the carriers to consider all matters relating to the restructuring of the Railroad Retirement System. This group would report its recommendations to the Senate Committee on Labor and Public Welfare and to the House of Representatives Committee on Interstate and Foreign Commerce not later than July 1, 1974.

In the view of the committee, the provision of the House-passed bill does not spell out in sufficient detail the composition and duties of the labor-management group. Moreover, if it did not submit its recommendation well before July 1, the Congress might not have adequate time to consider what is expected to be a major restructuring of the Railroad Retirement system involving coordination with the social security program. Therefore, the committee amendment revises this provision of the House-passed bill.

The committee amendment would call on representatives of employees and representatives of railroad employers to create a joint group to recommend changes in the railroad retirement program which will assure the long-range actuarial soundness of the program. The group would be expected to notify Congress within 30 days after the bill is enacted of the names and positions of its members. In preparing its report, the group would be expected to meet at least once a month, and to furnish Congress with interim progress reports. The interim reports would be submitted on September 1, 1973, November 1, 1973, and January 1, 1974. The final report would be submitted to Congress no later than March 1, 1974 (rather than July 1 as under the House bill). It is expected that the recommendations for restructuring the railroad retirement program will take into account the recommendations of the Commission on Railroad Retirement and that the recommendations will be specific and in a form suitable for legislative action.

Section 120 of the bill would provide that the temporary early retirement provision for men authorized by section 101 of the bill and the temporary benefit increases of 15, 10 and 20 percent—which section 103

of the bill authorized through December 31, 1974—would become permanent on January 1, 1975, provided certain tax rate increases (see below) are made effective by further legislation.

Section 121 provides for a railroad retirement tax increase to go into effect January 1, 1975 in the amount of 7.5% of taxable payroll above other retirement taxes already in the Internal Revenue Code. The burden of this tax is not allocated between employers and employees, but is left to further legislation. It is the Committee on Labor and Public Welfare's strong belief that the solution of the serious financial problems facing the Railroad Retirement Fund cannot be delayed beyond the 18-month extension of the temporary benefits increases provided in this bill. That is the reason the Committee included provisions imposing a 7.5 percent tax commencing January 1, 1975. Although further legislation would be required to allocate the tax before it could become legally effective, the Committee intends these provisions to serve as clear notice of its intention to take appropriate action to deal with the long-range financial problems of the Fund. The 7.5 percent figure is based on the Railroad Retirement Board's current estimate of the amount required to put the Railroad Retirement Fund on an actuarially sound basis, assuming that the temporary increases become permanent and the 30 year retirement provisions in this bill become effective. However, the Committee also wishes to point out that the 7.5 percent figure is not inflexible, and that should the parties agree on a restructuring of the system which reduces the actuarial deficit faced by the Fund—for example, by agreeing to eliminate dual benefits—the 7.5 percent figure can be reduced to whatever amount is appropriate. The Committee is confident that before this increase becomes effective the parties will be able to achieve a solution to the long-range funding problems through collective bargaining under section 107 of this bill. However, the Committee must also recognize the need to provide for funding in this bill, if the parties are unable to reach an agreement. The Committee hopes that this provision will act as an incentive to the parties to provide their own solution, which, of course, may include a reevaluation of the benefit structure as well as changes in the tax rate. The comments of the Office of Management and Budget are also relevant in this regard (see page 30 of this report) and it is hoped that the inclusion of this provision in the bill will forestall a possible veto.

COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

The following two tables show the income, outgo and year-end balances of the Railroad Retirement Account as estimated by the Railroad Retirement Board for fiscal years 1973 through 1978. Table 3 shows the figures under the present tax and benefit provisions while table 4 shows the figures as they would be following enactment of the committee bill.

TABULATION OF VOTES CAST IN COMMITTEE ON LABOR AND PUBLIC WELFARE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes in Committee:

Motion by Mr. Schweiker to strike Sec. 121 as ameneded. Rejected: 8 yeas, 8 nays.

Yeas—8

Mr. Randolph	Mr. Eagleton
Mr. Pell	Mr. Cranston
Mr. Nelson	Mr. Schweiker
Mr. Mondale	Mr. Stafford

Nays—8

Mr. Williams	Mr. Javits
Mr. Kennedy	Mr. Dominick
Mr. Hughes	Mr. Taft
Mr. Hathaway	Mr. Beall

The bill was ordered reported by unanimous voice vote.

TABLE 3.—PROJECTION OF RAILROAD RETIREMENT ACCOUNT TRANSACTIONS—PRESENT LAW [1]

[In millions of dollars]

Item	Fiscal year—					
	[2] 1972–73	1973–74	1974–75	1975–76	1976–77	1977–78
1. Beginning balance	$4,613	$4,396	$4,244	$4,081	$3,875	$3,678
2. Taxes	[3] 1,185	[3] 1,342	1,370	1,382	1,402	1,442
3. Benefit payments	2,380	2,533	2,592	2,639	2,673	2,702
4. Administrative expenses [4]	20	20	20	21	21	22
5. Financial interchange—OASDI	802	934	996	1,007	1,045	1,085
6. Financial interchange—HI	63	101	133	139	141	140
7. Interest [5]	270	236	224	212	199	187
8. RUIA transfers	11	10	8	8	8	8
9. Ending balance	4,396	4,244	4,081	3,875	3,678	3,520

[1] Law in effect on Apr. 25, 1973, except that the temporary increases are assumed to be extended until June 30, 1978. Includes effects of Public Law 92–603 (H.R. 1). Assumes cost of living increase for SSA of 5.1 percent on Jan. 1, 1975, and 5.5 percent on Jan. 1, 1977.
[2] Preliminary, partly estimated.
[3] Includes transfers for military service.
[4] Does not allow for increase in building rental.
[5] Interest rate of 6.25 percent used for years 1973–74 through 1977–78.

TABLE 4.—PROJECTION OF RAILROAD RETIREMENT ACCOUNT TRANSACTIONS LAW AFTER H.R. 7200, AS REPORTED BY THE COMMITTEE ASSUMING NO INCREASE IN RAILROAD FORMULA ANNUITIES [1]

	Fiscal year—					
	[2] 1972–73	1973–74	1974–75	1975–76	1976–77	1977–78
1. Beginning balance	$4,613	$4,396	$4,251	$4,249	$4,509	$4,796
2. Taxes	[3] 1,185	[3] 1,342	1,574	1,870	1,899	1,949
3. Benefit payments [2]	2,380	2,526	2,638	2,709	2,764	2,811
4. Administrative expenses [4]	20	20	20	21	21	22
5. Financial interchange—OASDI	802	934	994	1,031	1,070	1,120
6. Financial interchange—H.I	63	101	133	139	141	140
7. Interest [4]	270	236	229	236	252	270
8. RUIA transfers [6]	11	10	8	8	8	8
9. Ending balance	4,396	4,251	4,249	4,509	4,796	5,154

[1] H.R. 7200 as reported out by Senate committee on June 5, 1973. Temporary increases made permanent. Also retirement at age 60 with 30 or more years of service made permanent. Permanent increase in tax rates of 7½ percent effective Jan. 1, 1975. Calculations assume for any social security increase after Dec. 31, 1974, the increase will not be passed through to beneficiaries paid on the railroad formulas. Cost of living adjustments of 5.1 percent on Jan. 1, 1975, and 5.5 percent on Jan. 1, 1977, are assumed to take place under the provisions of Public Law 92–336 (H.R. 1). It is also assumed there would be no SSA adjustments prior to Jan. 1, 1975.
[2] Preliminary, partly estimated.
[3] Includes transfers for military service.
[4] Does not allow for increase in building rental.
[5] Interest rate of 6¼ percent used for fiscal years 1973–74 through 1977–78.
[6] At this date—June 6, 1973—these figures are probably overstated. They have been retained in order to facilitate comparisons with an earlier projection.

Section-By-Section Analysis

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT, THE RAILROAD RETIREMENT TAX ACT, AND CERTAIN PUBLIC LAWS

SECTION 101

Under present law men and women employees age 60 with 30 years of service are eligible for annuities, except that a man's annuity is reduced by $\frac{1}{180}$ for each month that he is under age 65. Section 101 of the bill would eliminate this distinction between men and women employees by amending paragraph (2) of section 2(a) of the Railroad Retirement Act to refer to both as "Individuals" and by eliminating entirely from paragraph 3 of section 2(a) of the Act the reduction provision for annuities based on age 60 with 30 years of service. The provision for unreduced annuities for men age 60 with 30 years of service would be effective with respect to annuities which begin to accrue on or after July 1, 1974. The reduction will continue in effect for both (as individuals) with respect to annuities based on age 62 with less than 30 years of service. Under the Committee amendment, this provision would expire on December 31, 1974, which would put it on the same basis as the benefit increase extensions under section 103.

The taxable payroll is the same under the railroad retirement and social security systems (in 1973, a maximum of $10,800 a year under social security and a maximum of $900 a month under railroad retirement). The tax rates (including 1 per cent of taxable payroll for medicare) is 10.60 per cent on railroad employees and employers alike, and only 5.85 per cent under the Social Security Act. This section would amend section 3201 of the Internal Revenue Code of 1954 to tax railroad employees at rates provided by sections 3101(a) and 3101(b) of the Internal Revenue Code of 1954 (relating to employee and medicare tax rates, respectively, under the Social Security Act). The effect of this would be that employee railroad retirement tax rates would be reduced (effective with respect to compensation paid for services rendered after September 1973) by 4.75 per cent to 5.85 per cent.

This section of the bill would also amend section 3221 of such Code to increase the current railroad retirement employer tax rate of 10.60 per cent by the 4.75 per cent by which the employees railroad retirement tax rate would be reduced, bringing the total employer railroad tax rate to 15.35 per cent (10.60 per cent + 4.75 per cent). This increase would carry out the intention of this section of the bill to maintain the current combined railroad retirement employee and employer tax rates (10.60 per cent + 10.60 per cent = 21.20 per cent and 5.85 per cent + 15.35 per cent = 21.20 per cent). Thus, subsection (a) of section 3221 of such Code would be amended to tax railroad employers at 9.5

per cent of taxable payroll and subsection (b) of such section 3221 would increase the 9.5 per cent by an additional tax of 5.85 per cent to a total of 15.35 per cent. The reason for dividing the 15.35 per cent into 9.5 per cent plus the social security tax rate on employers (5.85 per cent) is to avoid the need for amending the Railroad Retirement Tax Act anytime the social security tax rate is changed.

SECTION 102

The employee representative tax is fixed by section 3211 of such Code at the combined railroad employee and employer tax rate (10.60 per cent on each = 21.20 per cent). Under the amendments made by this section of the bill, the employee representative tax rate will continue to be 21.20 per cent (9.50 per cent + 5.85 per cent employer tax = 15.35 per cent, plus 5.85 per cent employee tax, totaling 21.20 per cent).

The purpose of all the other amendments made by this section of the bill is to make the changes effective with respect to compensation paid for services rendered after September 30, 1973, to bring some provisions up-to-date and to eliminate superfluous language.

SECTION 103

This section would extend the temporary increases in railroad retirement benefits by (i) 15 per cent under Public Law 91–377, (ii) 10 per cent under Public Law 92–46, and (iii) 20 per cent under Public Law 92–460. All these increases are under present law due to expire on June 30, 1973. This section of the bill would extend these temporary benefits to December 31, 1974.

SECTION 104

This section would provide for increases in railroad retirement annuities under the Railroad Retirement Act of 1937 (other than annuities computed under the first proviso of section 3(e) of the Act which are automatically increased whenever social security benefits are increased) in the period July 1, 1973, through December 31, 1974, if social security benefits should be increased in that period.

The amount of any such increase in railroad retirement benefits would be determined through computations made pursuant to the first proviso of section 3(e) of the Railroad Retirement Act, which is generally referred to as the social security minimum guaranty provision. This provision guarantees that the combined monthly railroad benefits which an individual and a dependent deriving benefits from him will receive under the Railroad Retirement Act and the Social Security Act (based on the individual's earnings record) would be no less than 110 per cent of the amount which would have been payable to that family under the Social Security Act on the basis of the individual's combined railroad and non-railroad earnings if his railroad service after 1936 had been covered under the Social Security Act.

In accordance with this guaranty provision, annuities are computed under the social security formulas whenever they produce a higher rate than the regular railroad retirement formula, and therefore, annuities

payable under the guaranty provision are automatically increased whenever social security benefits are increased. This section would, with certain exceptions, noted below, provide individuals whose railroad retirement annuities are computed under the regular railroad retirement formulas with the same increase they would have received if their annuities had been computed under the guaranty provision.

Subsection (a) would add a new paragraph (6) to section 3(a) of the Act which would provide the above-described increases in the amount of each regular employee annuity under the Act.

Subsection (b), paragraph (3), would add a new paragraph to section 2(e) of the Act to provide similar increases in spouses' annuities, which increases would be computed in the same manner as the increases provided employees under the new paragraph (6) of section 3(a) of the Act. In no case, however, would a spouse's annuity be increased to an amount in excess of the maximum spouse's annuity provided in the first sentence of section 2(e) of the Act. (The spouse maximum provision referred to specifics that the maximum annuity payable under the Railroad Retirement Act to a spouse cannot exceed 110 per cent of the maximum possible wife's insurance benefit payable to *any* wife under the Social Security Act.) By virtue of any increase in the employee's annuity provided by the new paragraph (6) of section 3(a) of the Act, the spouse's annuity would be increased before the increase provided by the new paragraph of section 2(e) unless a specific provision precluding such a result is included. To avoid this duplication of increases in spouses' annuities paragraph (1) of this subsection of the bill provides that spouses' annuities would not be increased through any raise this bill would effect in employees' annuities.

Subsection (c) of section 104 would amend section 2(i) of the Act to insure that the amount of the spouse's annuity against which offsets are applied as to the 1966 and 1968 benefit increases, because of corresponding social security benefit increases in 1965 and 1968, is the amount of the spouse's annuity before it is increased under the provisions of the new paragraph added to section 2(e) of the Act by subsection (b) of this section of the bill.

Subsection (d) adds a new subsection (q) to section 5 of the Act to provide increases in survivor annuities which would be computed in the same manner as the increases provided employees under the new paragraph (6) of section 3(a) of the Act. The purpose of the proviso of this new subsection (q) is explained in item 1 of the following paragraph.

As has been noted, there are several exceptions to the general statement that individuals whose annuities are computed under the regular railroad retirement formulas would receive the same increase they would have received if their annuities had been computed under the guaranty provision. These exceptions are:

1. In computing the amount of the increases, clauses (i) and (ii) of the new paragraph (6) of section 3(a) of the Act provide that the language in the guaranty provision which adds 10 per cent to the amount which an individual would have received under the Social Security Act if railroad service after 1936 had been covered thereunder is to be disregarded. The same result is accomplished in cases involving widows or widowers who receive

annuities based on disability under section 5(a)(2) of the railroad Retirement Act by the proviso of the new subsection (q) of section 5 of the Act, which changes the percentage figure in the guaranty provision from 90.75 per cent to 82.5 per cent for this purpose (the 90.75 figure is equal to 110 per cent of the 82.5 figure). Thus, the increase provided by this section will be equal to 100 per cent, rather than 110 per cent, of the amount of the increase the individual would have received under the Social Security Act.

2. In determining the amount of an annuity under the guaranty provision, certain individuals who are not eligible for benefits under the Railroad Retirement Act, particularly children of living employees, must be taken into account. Thus, the annuity payable to an employee (and, in some cases, to his spouse) under the guaranty provision may include the amount which would have been paid to his child, or children, under the Social Security Act if railroad service had been creditable thereunder. Inclusion of the amounts which would have been payable under the hypothesis of the guaranty provision to persons not eligible for benefits under the Railroad Retirement Act is precluded for the purpose of determining the annuity increases provided under this section by the first proviso of paragraph (6) of section 3(a) of the Act. Pursuant to that proviso, only the social security benefits which would have been payable to the railroad retirement annuitant himself are taken into account in determining the amount of the annuity increase. It might be added that a serious administrative problem would be presented if the first proviso were not included in this section because the Board's records would not, for the most part, contain information as to the children who would be entitled to social security benefits in cases involving employees whose annuities are computed under the regular railroad retirement formula. Therefore, information as to such children would, in the absence of the provision in question, have to be developed in each case before the amount of any increase under this section could be determined.

3. In computing the amount guaranteed a railroad retirement annuitant under the guaranty provision, the amount of any social security benefit which the annuitant is receiving is deducted. The third sentence of the new paragraph (6) of section 3(a), however, provides that, for purposes of computing the annuity increase thereunder, any social security benefits to which the annuitant may be entitled shall be disregarded. Accordingly, the fact that a particular annuitant is also receiving social security benefits (which would have been increased pursuant to the legislation giving rise to the annuity increases under this section) would not affect the amount of his railroad retirement annuity increase.

4. Certain railroad retirement annuitants would not meet the requirements for eligibility for benefits under the Social Security Act, and, therefore, would not be eligible for benefits under that Act even if railroad service after 1936 were covered thereunder. In order to provide an increase in such cases, the annuitants would be deemed to meet the social security benefit requirements. Thus, (i) individuals receiving benefits under section 2(a)2 of the Railroad Retirement Act (those age 60 with 30 years of service) are

deemed to be age 65, the age at which individuals are eligible for unreduced age benefits under the Social Security Act, since section 2(a)2 annuitants receive unreduced railroad retirement annuities, such annuitants were deemed to be age 65, rather than age 62, in order that any increases to their annuities would also not be subject to age reductions; (ii) individuals receiving reduced age annuities under section 2(a)3 of the Railroad Retirement Act who are under age 62 are deemed to be age 62, the minimum age at which wage earners are eligible for reduced age benefits under the Social Security Act—despite the amendments which would be made by section 101 of this bill, men age 60 with 30 years of service will still receive reduced age annuities if their annuities began before July 1, 1974; (iii) all railroad retirement disability annuitants would be deemed to meet the disability requirements of the Social Security Act as of the date their railroad retirement disability annuities began to accrue—this provision will largely benefit annuitants under section 2(a)4 of the Railroad Retirement Act whose annuities are based only on disability for work in their regular railroad occupation, since the Social Security Act does not provide disability benefits for those who are not disabled for all regular and gainful employment; and (iv) individuals receiving annuities under the Railroad Retirement Act which are not based on a sufficient amount of railroad service after 1936 to provide, along with any social security credits the employee may have, an insured status under the Social Security Act if railroad service after 1936 were included thereunder, would be provided increases by treating the average monthly compensation or the average monthly earnings (as in cases involving widows of pensioners—see section 5(m) of the Railroad Retirement Act of 1937) used in computing their railroad retirement annuities (see section 3(a)(2) of the Railroad Retirement Act and also section 5(m) which refers to section 3(a)(2)) as the average monthly wage which is to be utilized in computing the increases provided by this section.

In computing annuity increases provided by this bill, it would be assumed (pursuant to the provision enclosed in parenthesis which immediately precedes the first proviso of the new paragraph (6) of section 3(a) of the Act) that the eligibility conditions for benefit entitlement and the proportions of the primary insurance amounts payable under the law at the time of any social security benefit increase, were also present in the law as in effect prior to July 1, 1973. This provision would permit any annuity increase in a particular case to be computed, on the basis of the eligibility conditions, etc., in effect at the time of a social security increase, by comparing the social security primary insurance amounts table (contained in section 215 of the Social Security Act) in effect immediately after the benefit increase with the tables in effect on June 30, 1973. The differences between the two primary insurance amounts applicable to a given case would, after any appropriate proportions of primary insurance amounts are applied, be the amount of the increase. This increase would then be reduced by any appropriate age reduction factors provided by the Railroad Retirement Act—the parenthetical provisions "(before any reduction on account of age)" contained in clauses (i) and (ii) of the first sentence of paragraph (6) of section 3(a) of the Act have the

effect of disregarding any social security age reduction factors which would otherwise be applied in making guaranty provision computations. Also, the second sentence of paragraph (6) of section 3(a) would enable the Board to approximate primary insurance amounts if wages or compensation prior to 1951 are used in making any computation under that paragraph. Without this provision, the determination of the increase in such a case would be a time-consuming and expensive process. Railroad compensation records for years prior to 1947 and social security wage records for years before 1951 are maintained only in microfilm records and are not available on computer tape. It would, therefore, be necessary, in the absence of the provision in question, to extract and record annual totals for these periods by visual reference to microfilm records in each particular case.

SECTION 105

This section provides benefit increases for individuals receiving pensions under section 6 of the Railroad Retirement Act of 1937 and for individuals receiving annuities under the Railroad Retirement Act of 1935 if social security benefits should be increased in the period July 1, 1973, through December 31, 1974. The increases for such individuals would be computed in the same manner as the increases provided annuitants under the Railroad Retirement Act of 1937 by section 104 of this bill. However, since such individuals performed no railroad service whatever after 1936 and they would, therefore, not be eligible for social security benefits if railroad service after 1936 were covered under the Social Security Act, an average monthly wage is deemed for purposes of such computation.

SECTION 106

All recertification required by reason of the amendments made by sections 104 and 105 of this bill would, in accordance with section 106 of the bill, be made by the Railroad Retirement Board without application therefor. Such adjustments would be made even without express authorization; however, specific inclusion of this provision conforms to past practice in amendments providing for increased railroad retirement benefits.

SECTION 107

Representatives of employees and representatives of railroad employers are called upon to create a joint committee to recommend changes in the railroad retirement program which will assure the long-range actuarial soundness of the program. The committee would notify Congress within 30 days after the bill is enacted of the names and positions of the members of the committee. In preparing its report, the committee would meet at least once a month, and furnish Congress with interim progress reports. The interim reports would be submitted on September 1, 1973, November 1, 1973, and January 1, 1974. The final report would be submitted to Congress no later than March 1, 1974. The recommendations for restructuring the railroad retirement program should take into account the recommendations of the Commission on Railroad Retirement and the recommendations should be specified and in a form suitable for legislative action.

SECTION 108

This section provides the effective dates of the amendments made by Title I of the bill.

The section provides that the shift in the incidence of tax under the Railroad Retirement Tax Act would be delayed for certain described railroads and railroad labor organizations. Under this amendment the increased employer taxes applicable to other railroads on October 1, 1973 will not apply to a limited number of railroads owned by steel companies, to certain dock companies and to certain railway labor organizations until such time as these current labor contracts expire, or at such earlier time as the parties may agree. This delay would be made because these organizations currently have in effect, under collective bargaining agreements, supplemental pension plans covering their employees. Shifting the burden of payment of tax under the Railroad Retirement Tax Act with respect to these employees at this time would confer a windfall benefit on them, at the expense of the carriers involved. The Committee, therefore, concluded that the shift in the burden of payment of tax in the case of these employees should be postponed until such time as the collective bargaining agreements now in effect terminate or are renegotiated, whichever is earlier. In this way, future agreements can take into account the 4.75 percent decrease in employee taxes, which amount to an increase in take home pay for the employees, as well as the comparable increase in employer taxes.

SECTION 120

This section provides that the temporary early retirement provision for men authorized by section 101 of the bill and the temporary benefit increases of 15, 10 and 20 percent which section 103 of the bill authorizes through December 31, 1974, would become permanent on January 1, 1975, provided certain tax rate increases (see section 121) are made effective by further legislation. There is no similar provision in the House-passed bill.

SECTION 121

Section 121 provides for a railroad retirement tax increase to go into effect January 1, 1975, in the amount of 7.5 percent of taxable payroll above other retirement taxes already in the Internal Revenue Code. The burden of this tax is not allocated between employers and employees, but is left to further legislation.

TITLE II—INTERSTATE COMMERCE ACT AMENDMENTS

Title II of the bill provides for expedited consideration of railroad rate increases requests prompted by increases in expenses related to certain sections of the Railroad Retirement Amendments in Title I. Section 201(a) directs the Commission by rule to prescribe the form and content of a petition for such rate increase. Thus the Commission would be able to obtain from the railroads at the time of the petition necessary information in useable form. Section 201(b) requires the Commission to act upon any petition for a rate increase based upon the retirement fund increases within 60 days of the receipt of such petition. (This provision is under the jurisdiction of the Committee on Commerce.)

TITLE III—SEPARABILITY

Section 301.—Would provide that should any part of the bill be held invalid, the remainder of the bill would not be affected.

An identical provision is contained in House-reported H.R. 7200.

AGENCY REPORTS

U.S. RAILROAD RETIREMENT BOARD,
Chicago, Ill., May 25, 1973.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is the report of the Railroad Retirement Board on the bill S. 1867, which was introduced by Mr. Hathaway on May 22, 1973.

The bill consists of three titles, the first of which is divided into two parts entitled Temporary Provisions and Permanent Provisions, respectively. The temporary provisions contained in part A of title I would revise certain eligibility conditions for annuities under the Railroad Retirement Act during the period July 1, 1974, through December 31, 1974; extend through December 31, 1974, certain benefit increases under the Railroad Retirement Act which are now scheduled to expire on July 1, 1973; provide automatic railroad retirement benefit increases if social security benefits are increased during the period July 1, 1973, through December 31, 1974; and change the tax rates under the Railroad Retirement Tax Act for the period October 1, 1973, through December 31, 1974. Part B of title I, which contains the so-called permanent provisions amending the Railroad Retirement Act, the Railroad Retirement Tax Act, and certain Public Laws, would make the revisions in eligibility conditions for railroad retirement annuities and the temporary increases in such annuities permanent and would increase the tax rates under the Railroad Retirement Tax Act, effective January 1, 1975, to finance the benefit increases and the change in eligibility conditions. The second title of the bill would amend the Interstate Commerce Act to provide new procedures pertaining to certain rate adjustments for carriers subject to Part I of that Act. The third title of the bill would protect the remaining provisions of the bill, if enacted, should any provision, or its application in a particular case, be held invalid.

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT, THE RAILROAD RETIREMENT TAX ACT, AND CERTAIN PUBLIC LAWS

PART A—TEMPORARY PROVISIONS

Section 101 of the bill would amend paragraphs (2) and (3) of section 2(a) of the Railroad Retirement Act to extend to male railroad employees the same eligibility conditions for unreduced age annuities as are now available for female employees, that is, eligibility for full retirement annuities at age 60 if they have completed 30 years of service. This provision for unreduced annuities for men

would, in accordance with section 108(a) of the bill, be effective only with respect to annuities which first begin to accrue on or after July 1, 1974, and would cease to apply as of the close of December 31, 1974.

The purpose of section 102 of the bill is to reduce the railroad retirement tax rate on employees under the Railroad Retirement Tax Act (10.6 percent of taxable compensation) to the tax rate paid by nonrailroad employees for social security purposes (5.85 percent of taxable earnings) and to increase the tax rate on employers under the Tax Act (from 10.6 percent of taxable payroll to 15.35 percent of taxable payroll) to compensate for the reduction in the employee tax rate. This purpose would be accomplished by amending section 3201 of the Internal Revenue Code of 1954 (which levies taxes on employees for railroad retirement purposes) to provide that, effective with respect to compensation paid for service rendered after September 1973, the tax rate on employees thereunder will be equal to the rate of the tax imposed with respect to wages by sections 3101(a) and 3101(b) of the Code (which levy taxes on employees for social security benefit and medicare purposes, respectively). Section 3221 of the Internal Revenue Code (which levies taxes on employers for railroad retirement purposes) would also be amended so as, in effect, to increase the tax rate on employers, also effective with respect to compensation paid for services rendered after September 30, 1973, by the 4.75 percent by which the employees' railroad retirement tax rate would be reduced. Neither these amendments nor any of the other amendments made by section 102—these other amendments would make no substantive changes in the law; the amendment to section 3211 would merely conform the language of that section, which levies taxes on employee representatives, to the amended language of section 3201 and 3221—make any change in the current combined tax rates under the Railroad Retirement Tax Act. The reduction in employee tax rates and the concurrent increase in employer tax rates would, for most employers and employees, be effective with respect to compensation paid for service rendered on or after October 1, 1973. The changes in the tax rates would not, however, become applicable to a limited number of railroads owned by steel companies and to certain dock companies until such time as their current labor contracts expire, or at such earlier time as the parties to those labor contracts agree.

Under present law, the 15 percent increase in railroad retirement benefits provided in 1970 by Public Law 91–377, the 10 percent benefit increases provided in 1971 by Public Law 92–46, and the 20 percent benefit increase provided in 1972 by Public Law 92–460 are all due to expire on June 30, 1973. These benefit increases were provided on a temporary basis because, due to the cost of permanent increases of this magnitude, it was believed further consideration had to be given to the nature and extent of the measures necessary to finance the desired benefit levels before such benefit increases could be provided on a permanent basis. Section 103 of the bill would amend the aforementioned public laws to extend the expiration date of the benefit increases to December 31, 1974. In this regard, in accordance with section 107 of the bill, representatives of employees and carriers would be required to meet at least once a month to consider all matters relat-

ing to the restructuring of the railroad retirement system in a manner which will assure the long-term actuarial soundness of the system, taking into account the specific recommendations of the Commission on Railroad Retirement. This group would be required to keep minutes of their meetings, to submit progress reports to Congress every two months, and to submit a final report to Congress not later than March 1, 1974, setting forth their joint recommendations. The report submitted would have to include a draft of a bill suitable for introduction and a copy of the minutes of each meeting held by the group.

Sections 104 and 105 of the bill would provide for increases in railroad retirement benefits (other than annuities computed under the first proviso of Section 3(e) of the Railroad Retirement Act of 1937 which are automatically increased whenever social security benefits are increased) in the period July 1, 1973 through December 31, 1974, if social security benefits should be increased in that period.

The amount of any such increase in railroad retirement benefits would be determined through computations made pursuant to the first proviso of Section 3(e) of the Railroad Retirement Act, which is generally referred to as the social security minimum guaranty provision. This provision guarantees that the combined monthly railroad retirement benefits which an individual and a dependent deriving benefits from him will receive under the Railroad Retirement Act and the Social Security Act (based on the individual's earnings record) would be no less than 110 percent of the amount which would have been payable to that family under the Social Security Act on the basis of the individual's combined railroad and nonrailroad earnings if his railroad service after 1936 had been covered under the Social Security Act.

In accordance with this guaranty provision, annuities are computed under the social security formulas whenever they produce a higher rate than the regular railroad retirement formulas, and, therefore, annuities payable under the guaranty provision are automatically increased whenever social security benefits are increased. These sections would, with certain exceptions, provide individuals whose railroad retirement annuities are computed under the regular railroad retirement formulas with the same increase they would have received if their annuities had been computed under the guaranty provision with the differences noted in the next paragraph. In no case, however, would a spouse's annuity be increased to an amount in excess of the maximum spouse's annuity provided in the first sentence of Section 2(e) of the Railroad Retirement Act. The spouse maximum provision referred to specifies that the maximum annuity payable under the Railroad Retirement Act to a spouse cannot exceed 110 percent of the maximum possible wife's insurance benefit payable to *any* wife under the Social Security Act.

As has been noted, there are several exceptions to the general statement that individuals whose annuities are computed under the regular railroad retirement formulas would receive the same increase they would have received if their annuities had been computed under the guaranty provision. These exceptions are: (1) any increases provided by these sections 104 and 105 would be equal to 100 percent, rather than 110 percent, of the amount of the increase the individual would have received under the Social Security Act; (2) only the social security benefits which would have been payable to the annuitant himself

if railroad service had been creditable under the Social Security Act are taken into account in determining the amount of any annuity increase—generally, in determining the amount of an annuity under the guaranty provision, certain individuals, particularly children of living employees, who are not themselves eligible for railroad retirement benefits must be taken into account, and, therefore, the annuity payable to an employee (and, in some cases, to his spouse) under the guaranty provision may include the amount that would have been payable to his children under the Social Security Act; (3) any social security benefits which the annuitant may actually be receiving would be disregarded in computing the amount of any increase provided by this bill, and, therefore, his railroad retirement annuity increase would not be reduced by the increase he received in his social security benefit; and (4) certain railroad retirement beneficiaries who would not meet the eligibility requirements for benefits under the Social Security Act even if railroad service after 1936 were covered thereunder would be deemed to meet the social security benefit requirements in order to provide an increase in such cases.

In computing annuity increases provided by this bill, it would be assumed that the eligibility conditions for benefit entitlement and the proportions of the primary insurance amounts payable at the time of any social security benefit increase were also present in the law as in effect prior to July 1, 1973. Accordingly, the annuity increase in a particular case can be computed, on the basis of the eligibility conditions, etc., in effect at the time of a social security increase, by comparing the social security primary insurance amounts table (contained in section 215 of the Social Security Act) in effect immediately after the benefit increase with the tables in effect on June 30, 1973. The differences between the two primary insurance amounts applicable to a given case would, after any appropriate proportions of primary insurance amounts are applied, be the amount of the increase. This increase would then be reduced by any appropriate age reduction factors provided by the Railroad Retirement Act—any social security age reduction factors which would otherwise be applied in making guaranty provision computations would be disregarded. In this regard, it may be noted that, since the Railroad Retirement Act contains no age reduction factors for age annuities payable to widows or widowers who are under age 65, increases in the annuities of such widows or widowers would not be subject to age reductions under the provisions of this bill despite the fact that age annuities payable to widows and widowers under the Social Security Act are subject to reductions for age if the beneficiaries are under age 65.

PART B—PERMANENT PROVISIONS

Subsection (a) of section 120 of the bill would make permanent the provisions of section 101 of the bill, which provide unreduced annuities for men at age 60 with 30 years of service. Section 108(a) of the bill would, without the amendment thereto by section 120(a), terminate this liberalization in annuity eligibility conditions as of December 31, 1974.

Subsections (b), (c), and (d) of section 120 would make permanent the temporary increases in railroad retirement benefits, the expiration

date of which was extended to December 31, 1974, by section 103 of the bill.

The provisions of the Railroad Retirement Tax Act which levy taxes for railroad retirement purposes on covered employers, employees and employee representatives, would be amended by section 121 of the bill to increase the tax rates by a total of 7½ percent of taxable payroll, effective with respect to compensation paid for services rendered on or after January 1, 1975. The 7½ percent increase would be equally divided between employers and employees—3.75 percent on each; the tax rate on employee representatives, who pay both the employer and the employee shares, would be increased by the full 7½ percent.

Title II—Amendments to the Interstate Commerce Act

Section 201 of the bill would establish a new procedure whereby railroads could obtain increases in interstate and intrastate freight rates to offset increases in their expenses because of increases in their taxes under the Railroad Retirement Tax Act as a result of the enactment of section 102 of the bill.

Financial Effects on the Railroad Retirement Program

1. *Full annuities at age 60 for 30 years of service.*—For purposes of estimating the cost of this amendment, it was assumed that the rates of early retirement for long-service railroad men would be approximately the same as those used in the 1965 valuation of the Federal Civil Service Retirement System (CSR). The calculation made on this basis produced a cost figure of 1.25 percent of taxable payroll or nearly $70 million per year on a level basis.

The above-quoted cost figure, based on data developed for the twelfth valuation (at 5¾ percent interest), is static in the sense that future increases in wages and prices were not considered. It was also assumed that the railroad retirement and social security benefit formulas now in effect would remain unchanged. Under such conditions, the automatic adjustment provisions of the Social Security Act would obviously be inoperative.

It should be noted that the rates used in the last CSR valuation (as of June 30, 1970) were almost double the earlier rates and that current rates are even higher. (Latest actuarial report of the CSR system, House Document No. 93–37, page 12.) Based on these higher rates, a substantially higher cost figure would emerge. It is doubtful, however, whether the rates of retirement under this amendment will be as high as those currently experienced by the Civil Service Retirement System but it is reasonable to assume that moderate rates of early retirement will prevail also among railroad workers.

The railroad retirement system's own experience in the area of early nondisability retirement could not be used as a basis for estimating the cost of this amendment. While women with 30 years of railroad service have throughout the years been permitted to begin drawing full annuities at age 60, their numbers have been too small to be analytically significant. For example, in calendar year 1971, there were only about 750 female employees in this category and 155 of them (21 percent) had actually retired during that year. The experience with men (at least in respect to numbers eligible for early retirement) has been much larger but the rather severe actuarial re-

ductions men had to take made this experience totally inapplicable to a situation where actuarial reductions would no longer be required.

It might be noted in this connection that the reduction for railroad men retiring on age and service before age 65 has been 1/180 each month before age 65 and this amounts to a 20-percent reduction for retirement at age 62 and to as much as 33⅓ percent for retirement at age 60. The elimination of these reductions, coupled with the much higher benefit levels now prevailing, would in all likelihood induce large numbers of long-service railroad men to start drawing an annuity from the Board at an early date. An added incentive would be the desire to acquire enough social security credits to qualify for a concurrent social security benefit. It should also be remembered that for retirement benefits, the work clause of the Railroad Retirement Act is very liberal since any employment other than work for a railroad or the last employer is permitted regardless of the amount of earnings.

The amendment would apply only to new retirements after June 1974. By June 1974, there will be between 45,000 and 50,000 nonretired male employees age 60 to 64 with 30 or more years of railroad service, and the initial rate of retirement among these employees could be as high as 20 percent. After the first year, the rates of early retirement would in all likelihood recede to significantly lower levels.

2. *Extension of benefit increases.*—The expiration of the 15-, 10- and 20-percent increases on June 30, 1973, would have resulted in substantial reductions in practically all benefits computed under the regular railroad retirement formulas. The maximum reduction would be 34 percent while for benefits now just slightly above the 110-percent social security minimum, the reduction would be minimal since the benefit could not go below the minimum amount. In fact, large numbers of benefits in the employee and spouse annuity categories would change from regular formula to overall minimum amounts and this would significantly mitigate the extent of the reductions in railroad retirement benefits.

It is estimated that for all categories of benefits combined, the immediate average reduction would have been about 18 percent. When related to the current level of benefit disbursements, such a reduction would amount to $36.7 million per month or about $660 million for the 18-month extension provided by the temporary provisions part of the bill. When converted into a present value (at 5¾ percent), the figure becomes $630 million and this might be termed to be the total cost of the temporary extension. For the indefinite extension of the present benefit formulas provided by the bill as a whole, the level cost (on a static basis) would be nearly 8.75 percent of taxable payroll or $480 million per year.

3. *Pass through of social security increases.*—This amendment provides that in the case of an increase in social security benefits between now and the end of 1974, railroad retirement beneficiaries would be given an increase which, subject to the qualification discussed below, would equal dollarwise to what they would have gotten under social security if railroad service had been covered under that system. This type of increase is referred to as a pass through arrangement. However, the amendment contains certain features which would create cost problems that would not be present in a true pass through arrangement.

The first and most important deviation from a genuine pass through procedure is the provision that in determining the amount of the increase, concurrent social security benefits received by the railroad retirement beneficiaries (dual benefits) shall be disregarded. This means that a dual beneficiary would receive two increases, the sum of which would be substantially greater than the increase he could have received from social security on the basis of his railroad and nonrailroad earnings combined. By comparison, the nondual beneficiary would receive only one increase (from the railroad retirement system) and in the great majority of cases, his increase would be significantly smaller than the one obtained by the dual beneficiary. The cost implications of this deviation from a true pass through arrangement are discussed below.

Under a true pass through arrangement, the cost of paying the social security increases to railroad retirement beneficiaries would be almost wholly reimbursable under the financial interchange with the only exceptions being the 10-percent increment in the overall minimum cases, and the class of railroad retirement beneficiaries to whom the financial interchange does not apply because of lack of an actual or imputed eligibility under social security law. In the case of a dual beneficiary, the financial interchange would reimburse the railroad retirement system only for the difference between (a) the increase in the imputed gross social security benefit, i.e., the benefit computed on the basis of railroad and social security credits combined and (b) the increase in the dual benefit actually paid by social security. Since, however, the bill provides for a full social security type of increase in all cases, the railroad retirement system will have to bear the cost of the increases in the dual benefits. Currently, dual benefits are paid at the rate of about $560 million per year. Thus, if there were to be, say, a 10-percent increase in social security benefits, the railroad retirement system would have to absorb 10 percent of this amount or $56 million a year besides the other costs associated with overall minimum and noninsured cases.

Since an increase in social security benefits between now and the end of 1974 is not very likely, it was not considered necessary to develop formal cost figures for this particular amendment. However, if the kind of pass through provided in the bill becomes a permanent feature of railroad retirement law, the cost implications could be quite serious. This is because the incidence and amounts of dual benefits can be expected to increase with the passage of time, and because there would be a compounding of costs from one social security increase to the other. A corollary result would be a growing disparity between the treatment accorded nondual and dual beneficiaries, respectively.

It should perhaps be added that a combination of an increase in social security benefits and an upward adjustment in the earnings base would have cost implications materially different from those for an increase in benefits alone. A combination of this kind might under certain conditions improve the actuarial condition of the railroad retirement system rather than aggravate it. However, the bill, H.R. 7200, does not call for cost estimates of this type.

4. *New allocation of railroad retirement taxes.*—According to the bill, the part of the railroad retirement plan which is in effect an addition to OASDI would become noncontributory effective October 1973. Were it not for the new tax discussed below, the combined

rate of tax would have been the same as under present law and this change would have made no noticeable difference in the actuarial condition of the railroad retirement system. It might perhaps be added that the proposed change in allocation would shift about $300 million in railroad retirement taxes from employees to employers in the first year of operation, that is, from October 1973 through September 1974.

5. *New financing.*—The bill provides for an additional tax of 7½ percent of taxable payroll to be paid in equal shares by employees and employers. However, this new tax would not become effective until January 1, 1975. According to preliminary cost estimates recently completed, this additional tax would cover the cost of the 60 with 30 amendment and take care of the bulk of the actuarial deficiency of the railroad retirement system. It is further estimated that the additional tax income for 1975 would be about $450 million under static conditions and $490 million if there will be an upward adjustment in the 1975 earnings base as a result of wage increases.

6. *Conclusion.*—From a practical point of view, the cost of extending the benefit increases should be viewed as a part of the cost of the present benefit structure and not as an added cost. Similarly, although for different reasons, the figures quoted in connection with the special form of passing through social security increases should also not be regarded at this time as additional costs.

This leaves the cost of the "60 with 30" amendment (1.25 percent of payroll) as the only true additional cost associated with the bill. This added cost would have further aggravated the already serious actuarial condition of the railroad retirement system but, as stated earlier, the additional 7½ percent tax would change things for the better. While the actuarial deficiency (as adjusted for a December 31, 1974, position) would not be eliminated entirely, not enough of it would be left to make the actuarial imbalance intolerable.

Views of the Board

The Board Members are unanimous in their support of H.R. 7200 as it was passed by the House. The chief differences between the House bill and S. 1867 relate to the requirement in the Senate bill that the negotiators identify themselves by name and position; that they keep minutes of their meetings; that they meet not less often than once a month, and that they make progress reports not less often than every two months. In the opinion of Board Members Speirs and Quarles, both of whom have had great experience in collective bargaining over many years, these provisions in section 107 of the Senate bill would seriously impede the free exchange of ideas between the negotiators.

With regard to the provisions of section 121 of the Senate bill, which would increase tax rates on employers and employees by 3.75 percent of taxable payroll, effective with respect to compensation paid for services rendered after December 31, 1974, Board Members Speirs and Quarles feel that the financing of the railroad retirement system is a crucial issue which the parties are expected to negotiate and that the effect of the provisions of section 121 of the Senate bill would be to take this issue out of the hands of the negotiators who are expected to continue their negotiations. For this reason, they believe that the enactment of H.R. 7200, as it was passed by the House, would make their continued negotiations more meaningful and more substantive.

Mr. Cowen, Chairman of the Board, states as follows:

"As I stated at the hearings in the House on H.R. 7200, I believe that it would be unthinkable to remove the temporary increases. The Senate version has a Part A which keeps these increases temporary, but Part B extends them permanently. In Part B, additional tax income equivalent to 7.5 percent of the taxable payroll is added by having employees and employers each pay half of the additional amounts. Such additional taxes will become effective on January 1, 1975, the date on which the bill would make the increases permanent.

"The extension of the temporary increases on a permanent basis after December 31, 1974, and the corresponding tax increases would become effective only if the representatives of railroad labor and management could not reach an agreement which would be enacted into law by that time. Assuming that an agreement can be reached, these provisions would not become effective, and it would not cause any problem.

"If no agreement were enacted into law by December 31, 1974, we would again be in the position of having to terminate the temporary increases. This would be just as undesirable at that time as it is now, and I believe an extension would have to be made. However, by that time the financial condition of the railroad retirement program would be extremely serious. The Commission on Railroad Retirement and the Board's actuaries have estimated that by 1985 the program would be in danger of running out of funds even without the eligibility liberalization contained in this bill.

"As an actuary, I know that the longer corrective action is delayed the more drastic will be the solutions to the financial problems of the program. Therefore, providing additional income beginning in January 1975 will help to alleviate the situation. Further, the additional taxes provided by this bill would go a long way to putting the program back into a sound actuarial position. On this basis, I believe it desirable to include the provision contained herein which would provide additional income to the railroad retirement program. I realize the difficulties which this might cause railroad labor and management, but as Chairman of the Railroad Retirement Board I must consider the ability of the program to meet its obligations."

Because of the short time between the introduction of the bill and the setting up of the hearings, there has been no opportunity to submit this report for clearance to the Office of Management and Budget. Copies of this report are being sent to that office immediately.

Sincerely yours,

R. F. BUTLER, *Secretary.*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 4, 1973.

Hon. WILLIAM D. HATHAWAY,
Chairman, Subcommittee on Railroad Retirement, Committee on Labor and Public Welfare, U.S. Senate, Room 5331 New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of May 23, 1973 for the views of this Office on S. 1867, a bill "To amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act

to revise certain eligibility conditions for annuities; to change the railroad retirement tax rates; and to amend the Interstate Commerce Act in order to improve the procedures pertaining to certain rate adjustments for carriers subject to part I of such Act, and for other purposes."

The views of the Office of Management and Budget on S. 1867 and H.R. 7200 were provided to your committee in testimony on May 30, 1973 by Paul H. O'Neill, Associate Director for Human and Community Affairs. As Mr. O'Neill indicated in his statement, a copy of which is attached, we believe S. 1867 is preferable to H.R. 7200 in several respects.

In particular, we believe the reporting date of March 1, 1974 provided in Section 107 is preferable to June 1, 1974 in order to permit adequate Legislative and Executive consideration of labor and industry recommendations for permanent financing of the railroad retirement system.

We also strongly support the policy in S. 1867 to initiate new payroll taxes on January 1, 1975 as an essential stop-gap measure to avoid further depletion of trust fund reserves after that date. We would, in fact, prefer an earlier effective date for the new stop-gap tax provision since the continuation of unfunded benefits for the next 18 months will increase the Federal budget deficit by $600 million in FY 1974 and $300 million in 1975 for the half year through December 31.

We have no objection to the particular allocation of the tax burden provided in Section 121. However, we believe that such allocation could also properly be a subject for collective bargaining. Accordingly, we would not object to a provision which would permit the allocation of taxes necessary to make the railroad retirement trust fund actuarially sound to be settled by negotiation between labor and management by January 1, 1975.

Finally, with respect to the distribution of taxes provided in Section 102, we wish to point out that the transfer of the tax burden from employee to employer will not, by itself, reduce or eliminate the deficiency in the trust fund. Accordingly, we reiterate our belief that any shift in the tax burden at this time must be considered interim in nature, subject to reconsideration when long term solutions are being developed.

For these reasons we prefer S. 1867 to H.R. 7200. We are strongly opposed to the House bill in its present form. Enactment of H.R. 7200 would not be consistent with the objectives of the Administration.

Sincerely,

JAMES F. C. HYDE, Jr.,
Acting Assistant Director
for Legislative Reference.

Enclosure.

STATEMENT OF PAUL H. O'NEILL ASSOCIATE DIRECTOR FOR HUMAN AND COMMUNITY AFFAIRS OF THE OFFICE OF MANAGEMENT AND BUDGET

Mr. Chairman and members of the committee, I appreciate this opportunity to present the views of the Administration on two bills, S. 1867 and H.R. 7200. Under present law, the temporary benefit

increases enacted under the 1970, 1971, and 1972 amendments to the Railroad Retirement Act, representing about one-third of current benefits, would expire on June 30, 1973.

As indicated in the 1974 budget, the Administration supports the extension of these temporary benefits to avoid an abrupt and sharp reduction in income to nearly a million retirees of the nation's railroad systems. But, in acting promptly, we must not ignore the precarious condition of the railroad retirement system. The legislation which is enacted this year must lay the groundwork for placing the system on a sound financial footing. We believe S. 1867 moves in this direction.

I need not discuss the details of the two bills. I am sure that they have already been explained to the satisfaction of you and the members of the committee. Instead, I propose to focus on those issues of major policy importance in which the Administration has particularly strong interest. These are:

1. When should the railway industry be required to report on proposed permanent financing arrangements? H.R. 7200 would extend the deadline from March 1, 1973 to June 30, 1974 for the railroad industry to recommend permanent financing arrangements for the temporary benefit increases. S. 1867, on the other hand, proposes a reporting date of March 1, 1974.

2. Should the present legislation include stop-gap financing provisions to cover the eventuality that a permanent solution will not have been adopted by December 31, 1974? Both bills would extend the present temporary benefit increases from June 30, 1973 to December 31, 1974. Neither bill includes additional financing for these benefit increases during this period. S. 1867, however, unlike H.R. 7200, would place in effect on January 1, 1975, an increased payroll tax on both employees and employers.

3. What is the impact of shifting a large part of the present tax burden from employees to shippers? Both bills would shift a major part of the present payroll tax on employees to the carriers and thence to the public through increased freight rates.

The Administration's position with respect to these issues stems from our concern with the deteriorating financial condition of the railroad retirement system. Having seen the deficiency deepen in this system for several years, we strongly supported the establishment of an independent Commission to review the causes of the deficiency and to recommend changes that would place the system on a sound financial basis. Congress established such a Commission in 1970 and provided for it to include representatives of railroad labor, railroad management, and the public.

After a year and a half of intensive study, in a report that was exhaustively detailed and documented, all but one of the Commissioners agreed that "unless corrective action is taken promptly there will be large cash flow deficits, and the system will go broke in about 16 years."

REPORTING DATE

The Commission report offered several alternatives for permanent financing. Following its submission, the Congress then provided an

additional period of time, to March 1 of this year, for the industry to agree on a permanent solution. Events have shown, however, that even after the eighteen month Commission study followed by eight more months of intra-industry bargaining, the representatives of labor and management have not been able to come to an agreement on financing the cost of the system either transitionally or permanently.

We are encouraged by the fact that the collective bargaining agreement calls for continued work on developing a means for permanent financing of the retirement system. In view of this, we support an extension of time for the industry to submit their recommendations to the Congress. However, we believe the time extension contained in H.R. 7200 is excessive for two reasons:

First, in view of the effort already made by the Railroad Retirement Commission and by the industry in the past two years, another 16 months should not be necessary.

Second, an extension of the reporting date to June 30, 1974 followed by an expiration date of temporary benefits by December 31, 1974 would provide only six months for consideration and enactment of whatever legislation might be required.

Therefore, we suport the provision in S. 1867 that the deadline for the industry to recommend an arrangement for permanent financing be fixed at March 1, 1974.

STOP-GAP FINANCING

We are disappointed that a permanent arrangement for sound financing of the system could not have progressed further than it has by this time.

Each past "temporary" benefit increase was made in the hope that it would be the last one. In fact there have been three such temporary increases and the necessary extensions since 1970—none of which has been supported by corresponding revenue. In the aggregate, they are now drawing upon reserves of the fund at the rate of about $600 million a year. Therefore, we strongly support the provision in S. 1867 which would initiate new payroll taxes on January 1, 1975, as an essential stop-gap measure to avoid further depletion of reserves after that date.

Any further delay in paying the bills would only serve to aggravate the problem. This would be particularly unfortunate at a time when the fund is headed toward bankruptcy and there is no plan at hand for reversing this condition.

S. 1867 is an essential step in the direction of reversing this course, which has already been pursued for much too long. The Administration would, in fact, prefer an earlier effective date for the new stop-gap tax provisions. We consider it unfortunate that the losses would be permitted to continue for another eighteen months.

The Commission on Railroad Retirement stated nearly a year ago: "Immediate tax increases present the only real option for restoring financial solvency to the railroad retirement system. . . ." At the same time we recognize the factors which led to the selection of January 1, 1975, as the effective date.

However, I must call attention to the fact that if these benefits continue to be unfunded for the next 18 months, they will increase the Federal budget deficit by $600 million in FY 1974 and $300 million in 1975 for the half-year through December 31.

SHIFTING THE TAX BURDEN

Both bills provide for railroad management to take over all payments to the fund during the period September 1973 to December 1974 in excess of those the railroad employees would have paid had they been under social security. We have no objection to whatever shifts in the tax burden the railroad employees and the carriers may wish to make among themselves. But it should be emphasized that the shift is not for the purpose of, nor does it have the effect of reducing or eliminating the deficiency.

This interim step should not limit future consideration of permanent financing arrangements because, as the Actuarial Advisors to the Commission on Railroad Retirement stated: "... There is on way except for greatly increased tax rates, for the system to survive on a self-supporting basis...."

Unless benefits are reduced or eliminated, the amount of the additional taxes needed to fully finance the system will be very high and we should not dismiss from future use any potential source of revenue for the fund.

Accordingly, the Administration believes that any shift in the tax burden at this time must be considered interim in nature, subject to reconsideration when long-term solutions are being developed.

In view of these considerations, the Administration prefers S. 1867 to H.R. 7200. We are strongly opposed to the enactment of H.R. 7200 in its present form.

This completes my prepared statement. I will be happy to respond to your questions.

APPENDIX A

AGREEMENT BETWEEN RAILWAY LABOR AND MANAGEMENT INITIALED MARCH 7, 1973

MARCH 7, 1973.

To members of the union negotiating Committee on Railroad Retirement and Wages:

GENTLEMEN: This will confirm our understanding that the railway labor unions will join with the carriers in supporting legislation which will either—

(*a*) provide a tax on transportation charges effective October 1, 1973 to finance Railroad Retirement taxes in excess of Social Security taxes, as provided under existing law amended as proposed in paragraph (c) of Part A of the Memorandum of Understanding of March 7, 1973, including the Supplemental Annuities excise tax, or

(*b*) modify Interstate Commerce Commission procedures so as to permit prompt freight rate increases to cover increases in costs.

Determination of which type of legislation to be jointly supported to be at the discretion of the carriers.

This is also to confirm our understanding that, if the temporary benefit increases referred to in Paragraph A(a) of our Memorandum of Understanding of _____, are extended through December 31, 1974, the carriers will not oppose making those increases permanent at that time.

Yours very truly,

WILLIAM H. DEMPSEY.

Initialed subject to necessary acceptance and ratification.

MEMORANDUM OF UNDERSTANDING

A. Railroad Retirement Legislation

The carriers and the railway labor unions will jointly support legislation which will accomplish the folowing:

(*a*) The temporary benefit increases of 1970, 1971 and 1972 (P.L. 91–377, P.L. 92–46, and P.L. 92–460, respectively) scheduled to expire June 30, 1973, will be extended through December 31, 1974.

(*b*) A Joint Standing Committee consisting of members representing the railway labor unions and the carriers will be established to consider all of the matters relating to restructuring the Railroad Retirement System, including but not limited to such matters as financing the deficiencies, dual Railroad Retirement and Social Security benefits, adoption of a two tier system (i.e., a Social Security tier and a supple-

mentary Railroad Retirement tier), restructuring of the benefit formulas, consideration of any matters considered by the Commission on Railroad Retirement, and any other subjects which the parties may propose. The joint Standing Committee will report to the Congress by July 1, 1974. If the joint Committee can not agree on a joint report and recommendations, the railway labor unions and the carriers will submit ex parte reports to the Congress by July 1, 1974.

(*c*) The Railroad Retirement Tax Act to be amended to provide that commencing October 1, 1973, the employers will assume the 4.75% of the employee taxable compensation in excess of the 5.85% employee Social Security tax (a maximum of $42.75 per employee per month in 1973, and a maximum of $47.50 per employee per month in 1974.)

(*d*) The Railroad Retirement Act to be amended to provide that commencing July 1, 1974 employees with 30 years of service and attained age of 60 may retire without actuarial reduction in their annuities.

(*e*) If during the period July 1, 1973 through December 31, 1974 the Social Security Act is amended to provide for increased benefits, the dollar amount of such benefit increases will be "passed through" to the Railroad Retirement benefits structure effective on the same date or dates the Social Security benefits are increaserd.

(*f*) Except as specifically provided in this Part A, neither the carriers nor the railway labor unions will propose or suport legislation seeking changes in benefit levels or new types of benefits to become effective prior to January 1, 1975.

B. Collective Bargaining Agreements

1. Separate but substantively uniform national collective bargaining agreements will be entered into on behalf of the carriers represented by the National Carriers' Conference Committee and the following named railway labor unions:

Date of 1971–72 agreement:	*Railway labor unions*
February 10, 1971	BMWE–H&RE.
February 25, 1971	BRAC.
March 24, 1971	UTSE.
April 20, 1971	ATDA.
April 23, 1971	RYA.
May 13, 1971	BLE.
October 7, 1971 [1]	4 Shop Unions.
February 11, 1972 [1]	IBF&O.
November 16, 1971	BRSA.
January 27, 1972	UTU.
May 12, 1972	SMWIA.

[1] 5 Shop Unions: IBB&B, BRCA, IBEW, IAM, IBF&O.

2. All national collective bargaining agreements will dispose of the current national notice and local notices covering the same subject matter, and will:

(*a*) Provide for a general wage increase of 4% effective January 1, 1974.

(*b*) Provide for cost-free dues checkoff provided that checkoff amounts may be changed not more often than every three months, authorizations to be received at least 30 days in advance of first checkoff, parties to make determination as to whether checkoff

will be uniformly made on the first or second half payroll. The provision also will include suitable priorities, and a savings clause.

(*c*) Contain a moratorium provision which will permit notices to be served not earlier than July 1, 1974, but not to become effective prior to January 1, 1975. Each of the moratorium provisions will be patterned after the respective moratorium provisions contained in the agreements enumerated in paragraph 1 above.

(*d*) To the extent that either the affected unions or the National Carriers' Conference Committees desire, will provide for Standing Committee type procedures during the eighteen months' term of the moratorium.

3. A separate agreement involving the parties to the Agreement of February 24, 1972 will provide for an extension in the term of the National Hospital, Medical, Surgical and Group Insurance Agreement from its current expiration date of February 28, 1974 to December 31, 1974 and will establish a maximum lifetime major medical benefit of $250,000 effective July 1, 1973. No other benefit changes will be made prior to January 1, 1975—the carriers to pick up any necessary increase in premium cost of existing benefits during the ten months' extension.

4. The carriers and the operating organizations to work out a provision to be included in their agreements providing for an extension of the Standing Committee procedures. Such provision will permit the carriers and each union to serve national (but not local) Section 6 notices on the matters now before the respective Standing Committees if either party decides that the Standing Committee procedure should no longer be continued.

5. The provisions of this Part B are contingent upon the enactment of legislation accomplishing the purposes specified in Part A hereof.

NOTE.—Further consideration to be given to Steel Roads and situations where a wage moratorium extends beyond June 30, 1973.

Initialed subject to necessary acceptance and ratification.

APPENDIX B

LETTERS REPORTING ON PROGRESS OF NEGOTIATIONS OF PARTIES

WASHINGTON, D.C.,
February 27, 1973.

To Hon. HARRISON A. WILLIAMS, JR., *Chairman, Senate Committee on Labor and Public Welfare*, and
Hon. HARLEY O. STAGGERS, *Chairman, House of Representatives, Committee on Interstate and Foreign Commerce.*

GENTLEMEN: Section 6 of Public Law 92–460, which provided for a 20% temporary increase in annuities for Railroad Retirement beneficiaries, as well as temporarily extending certain previous increases in such annuities, directed representatives of railroad employees and management to submit a report containing their mutual recommendations respecting the problems of the railroad retirement system no later than March 1, 1973 to the Senate Committee on Labor & Public Welfare and the House of Representatives Committee on Interstate and Foreign Commerce.

That law also required the parties, to take into account the report and specific recommendations of the Commission on Railroad Retirement. The Commission, established by the Congress by Public Law 91–377, submitted its recommendations to the parties on June 30, 1972. Since that time representatives of labor and management have studied the contents of that report very carefully. As the Commission itself recognized, "the railroad retirement system is one of the most complicated pension plans in the country," and required the Commission "to break new ground by building an actuarial model of the system to make projections of the receipts and expenditures of the system and analyze the consequences of prospective changes in railroading and in the economy."

Obviously these issues have proven equally complex and difficult for the parties. However, in the series of meetings that have been held between representatives of labor and management, substantial progress has been made in shaping recommendations that both sides can support. Although we are as yet unable to submit the kind of report envisioned by the Congress, we are both hopeful that within the near future we will be able to resolve those matters where differences continue to exist and submit a report containing recommendations that can be supported by both labor and management.

Therefore, we respectfully request that the Congressional committees charged with the responsibility of overseeing the railroad retirement system consider this report as temporarily satisfying the provisions of Section 6 of Public Law 92–460. We are hopeful that within the near future the parties will be able to return with a plan

that not only meets the policy expressed by the Congress but also can be fully supported by both railroad labor and management.

Committee on Railroad Retirement:

For the employees:
C. J. CHAMBERLAIN.
AL H. CHESSER.
C. J. COUGHLIN.
H. C. CROTTY.
C. L. DENNIS.
A. T. OTTO, Jr.
JAMES E. YOST.

For the carriers:
WILLIAM H. DEMPSEY.
H. E. GREER.
J. R. JONES.
M. E. PARKS.
GEORGE S. PAUL.
G. M. SEATON, Jr.

RAILROAD RETIREMENT BOARD,
Chicago, Ill., March 30, 1973.

To:
Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Senate Committee on Labor and Public Welfare.
Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce.

DEAR MR. CHAIRMAN: Under section 6 of Public Law 92-460 the Board is required to comment on the recommendations made to your committees by the representatives of employees, retirees, and carriers respecting the methods to be adopted to insure the actuarial soundness of the railroad retirement system.

Under date of February 27, 1973, representatives of the carriers and employees filed a joint statement with you describing their continued efforts to arrive at recommendations that both sides could support, and indicated that they expected to be able to resolve these matters in the near future. They requested that their statement be accepted as temporarily satisfying the requirements of section 6 and expressed the expectancy that within the near future they would be able to return with a plan that meets the policy expressed by Congress and is fully supported by railroad labor and management.

Since section 6 contemplates that the recommendations by the Board will be made with reference to the report by the representatives, the Board withholds its further comments at this time.

Sincerely yours,

FOR THE BOARD,
R. F. Butler, Secretary.

APPENDIX C

[EXCERPT FROM THE REPORT OF THE COMMISSION ON RAILROAD RETIREMENT, JUNE 30, 1972]

MAJOR FINDINGS AND PRINCIPAL RECOMMENDATIONS OF THE COMMISSION ON RAILROAD RETIREMENT

SUMMARY

The railroad retirement system was created in 1935 as a special benefit system for railroad workers. It is federally-administered but has always been self-supporting from contributions by the workers and the railroads.

Since 1935 the economic situation of the railroad industry and the structure of Federal social insurance and retirement programs have undergone major changes. The railroad retirement system has been adjusted many times to meet the changing situation; but the system remains beset by serious problems. The Commission on Railroad Retirement was created by the Congress to make a thorough study of the system and to recommend solutions.

The Commission has concluded that the system needs a thorough overhaul to make it consistent with a carefully defined set of objectives, to up-date it to meet current conditions and to make it financially solvent. The system has lacked a clear set of objectives, delineating between the socially-weighted benefits provided under a social insurance scheme and those appropriated to a private industry supplementary pension plan. This confusion of pension objectives has created a system with structural deficiencies. It needs to be fully coordinated with the basic social security system. Otherwise, excessive costs for overlapping benefits results. The present benefit provisions are both complicated and costly. The system faces a financial crisis. Unless corrective action is taken promptly there will be large cash flow deficits, and the system will be broke in about 16 years.

The Congress directed the Commission to recommend changes to provide adequate levels of benefits on an actuarially sound basis and specified in detail the topics to be studied. The Commission has found that past efforts to patch up the system, though helpful, have failed to solve the long-range problems. It is recommending four major changes in the law which are designed to preserve and make secure the rights of railroad workers and their families to benefits in the coming period of crisis and for the years that lie beyond. These fundamental reforms will solve the serious problems of the system and can be carried out so as to guarantee that no current beneficiary and no worker whose rights are legally vested will lose any benefits he has accrued to date. In summary form the recommendations are as follows:

1. *The railroad retirement system should be restructured into two separate tiers of benefits. Tier one should provide regular social security benefits, financed and paid under the social security laws, and represented by a separate social security check. In relation to tier one, the Railroad Retirement Board should function as a social security claims agent and payment center for claims-taking, adjudication, and certification for payment of social security benefits for railroad beneficiaries in accordance with policies set by the Social Security Administration. Tier two should be a completely separate supplementary retirement plan administered by the Railroad Retirement Board under Federal law, structured to fit with and augment social security and float on top of tier one.* This structure conforms with the pattern that works well in many other industries. It utilizes fully the strength of the social security system which now covers 90% of all jobs in the country. The separation of tier two will permit it to be negotiated by labor and management in keeping with their special needs.

This separation of tier one and tier two—in objectives, in benefits structure, and in financing—must be unmistakably clear to all involved; to the special interests represented by labor, management, and beneficiaries; and to the public interest represented by Congress and the executive branch of the Government.

2. *Legally-vested rights of railroad workers and railroad retirement beneficiaries to benefits based on social-security-covered nonrailroad service should be guaranteed, but future accrual of these dual benefits should be stopped.* Dual benefits are based on social security coverage for only part of a work career. They involve a windfall element and excess cost to the Railroad Retirement Account. Their future accrual will cease automatically when railroad employment is covered by social security on a full basis.

3. *A firm financial plan should be adopted forthwith to finance the second tier of supplementary benefits through the Railroad Retirement Account on an assured, fully self-supporting basis by contributions from the railroad community through the crisis period of the next 20 to 30 years and then beyond.*

The plan must provide for immediate sizable tax increases which—together with the future savings from curtailing dual benefits and some gain in earnings—will be sufficient to cover fully the projected cash flow deficits of up to $1 billion a year by the end of the century. The higher taxes must accompany the extension of the temporary 1970 and 1971 benefit increases and shall be sufficient also to finance any other liberalizations that may be made. As a minimal safeguard for future benefits the basic criterion should be that the Railroad Retirement Account should not be drawn below its present $5.5 billion balance (December 31, 1971, accrual-basis), and as tier two benefit outlays rise in future years the reserve should be maintained at not less than five times the annual rate of such expenditures.

The tax rates required to carry out the financial plan should be determined by the Railroad Retirement Board pursuant to explicit statutory criteria regarding this reserve ratio. A determination should take place within 90 days after any major change in the program, or at least biennially. It should be transmitted to the Congress by the

President, and should go into effect after 60 days unless the Congress enacts legislation within that period to set alternate rates.

Beyond the crisis period, when a reasonable degree of normality in the ratio of beneficiaries to railroad workers is attained, the Account should be financed according to the generally accepted standards of actuarial soundness appropriate to supplementary staff pension plans.

4. *The benefit formulas and provisions of the system should be restructured and revised to assure that the overall benefits in the future continue to bear a reasonable relationship to wages in a dynamic economy and to make benefits more equitable among the various groups of beneficiaries.* A continuation of the past practice of compounding the percentage factors in the railroad retirement formula and increasing the base of covered wages will escalate costs to an untenable extent. Various other anomalies are also present.

The foregoing are the Commission's principal recommendations. They stem from an independent study by the Commission and its staff, consultants, and advisory groups, compressed within the past 17 months. Highlights of the findings and general conclusions follow. The Commission's complete report contains all of the specific recommendations, and is supplemented by extensive staff studies. It also suggests necessary follow-up action to achieve the transition from the present system to the new, improved system.

CHANGES IN EXISTING LAW

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

RAILROAD RETIREMENT ACT OF 1937

* * * * * *

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] *Individuals* who will have attained the age of sixty and will have completed thirty years of service.

3. [Men who will have attained the age of sixty and will have completed thirty years of service, or individuals] *Individuals* who will have attained the age of sixty-two and will have completed less than thirty years of service, but the annuity of [such men or] such individuals shall be reduced by 1/180 for each calendar month that he or she is under age sixty-five when the annuity begins to accrue.

4. Individuals having a current connection with the railroad industry, and whose permanent physical or mental condition is such as to be disabling for work in their regular occupation, and who (i) will have completed twenty years of service or (ii) will have attained the age of sixty. The Board, with the cooperation of employers and employees, shall secure the establishment of standards determining the physical and mental conditions which permanently disqualify employees for work in the several occupations in

the railroad industry, and the Board, employers, and employees shall cooperate in the promotion of the greatest practicable degree of uniformity in the standards applied by the several employers. An individual's condition shall be deemed to be disabling for work in his regular occupation if he will have been disqualified by his employer because of disability for service in his regular occupation in accordance with the applicable standards so established; if the employee will not have been so disqualified by his employer, the Board shall determine whether his condition is disabling for work in his regular occupation in accordance with the standards generally established; and, if the employee's regular occupation is not one with respect to which standards will have been established, the standards relating to a reasonably comparable occupation shall be used. If there is no such comparable occupation, the Board shall determine whether the employee's condition is disabling for work in his regular occupation by determining whether under the practices generally prevailing in industries in which such occupation exists such condition is a permanent disqualification for work in such occupation. For the purposes of this section, an employee's "regular occupation" shall be deemed to be the occupation in which he will have been engaged in more calendar months than the calendar months in which he will have been engaged in any other occupation during the last preceding five calendar years, whether or not consecutive, in each of which years he will have earned wages or salary, except that, if an employee establishes that during the last fifteen consecutive calendar years he will have been engaged in another occupation in one-half or more of all the months in which he will have earned wages or salary, he may claim such other occupation as his regular occupation; or

5. Individuals whose permanent physical or mental condition is such that they are unable to engage in any regular employment.

Such satisfactory proof shall be made from time to time as prescribed by the Board, of the disability provided for in paragraph 4 or 5 and of the continuance of such disability (according to the standards applied in the establishment of such disability) until the employee attains the age of sixty-five. If the individual fails to comply with the requirements prescribed by the Board as to proof of the continuance of the disability until he attains the age of sixty-five years, his right to an annuity by reason of such disability shall, except for good cause shown to the Board, cease, but without prejudice to his rights to any subsequent annuity to which he may be entitled. If before attaining the age of sixty-five an employee in receipt of an annuity under 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 in which he ceases to be so disabled. If after cessation of his disability annuity the employee will have acquired additional years of service, such additional years of service may be credited to him with the same effect as if no annuity had previously been awarded to him.

(b) An annuity shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person by whom he was last employed; but this requirement shall not apply to the individuals mentioned in subdivision 4 and subdivision 5 of subsection (a) prior to attaining age sixty-five.

(c) An annuity shall begin to accrue as of a date to be specified in a written application (to be made in such manner and form as may be prescribed by the Board and to be signed by the individual entitled thereto), but—

(1) not before the date following the last day of compensated service of the applicant, and

(2) not more than twelve months before the filing of the application.

(d) No annuity shall be paid with respect to any month in which an individual in receipt of an annuity hereunder shall render compensated service to an employer or to the last person by whom he was employed prior to the date on which the annuity began to accrue. Individuals receiving annuities shall report to the Board immediately all such compensated service.

No annuity under paragraph 4 or 5 of subsection (a) of this section shall be paid to an individual with respect to any month in which the individual is under age sixty-five and is paid more than $100 in earnings from employment or self-employment of any form: *Provided*, That for purposes of this paragraph, if a payment in any one calendar month is for accruals in more than one calendar month, such payment shall be deemed to have been paid in each of the months in which accrued to the extent accrued in such month. Any such individual under the age of sixty-five shall report to the Board any such payment of earnings for such employment or self-employment before receipt and acceptance of an annuity for the second month following the month of such payment. A deduction shall be imposed, with respect to any such individual who fails to make such report, in the annuity or annuities otherwise due the individual, in an amount equal to the amount of the annuity for each month in which he is paid such earnings in such employment or self-employment, except that the first deduction imposed pursuant to this sentence shall in no case exceed an amount equal to the amount of the annuity otherwise due for the first month with respect to which the deduction is imposed. If pursuant to the third sentence of this subsection an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in the first sentence of this subsection) did not exceed $2,400, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the fifth sentence of this subsection, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in the first sentence of this subsection) is in excess of $2,400, the number of months in such year with respect

to which an annuity is not payable by reason of such third and fifth sentences shall not exceed one month for each $200 of such excess, treating the last $100 or more of such excess as $200; and if the amount of the annuity has changed during such year, any payments of annuity which become payable solely by reason of the limitation contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.

(e) SPOUSE'S ANNUITY.—The spouse of an individual, if—

(i) such individual has been awarded an annuity under subsection (a) or a pension under section 6 and has attained the age of 65, and

(ii) such spouse has attained the age of 65 or in the case of a wife, has in her care (individually or jointly with her husband) a child who 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 without regard to [section 3(a)(3), (4), or (5) of this Act] *section 3(a), (3), (4), (5), or (6) of this Act* or pension, as in effect before 1970; but not more, with respect to any months, 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: *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 reductions in the individual's annuity under the first two provisos in section 3(a)(2).

The spouse's annuity computed under other provisions of this section shall (before any reduction on account of age) be increased by 15 percent but not by more than $25. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $5.

The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased by 10 per centum. This paragraph shall be disregarded in the application of the preceding paragraph.

The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased by 20 per centum. [The preceding sentence and the other provisions

of this subsection shall not operate to increase the spouse's annuity (before any reduction on account of age) to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection.] This paragraph shall be disregarded in the application of the preceding two paragraphs.

The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased in an amount determined by the method of computing increases set forth in subsection (a) (6) of section 3. The preceding sentence and the other provisions of this subsection shall not operate to increase the annuity of a spouse (before any reduction on account of age) to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection. This paragraph shall be disregarded in the application of the preceding three paragraphs.

(f) For the purposes of this Act, the term "spouse" shall mean the wife or husband of a retirement annuitant or pensioner who (i) was married to such annuitant or pensioner for a period of not less than one year immediately preceding the day on which the application for a spouse's annuity is filed, or in the month prior to her or his marriage to such annuitant or pensioner was eligible for an annuity under subsection (a) or (d) of section 5 of this Act or, on the basis of disability, under subsection (c) thereof, or is the parent of such annuitant's or pensioner's son or daughter, if, as of the day on which the application for a spouse's annuity is filed, such wife or husband and such annuitant or pensioner were members of the same household, or such wife or husband was receiving regular contributions from such annuitant or pensioner toward her or his support, or such annuitant or pensioner has been ordered by any court to contribute to the support of such wife or husband; and (ii) in the case of a husband, was receiving at least one-half of his support from his wife at the time his wife's retirement annuity or pension began.

(g) The spouse's annuity provided in subsection (e) shall, with respect to any month, be subject to the same provisions of subsection (d) as the individual's annuity, and, in addition, the spouse's annuity shall not be payable for any month if the individual's annuity is not payable for such month (or, in the case of a pensioner, would not be payable if the pension were an annuity) by reason of the provisions of said subsection (d). Such spouse's annuity shall cease at the end of the month preceding the month in which (i) the spouse or the individual dies, (ii) the spouse and the individual are absolutely divorced, or (iii), in the case of a wife under age 65 (other than a wife who is receiving such annuity by reason of an election under subsection (h)), she no longer has in her care a child who meets the qualifications prescribed in section 5(l)(1) (without regard to the provisions of clause (ii)(B) thereof) of this Act.

(h) A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue.

(i) The spouse's annuity provided under subsections (e) and (h) of this section without regard to [the last paragraph plus the two

preceding paragraphs] *the last paragraph plus the three preceding paragraphs* of such subsection (e) shall (before any reduction on account of age) be reduced in accordance with the second proviso in section 3(a)(2), except that, notwithstanding other provisions of this subsection, the spouse's annuity shall (before any reduction on account of age) not be less than one-half of the amount computed in section 3(a)(1) or in that part of section 3(e) preceding the first proviso, or of the pension, increased by $5 or, if the spouse is entitled to benefits under title II of the Social Security Act, by the excess of $5 over 5.8 per centum of the lesser of (i) any benefit to which such spouse is entitled under title II of the Social Security Act, or (ii) the spouse's annuity to which such spouse would be entitled without regard to section 3(a)(2) and before any reduction on account of age, but in no case shall such an annuity (before any reduction on account of age) be more than the maximum amount of a spouse's annuity as provided in subsection (e).

(j) In cases where an annuity awarded under subsection (a)(3) or (h) of this section or section 5(a) of this Act, 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)(1) The annuity of an individual shall be computed by multiplying his "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; and 1.79 per centum of the remainder up to a total of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum and taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater.

(2) The annuity of the individual (as computed under paragraph (1) of this subsection, or under that part of subsection (e) of this section preceding the first proviso) shall be increased in an amount determined from his monthly compensation by use of the following table:

Monthly compensation:	*Increase*
Up to $100	$9.13
$101 to $150	11.22
$151 to $200	12.87
$201 to $250	14.63
$251 to $300	16.17
$301 to $350	17.82
$351 to $400	19.47
$401 to $450	20.90
$451 to $500	22.55
$501 to $550	24.09
$551 to $600	27.83
$601 and over	31.46

The amount of the increase shall be the amount on the same line as that in which the range of monthly compensation includes his monthly compensation: *Provided, however*, That, for months with respect to which the individual is entitled to a supplemental annuity under sub-

section (j), the increase provided in this paragraph shall be reduced by 6.55 per centum of the amount determined under paragraph (1), or under that part of subsection (e) of this section which precedes the first proviso, which is based on the first $450 of the monthly compensation or an amount equal to the amount of the supplemental annuity payable to him, whichever is less: *Provided further*, That for months with respect to which the individual is entitled to a benefit under title II of the Social Security Act, the increase shall be reduced by (i) 17.3 per centum of such social security benefit if the increase has not been reduced pursuant to the preceding proviso or (ii) 11.5 per centum of such social security benefit if the increase has been reduced pursuant to the preceding proviso (disregarding for the purpose of this and the following proviso any increase in such benefit based on recomputations other than for the correction of errors after the first adjustment and any increases derived from legislation enacted after the Social Security Amendments of 1967): *And provided further*, That the amount computed under this subsection for any month shall not be less than the amount computed in accordance with paragraph (1), or under that part of subsection (e) of this section which precedes the first proviso, plus (i) $10 minus any reduction made pursuant to the first proviso of this paragraph or (ii) if the individual is entitled to a benefit under title II of the Social Security Act and no reduction is made pursuant to the first proviso of this paragraph, $10 minus 5.8 per centum of the lesser of the amount of such social security benefit, or of the amount computed in accordance with paragraph (1), or under that part of subsection (e) of this section which precedes the first proviso.

(3) The annuity computed under paragraphs (1) and (2) of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 15 per centum but not by more than $50. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $10.

(4) The annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 10 per centum.

(5) The individual's annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 20 per centum.

(6) If title II of the Social Security Act is amended to provide an increase in benefits payable thereunder at any time during the period July 1, 1973, through December 31, 1974, the individual's annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased in an amount equal to the difference between (i) the amount (before any reduction on account of age) which would be payable to such individual under the then current law if his or her annuity were computed under the first proviso of section 3(e) of this Act, without regard to the words "plus 10 per centum of such amount" contained therein; and (ii) the amount (before any reduction on account

of age) which would have been payable to such individual under the law as in effect prior to July 1, 1973, if his or her annuity had been computed under such first proviso of section 3(e) of this Act, without regard to the words "plus 10 per centum of such total amount" contained therein (assuming for this purpose that the eligibility conditions and the proportions of the primary insurance amounts payable under the then current Social Security Act had been in effect prior to July 1, 1973): Provided, however, That in computing such amount, only the social security benefits which would have been payable to the individual whose annuity is being computed under this Act shall be taken into account: Provided further, That if an annuity accrues to an individual for a part of a month the added amount payable for such part of a month under this section shall be one-thirtieth of the added amount payable under this section for an entire month, multiplied by the number of days in such part of a month. If wages or compensation prior to 1951 are used in making any computation required by this paragraph, the Railroad Retirement Board shall have the authority to approximate the primary insurance amount to be utilized in making such computation. In making any computation required by this paragraph, any benefit to which an individual may be entitled under title II of the Social Security Act shall be disregarded. For purposes of this paragraph, individuals entitled to an annuity under section 2(a)(2) of this Act shall be deemed to be age 65, and individuals entitled to an annuity under section 2(a)(3) of this Act who have not attained age 62 shall be deemed to be age 62. Individuals entitled to annuities under section 2(a)(4) or 2(a)(5) of this Act for whom no disability freeze has been granted shall be treated in the same manner for purposes of this paragraph as individuals entitled to annuities under section 2(a)(4) or 2(a)(5) for whom a disability freeze has been granted. In the case of an individual who is entitled to an annuity under this Act but whose annuity is based on insufficient quarters of coverage to have a benefit computed, either actually or potentially, under the first proviso of section 3(e) of this Act, the average monthly wage to be used in determining the amount to be added to the annuity of such individual shall be equal to the average monthly compensation or the average monthly earnings, whichever is applicable, used to enter the table in section 3(a)(2) of such Act for purposes of computing other portions of such individual's annuity.

(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 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 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 subsequent to December 31, 1936.

(2) In all other cases, the years of service shall include only the service subsequent to December 31, 1936.

(3) Where the years of service include only part of the service prior to January 1, 1937, the part included shall be taken in reverse order beginning with the last calendar month of such service.

(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 June 1, 1959, or in excess of $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 execess 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) The annuity of an individual who shall have been an employee representative shall be determined in the same manner and with the same effect as if the employee organization by which he shall have been employed were an employer.

(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, before any reduction pursuant to section 2(a)(3), be whichever of the following is the least: (1) $5.35 multiplied by the number of his years of service; or (2) $89.35; or (3) 118 per centum of his monthly compensation: *Provided, however*, That if for any month in which an annuity accrues and is payable under this Act the annuity to which an employee is entitled under this Act (or would have been entitled except for a reduction pursuant to section 2(a) 3 or a joint and survivor election), together with his or her spouse's annuity, if any, or the total of survivor annuities under this Act deriving from the same employee, is less than the 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 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 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, mutiplied 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.

For the purposes of the first proviso in the first paragraph of this subsection, (i) completely and partially insured individuals shall be deemed to be fully and currently insured, respectively; (ii) individuals entitled to insurance annuities under subsections (a)(1) and (d) of section 5 of this Act shall be deemed to have attained age 62 (the provisions of this clause shall not apply to individuals who, though entitled to insurance annuities under section 5(a)(1) of this Act, were entitled to an annuity under section 5(a)(2) of this Act for the month before the month in which they attained age 60); (iii) individuals entitled to insurance annuities under section 5(a)(2) of this Act shall be deemed to be entitled to insurance benefits under section 202(e) or (f) of the Social Security Act on the basis of disability; (iv) individuals entitled to insurance annuities under section 5(c) of this Act on the basis of disability shall be deemed to be entitled to insurance benefits under section 202(d) of the Social Security Act on the basis of disability; (v) women entitled to spouses' annuities pursuant to elections made under section 2(h) of this Act shall be deemed to be entitled to wives' insurance benefits determined under section 202(q) of the Social Security Act; (vi) individuals not entitled to an annuity under section 2 or 5 of this Act shall not be included in the computation under such first proviso except a spouse who could qualify for an annuity under section 2 (e) or (h) of this Act if the employee from whom the spouse's annuity under this Act would derive had attained age sixty-five, and such employee's children who meet the definition as such contained in section 216(e) of the Social Security Act; (vii) after an annuity has been certified for payment and such first proviso was inapplicable after allowing for any waiting period under section 223(c)(2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under such first proviso, or was then applicable but later became inapplicable, any recertification in such annuity under such first proviso shall not take into account individuals not entitled to an annuity under section 2 or 5 of this Act except a spouse who could qualify for an annuity under section 2(h) of this Act when she attains

age sixty-two if the employee from whom the spouse's annuity would derive had attained age sixty-five, and who was married to such employee at the time he applied for the employee annuity; (viii) in computing the amount to be paid under such first proviso, the only benefits under title II of the Social Security Act which shall be considered shall be those to which the individuals included in the computation are entitled; (ix) the average monthly wage for an employee during his lifetime shall include (A) only his wages and self-employment income creditable under the Social Security Act through the later of December 31, 1971, or December 31 of the year preceding the year in which his annuity began to accrue, and (B) his compensation up to the date his annuity began to accrue; and (x) in computing the average monthly wage in clause (ix) above, section 215(b)(2)(C)(ii) of the Social Security Act shall, solely for the purpose of including compensation up to the date the employee's annuity began to accrue, be deemed to read as follows: "the year succeeding the year in which he died or retired" and, for the purposes of this subsection, any possible deductions under subsections (g) and (h)(2) of section 203 of the Social Security Act shall be disregarded.

Notwithstanding the provisions of section 202(q) of the Social Security Act, the amount determined under the proviso in the first paragraph of this subsection for a widow or widower who is or has been entitled to an annuity under section 5(a)(2) of this Act, shall be equal to 90.75 per centum of the primary insurance amount (reduced in accordance with section 203(a) of the Social Security Act) of the employee as determined under this subsection, and the amount so determined shall be reduced by three-tenths of 1 per centum for each month the annuity would be subject to a reduction under section 5(a)(2) of this Act (adjusted upon attainment of age 60 in the same manner as an annuity under section 5(a)(1) of this Act which, before attainment of age 60, had been payable under section 5(a)(2) of this Act); and the amount so determined shall be reduced by the amount of any benefit under title II of the Social Security Act to which she or he is entitled.

In cases where an annuity under this Act is not payable under the first proviso in the first paragraph of this subsection on the date of enactment of the Social Security Amendments of 1967, the primary insurance amount used in determining the applicability of such proviso shall, except in cases where the employee died before 1939, be derived after deeming the individual on whose service and compensation the annuity is based (i) to have become entitled to social security benefits, or (ii) to have died without being entitled to such benefits, after the date of the enactment of the Social Security Amendments of 1967. For this purpose, the provision of section 215(b)(3) of the Social Security Act that the employee must have reached age 65 (62 in the case of a woman) after 1960 shall be disregarded and there shall be substituted for the nine-year period prescribed in section 215(d)(1)(B)(i) of the Social Security Act, the number of years elapsing after 1936 and up to the year of death if the employee died before 1946.

(f)(1) Annuities under section 2(a) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined

by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under section 5(f)(1) for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 5(f)(2).

(2) Insurance annuities under section 5 which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under section 5(f)(2).

(3) Annuities under section 2(e) which will have become due a spouse of an individual but which will not have been paid at the time of such spouse's death shall be payable to the individual from whose employment such spouse's annuity derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of paragraph (1) of this subsection as if such annuities were annuities due under section 2(a) to an individual but unpaid at the time of such individual's death.

(4) Applications for accrued and unpaid annuities provided for in paragraphs (1), (2), and (3) of this subsection shall be filed prior to the expiration of two years after the death of the person to whom such annuities were originally due.

(5) For the purposes of this subsection and paragraphs (1) and (2) of section 5(f) of this Act, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216(h)(2) or (3) of the Social Security Act, as in effect before 1957, are fulfilled.

(6) If there is no person to whom all or any part of the annuity payments described in paragraph (1), (2), or (3) can be made, such payments or part thereof shall escheat to the credit of the Railroad Retirement Account.

(g) No annuity shall accrue with respect to the calendar month in which an annuitant dies. 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.

(h) If an annuity is less than $5, it may, in the discretion of the Board, be paid quarterly or in a lump sum equal to its commuted value as determined by the Board.

(i) If the amount of any annuity computed under this section (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.

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 contribu-

tion, 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 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.

(4) Notwithstanding any other provision of this Act, no individual shall be entitled to a supplemental annuity provided by this subsection for any period after he renders any service as an employee for compensation after his supplemental annuity closing date determined as follows:

(A) Such closing date for an employee who attains age 68 before 1971 shall be January 31, 1971. Such closing date for an employee who attains age 68 during 1971 shall be the last day of the month following the month in which he attains age 68.

(B) Such closing date for an employee who attains age 67 during 1972 shall be the last day of the month following the month in which he attains age 67. Such closing date for an employee who attains age 67 during 1971 shall be January 31, 1972.

(C) Such closing date for an employee who attains age 66 during 1973 shall be the last day of the month following the month in which he attains age 66. Such closing date for an employee who attains age 66 during 1972 shall be January 31, 1973.

(D) Such closing date for an employee who attains age 65 after 1973 shall be the last day of the month following the month in which he attains age 65. Such closing date for an employee who attains age 65 during 1973 shall be January 31, 1974.

(5) For an employee whose supplemental annuity closing date (determined under paragraph (4)) occurs after he has completed at least 23 years of service and before he has completed 25 years of service and before he is entitled (or on application would be entitled) to monthly insurance benefits under section 202(a) of the Social Security Act, such date shall be extended to whichever of the following first occurs:

(A) the day before the first day of the first month for which he is entitled (or on application would be entitled) to monthly insurance benefits under section 202(a) of the Social Security Act, or

(B) the last day of the first month for which he qualifies for a supplemental annuity under this subsection.

(6) The provisions of paragraphs (4) and (5) shall not supersede the provisions of any agreement reached through collective bargaining between an employer and its employees which provides for mandatory retirement at an age less than the applicable supplemental annuity closing date determined under paragraphs (4) and (5).

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ANNUITIES AND LUMP SUMS FOR SURVIVORS

SEC. 5. (a) WIDOW'S AND WIDOWER'S INSURANCE ANNUITY.—(1) 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, except that if the widow or widower will have been paid an annuity under paragraph (2) of this subsection the annuity for a month under this paragraph shall be in an amount equal to the amount calculated under such paragraph (2) except that, in such calculation, any month with respect to which an annuity under paragraph (2) is not paid shall be disregarded: *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 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.

(2) A widow or widower of a completey insured employee who will have attained the age of fifty but will not have attained age sixty and is under a disability, as defined in this paragraph, and such disability began before the end of the period prescribed in the last sentence of this paragraph, shall be entitled to an annuity for each month, unless she or he has remarried in or before such month, equal to such employee's basic amount but subject to a reduction by three-tenths of 1 per centum for each calendar month she or he is under age sixty when the annuity begins. A widow or widower shall be under a disability within the meaning of this paragraph if her or his permanent physical or mental condition is such that she or he is unable to engage in any regular employment. The provisions of section 2(a) of this Act as to the proof of disability shall apply with regard to determinations with respect to disability under this paragraph. The annuity of a widow or widower under this paragraph shall cease upon the last day of the second month following the month in which she or he ceases to be under a disability unless such annuity is otherwise terminated on an earlier date. The period referred to in the first sentence of this paragraph is the period beginning with the latest of (i) the month of the employee's death, (ii) the last month for which she was entitled to an annuity under subsection (b) as the widow of such employee, or (iii) the month in which her or his previous entitlement to an annuity as the widow or widower of such employee terminated because her or his disability had ceased and ending with the month before the month in which she or he attains age sixty, or, if earlier with the close of the eighty-fourth month following the month with which such period began.

(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, 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 (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 section 2 in an amount greater than the widow's current insurance annuity, the widow's current insurance annuity shall be increased to such greater amount.

(c) CHILD'S INSURANCE ANNUITY.—Every child of an employee who will have died completely or partially insured shall be entitled, for so long as such child lives and meets the qualifications set forth in paragraph (1) of subsection (l), to an annuity for each month equal to two-thirds of the employee's basic amount.

(d) PARENT'S INSURANCE ANNUITY.—Each parent, sixty years of age or over, of a completely insured employee, who will have died leaving no widow, no widower, and no child, shall be entitled, for life, or, if such parent remarries after the employee's death, then until such remarriage, to an annuity for each month equal to two-thirds of the employee's basic amount.

(e) When there is more than one employee with respect to whose death a parent or child is entitled to an annuity for a month, such annuity shall be two-thirds of whichever employee's basic amount is greatest.

(f) LUMP-SUM PAYMENT.—(1) Upon the death, after the month in which this Act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of ten times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid—

(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 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 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 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 June 1, 1959, and in excess of $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 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 irrevo-

cable election, in such form as the Board may prescribe, to have such lump sum paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this section or, pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended. Such election shall be legally effective according to its terms. Nothing in this section shall operate to deprive a widow, widower, or parent making such election of any insurance benefits under title II of the Social Security Act, as amended, to which such widow, widower, or parent would have been entitled had this section not been enacted. The term "benefits" as used in this paragraph includes all annuities payable under this Act, lump sums payable under paragraph (1) of this subsection, and insurance benefits and lump-sum payments under title II of the Social Security Act, as amended, pursuant to subsection (k) of this section, except that the deductions of the benefits which, pursuant to subsection (k) (1) of this section, are paid under title II of the Social Security Act, during the life of the employee to him or to her and to others deriving from him or her, shall be limited to such portions of such benefits as are payable solely by reason of the inclusion of service as an employee in "employment" pursuant to said subsection (k) (1).

(g) CORRELATION OF PAYMENTS.—(1) An individual, entitled on applying therefor to receive for a month before January 1, 1947, an insurance benefit under the Social Security Act on the basis of an employee's wages, which benefit is greater in amount than would be an annuity for such individual under this section with respect to the death of such employee, shall not be entitled to such annuity. An individual, entitled on applying therefor to any annuity or lump sum under this section with respect to the death of an employee, shall not be entitled to a lump-sum death payment or, for a month beginning on or after January 1, 1947, to any insurance benefits under the Social Security Act on the basis of the wages of the same employee.

(2) If an individual is entitled to more than one annuity for a month under this section, such individual shall be entitled only to that one of such annuities for a month which is equal to or exceeds any other such annuity.

(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 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.

(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, deeming such an individual who is entitled to an annuity under subsection (a)(1) of this section to have attained age sixty-two unless such individual will have been entitled to an annuity under subsection (a)(2) of this section for the month before the month in which he attained age sixty, after 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 section 5 of the Retirement Acts as in effect before 1947 (other than a survivor annuity pursuant to an election);

(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) 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 (l)(1)(ii)(C) of this section, shall cease upon the last day of the second 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 such second month he qualifies for an annuity under one of the other provisions of this Act and unless his annuity is otherwise terminated on an earlier date.

(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)(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. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee. In the application of the Social Security Act pursuant to this paragraph to service as an employee, all service as defined in section 1(c) of this Act shall be deemed to have been performed within the United States.

(2) (A) (i) At the close of the fiscal year ending June 30, 1953, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amount, if any, which if added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund would place such Fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act. Such determination shall be made no later than June 15, following the close of the fiscal year. If such amount is to be added to the Federal Old-Age and Survivors Insurance Trust Fund, the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Railroad Retirement Account (hereinafter termed "Retirement Account") to the Federal Old-Age and Survivors Insurance Trust Fund; if such amount is to be subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Old-Age and Survivors Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest (at the rate determined in subparagraph (B) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification.

(ii) At the close of the fiscal year ending June 30, 1958, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amount, if any, which, if added to or subtracted from the Federal Disability Insurance Trust Fund would place such Fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act. Such determination shall be made no later than June 15, following the close of the fiscal year. If such amount is to be added to the Federal Disability Insurance Trust Fund the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Retirement Account to the Federal Disability Insurance Trust Fund; if such amount is to be subtracted from the Federal Disability Insurance Trust Fund the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Disability Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest (at the rate determined in subparagraph (B) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification.

(iii) At the close of the fiscal year ending June 30, 1966, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amount, if any, which, if added to or subtracted from the Federal Hospital Insurance Trust Fund, would place such fund in the same position in which it would have been if service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in

the Federal Insurance Contributions Act. Such determination shall be made no later than June 15 following the close of the fiscal year. If such amount is to be added to the Federal Hospital Insurance Trust Fund, the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Retirement Account to the Federal Hospital Insurance Trust Fund; and if such amount is to be subtracted from the Federal Hospital Insurance Trust Fund the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Federal Hospital Insurance Trust Fund to the Retirement Account. The amount so certified shall further include interest (at the rate determined under subparagraph (B) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification.

(B) For the purposes of subparagraph (A), for any fiscal year, the rate of interest to be used shall be equal to the average rate of interest, computed as of May 31 preceding the close of such fiscal year, borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eight of 1 per centum next lower than such average rate.

(C) The Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund from the Retirement Account or to the Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund, as the case may be, such amounts as, from time to time, may be determined by the Board and the Secretary of Health, Education, and Welfare pursuant to the provisions of subparagraph (A), and certified by the Board or the Secretary of Health, Education, and Welfare for transfer from the Retirement Account or from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund.

(3) The Board and the Secretary of Health, Education, and Welfare shall, upon request, supply each other with certified reports of records of compensation or wages and periods of service, of determinations under section 3(e) of this Act, or section 216(i) of the Social Security Act, of periods of disability within the meaning of such section 216(i), and of other records in their possession or which they may secure, pertinent to the administration of this section, section 3(e) of this Act, or title II of the Social Security Act as affected by paragraph (1). Such certified reports shall be conclusive in adjudication as to the matters covered therein (except in the case of a determination of disability under section 216(i) of the Social Security Act): *Provided*, That if the Board or the Secretary of Health, Education, and Welfare receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence, such recertification of such report shall be made as, in the judgment of the Board or the Secretary of Health, Education, and

Welfare, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

(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), (g) and (k) and section 202(h)(3) of the Social Security Act, respectively; and in addition—

(i) a "widow" or "widower" shall have been living with the employee at the time of the employee's death; a widower shall have received at least one-half of his support from his wife employee at the time of her death or he shall have received at least one-half of his support from his wife employee at the time her retirement annuity or pension began;

(ii) a "child" shall have been dependent upon its parent employee at the time of his death; shall not be adopted after such death by other than a stepparent, grandparent, aunt, uncle, brother or sister; shall be unmarried; 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 disability began before he attained age eighteen; and

(iii) a "parent" shall be 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) or (4) 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) of the Social Security Act shall be applied deeming, for this purpose, individuals entitled to an annuity under section 2 (e) or (h) to be entitled to benefits under subsection (b) or (c) of section 202 of the Social Security Act and individuals entitled to an annuity under subsection (a) or (b) of this section to be entitled to a benefit under subsection (e), (f), or (g) of section 202 of the Social Security Act. 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 (7) 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 22, 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 anuity; and the term "pension" shall mean a pension under section 6.

(3) The term "quarter of coverage" shall mean a compensation quarter of coverage or a wage quarter of coverage, and the term "quarters of coverage" shall mean compensation quarters of coverage, or wage quarters of coverage, or both: *Provided*, That there shall be for a single employee no more than four quarters of coverage for a single calendar year.

(4) The term "compensation quarter of coverage" shall mean any quarter of coverage computed with respect to compensation paid to an employee after 1936 in accordance with the following table:

Months of service in a calendar year	Total compensation paid in the calendar year				
	Less than $50	$50 but less than $100	$100 but less than $150	$150 but less than $200	$200 or more
to 3	0	1	1	1	1
4 to 6	0	1	2	2	2
7 to 9	0	1	2	3	3
10 to 12	0	1	2	3	4

If upon computation of the compensation quarters of coverage in accordance with the above table an employee is found to lack a completely or partially insured status which he would have if compensation paid in a calendar year were presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee, such presumption shall be made.

(5) The term "wage quarter of coverage" shall mean any quarter of coverage determined in accordance with the provisions of title II of the Social Security Act.

(6) The term "wages" shall mean wages as defined in section 209 of the Social Security Act. In addition, the term shall include (i) "self-employment income" as defined in section 211(b) of the Social Security Act, and (ii) wages deemed to have been paid under section 217 (a) or (e) of the Social Security Act on account of military service which is not creditable under section 4 of this Act. Wages, as defined in this paragraph, shall be credited for the purposes of this section in the manner and to the extent credited for corresponding purposes of title II of the Social Security Act.

(7) An employee will have been "completely insured" if it appears to the satisfaction of the Board that at the time of his death, whether before or after the enactment of this section, he will have completed ten years of service and will have had the qualifications set forth in any one of the following paragraphs:

(i) a current connection with the railroad industry; and a number of quarters of coverage, not less than six, and at least equal to one-half of the number of quarters, elapsing in the period after 1936, or after the quarter in which he will have attained the age of twenty-one, whichever is later, and up to but excluding the quarter in which he will have attained the age of sixty-five years or died, whichever will first have occurred (excluding from the elapsed quarters any quarter which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him); and if the number of such elapsed quarters is an odd number such number shall be reduced by one; or

(ii) a current connection with the railroad industry; and either will have had forty or more quarters of coverage or would be fully insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act; or

(iii) a pension will have been payable to him; or a retirement annuity based on service of not less than ten years (as computed in awarding the annuity) will have begun to accrue to him before 1948.

(8) An employee will have been "partially insured" at the time of his death, whether before or after the enactment of this section, if it appears to the satisfaction of the Board that he will have completed ten years of service and (i) will have had a current connection with the railroad industry; and (ii) either will have had six or more quarters of coverage in the period ending with the quarter in which he will have died or in which a retirement annuity will have begun to accrue to him and beginning with the third calendar year next pre-

ceding the year in which such event occurs, or would be currently insured under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act.

(9) An employee's "average monthly remuneration" shall mean the quotient obtained by dividing (A) the sum of (i) the compensation paid to him after 1936 and before the employee's closing date or January 1, 1951, whichever is later, 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, 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, and (ii) if such compensation in the period before 1951 is less than $50,400, or for any calendar year after 1950 and 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 period of 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 period and $50,400, and between the compensation for such year and $3,600 for years after 1950 and 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 or January 1, 1951, whichever is later: *Provided*, That for the period after 1950 but 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 after 1950 which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him, any calendar quarter before 1951 in which a retirement annuity will have been payable to him and any calendar quarter before 1951 and before the year in which he will have attained the age of 20. 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.

(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) 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 (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 1950 in each of which the compensation, wages, or both, paid to him will have been equal to $200 or more plus, for the years after 1936 and before 1951, a number of years determined in accordance with regulations prescribed by the Board; 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 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, 52.4 per centum of the average monthly earnings on which such pension was computed, up to and including $75, plus 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 $43.15, except that if the pension payable to him was less than $32.37, such amount shall be four-thirds of the amount of the pension or $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) The amount of an individual's annuity calculated under the preceding provisions of this section (except an annuity in the amount determined under the proviso in subsection (a) or (b)) shall (before any reduction on account of age) be increased in the amount of 82.5 per centum in the case of a widow, widower, or parent and 75 per centum in the case of a child of the increase shown in the table in section 3(a)(2) on the same line on which the range of monthly compensation includes an amount equal to the average monthly wage determined for the purposes of section 3(e) (except that for cases involving earnings before 1951 and for cases on the Board's rolls on the enactment date of the 1967 amendments to the Railroad Retirement Act, an amount equal to the highest average monthly wage that can be found on the same line of the table in section 215(a) of the Social Security Act as is the primary insurance amount recorded in the records of the Railroad Retirement Board shall be used, and if such an average monthly wage cannot be determined, the employee's monthly compensation on which his annuity was computed shall be used; and in the case of a pensioner, his monthly compensation shall be deemed to be the earnings which are used to compute his basic amount) : *Provided, however*, That the increase shall (before any reduction on account of age) be reduced by 17.3 per centum of any benefit under title II of the Social Security Act to which the individual is entitled (disregarding for the purpose of this and the following proviso any increase in such benefit based on recomputations other than for the correction of errors after the first adjustment and any increases derived from legislation enacted after the Social Security Amendments of 1967) : *And provided further*, That the amount computed under this subsection shall (before any reduction on account of age) not be less than $5, or, in the case of an individual entitled to benefits under title II of the Social Security Act, such amount shall not be less than $5 minus 5.8 per centum of the lesser of the social security benefit to which such individual is entitled or the benefit computed under the preceding provisions of this section.

(n) The annuity computed under the preceding provisions of this section shall be increased by 15 per centum but not by more than $25. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $5.

(o) The annuity computed under the preceding provisions of this section shall be increased by 10 per centum.

(p) A survivor's annuity computed under the preceding provisions of this section (except an annuity in the amount determined under the proviso in subsection (a) or (b)) shall (before any reduction on account of age) be increased by 20 per centum.

(q) A survivor's annuity computed under the preceding provisions of this section shall be increased in an amount determined by the method of computing increases set forth in subsection (a)(6) of section 3: Provided, however, That in computing such an amount for an individual entitled to an annuity under subsection 5(a)(2), the 90.75 per centum figure appearing in the third paragraph of section 3(e) of this Act shall be deemed to be 82.5 per centum.

RAILROAD RETIREMENT TAX ACT

(Chapter 22 of the Internal Revenue Code of 1954)

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CHAPTER 22—RAILROAD RETIREMENT TAX ACT

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Subchapter A—Tax on Employees

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SEC. 3201. RATE OF TAX

[In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to—

[(1) 6¼ 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) 7 percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1966.

[(4) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1967, and

[(5) 7½ 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: *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, 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).]

In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to the rate of the tax imposed with respect to wages by section 3101(a) of the Internal Revenue Code of 1954 plus the rate imposed by section 3101(b) of such Code of so much

of the compensation paid to such employee for services rendered by him after September 30, 1973, as is not in excess of 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 for any month after September 30, 1973.[1]

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] *September 30, 1973*, by more than one employer for services rendered during any calendar month after [September 30, 1965] *September 30, 1973*, 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] *September 30, 1973*, 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 with respect to such compensation paid by all such employers which the compensation paid by him after [September 30, 1965] *September 30, 1973*; to the employee for services rendered during such month bears to the total compensation paid by all such employers after [September 30, 1965] *September 30, 1973*, 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] *September 30, 1973*, 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] *September 30, 1973*, to such employee for services rendered during such month bears to the total compensation paid by all such employers after [September 30, 1965] *September 30, 1973*, 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.[2]

* * * * * * *

[1] Effective January 1, 1975, this section will be further amended by striking out the entire section and inserting in lieu thereof the following:

"In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to the employee rate prescribed under section 3231(i) plus the sum of the rates of tax imposed with respect to wages by section 3101(a) and section 3102(b) of the Internal Revenue Code of 1954 of so much of the compensation paid to such employee for services rendered by him after December 31, 1974, as is not in excess of 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 for any month after December 31, 1974."

[2] Effective January 1, 1975, this section will be further amended by striking "September 30, 1973," each place it appears and inserting in lieu thereof "December 31, 1974".

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) 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) 14 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1966,

[(4) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1967, and

[(5) 15 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: *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, 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).]

(a) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 9.5 percent plus the sum of the rates of tax imposed with respect to wages by sections 3101(a), 3101(b), 3111(a), and 3111(b) of the Internal Revenue Code of 1954 of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1974, as is not in excess of 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 for any month after September 30, 1973.[3]

(b) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax at a rate equal to the rate of excise tax imposed on every employer, provided for in section 3221(c), for each man-hour for which compensation is paid to him for services rendered as an employee representative.

* * * * * * *

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[3] Effective January 1, 1975, this section will be further amended by striking "9.5" and inserting in lieu thereof "17.0" and striking "September 30, 1973" and inserting in lieu thereof "December 31, 1974".

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) 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) 7 percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1966,

[(4) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1967, and

[(5) 7½ 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;]

(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 9.5 percent of so much of the compensation paid by such employer for services rendered to him after September 30, 1973, as is, with respect to any employee for any calendar month, not in excess of 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 for any month after September 30, 1973; except that if an employee is paid compensation after [September 30, 1965] *September 30, 1973*, by more than one employer for services rendered during any calendar month after [September 30, 1965] *September 30, 1973*, 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,] *1954* for any month after [September 30, 1965] *September 30, 1973*, of the aggregate compensation paid to such employee by all such employers after [September 30, 1965] *September 30, 1973*, 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] *September 30, 1973*, to the employee for services rendered during such month bears to the total compensation paid by all such employers after [September 30, 1965] *September 30, 1973*, 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] *September 30, 1973*, 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] *September 30, 1973*, to such employee for services rendered during such month bears to the total compensation paid by all such empoyers after [September 30, 1965] *September 30, 1973*, 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 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 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).]

(b) The rate of tax imposed by subsection (a) shall be increased with respect to compensation paid for services rendered after September 30, 1973, by the rate of tax imposed with respect to wages by section 3111(a) of the Internal Revenue Code of 1954 plus the rate imposed by section 3111(b) of such Code.

(c) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during any calendar quarter, (1) at the rate of 2 cents for the period beginning November 1, 1966, and ending March 31, 1970, and (2) commencing April 1, 1970, at such rate as will make available for appropriation to the Railroad Retirement Supplemental Account provided for in section 15(b) of the Railroad Retirement Act of 1937 sufficient funds to meet the obligation to pay supplemental annuities under section 3(j) of such Act and administrative expenses in connection therewith. For the purpose of this subsection, the Railroad Retirement Board is directed to determine what rate is required for each calendar quarter commencing with the quarter beginning April 1, 1970. The Railroad Retire-

ment Board shall make the determinations provided for not later than fifteen days before each calendar quarter. As soon as practicable after each determination of the rate, as provided in this subsection, the Railroad Retirement Board shall publish a notice in the Federal Register, and shall advise all employers, employee representatives, and the Secretary of the Treasury, of the rate so determined. 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.

(d) Notwithstanding the provisions of subsection (c) of this section, the tax imposed by such subsection (c) shall not apply to an employer with respect to employees who are covered by a supplemental pension plan which is established pursuant to an agreement reached through collective bargaining between the employer and employees. There is hereby imposed on every such employer an excise tax equal to the amount of the supplemental annuity paid to each such employee under section 3(j) of the Railroad Retirement Act of 1937, plus a percentage thereof determined by the Railroad Retirement Board to be sufficient to cover the administrative costs attributable to such payments under section 3(j) of such Act.[4]

* * * * * * *

SEC. 3231. Definitions.

* * * * * * *

(i) Employee rate; Employer Rate.—The sum of the 'employee rate' for purposes of section 3201 and the "employer rate" for purposes of section 3201 and the "employer rate" for purposes of section 3221(a) shall be 7.5 percent subject to such division as may be provided by future amendments to this subsection.

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[4] Effective January 1, 1975, this section will be further amended by striking "September 30, 1973" each place it appears and inserting in lieu thereof "December 31, 1974." Further "the employer rate prescribed under section 3231(i) plus" will be inserted between "equal to" and "9.5 percent" in the first sentence of subsection (a).

PUBLIC LAW 91-377

AN ACT To amend the Railroad Retirement Act of 1937 to provide a temporary 15 per centum increase in annuities, to change for a temporary period the method of computing interest on investments of the railroad retirement accounts, 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(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following paragraph:

"(3) The annuity computed under paragraphs (1) and (2) of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 15 per centum but not by more than $50. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $10."

SEC. 2. (a) Section 2(e) of the Railroad Retirement Act of 1937 is amended by inserting "without regard to section 3(a)(3) of this Act" after "of such individual's annuity" and by inserting "as in effect before 1970" after "or pension" and by inserting at the end thereof the following paragraph:

"The spouse's annuity computed under other provisions of this section shall be increased by 15 per centum but not by more than $25. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $5. The two preceding sentences shall not operate to increase the annuity to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection."

(b) Section 2(i) if the Railroad Retirement Act of 1937 is amended by inserting "without regard to the last paragraph of such subsection (e)" after "subsections (e) and (h) of this section".

SEC. 3. Section 5 of the Railroad Retirement Act of 1937 is amended by striking from subsection (m) the words "other provisions" wherever they appear in such subsection and substituting in lieu thereof in each instance the words "preceding provisions", and by inserting at the end thereof the following subsection:

"(n) The annuity computed under the preceding provisions of this section shall be increased by 15 per centum but not by more than $25. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $5."

SEC. 4. (a) The provisions of this Act shall be effective with respect to annuities accruing for months after December 1969 and with respect to pensions due in calendar months after January 1970. For the purposes of this Act, (i) any increase in an individual's social security benefit based on recomputations other than for the correction of errors after the first adjustment, or derived from legislation enacted after the Social Security Amendments of 1969, shall be disregarded, and (ii) the increases, offsets and reductions provided for herein, shall apply before any reduction in an annuity on account of age.

(b)(1) All pensions under section 6 of the Railroad Retirement Act of 1937, and all annuities under the Railroad Retirement Act of 1935 shall be increased by 15 per centum; all survivor annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 and all widows' and widowers' insurance annuities which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937 are payable in the amount of the spouse's annuity to which the widow or widower was entitled shall, in cases where the employee died in or before the month in which the increases in annuities provided in section 1 are effective, be increased by 15 per centum: *Provided, however,* That in cases where the individual entitled to such a pension or annuity is entitled also to a benefit under title II of the Social Security Act, the additional amount payable by reason of this subsection shall be reduced by the difference between the amount the individual in entitled to in such a benefit and the amount to which such individual would have been entitled had the Social Security Amendments of 1969 not been enacted: *And provided further,* That (i) the offset required by this subsection shall not operate to reduce the increase herein provided in an annuity under the Railroad Retirement Act of 1935 or a pension to an amount less than $10, and (ii) the offset required by this section shall not operate to reduce the increase herein provided in such a survivor annuity derived from a joint and survivor annuity and such a widow's or widower's annuity in an amount formerly received as a spouse's annuity to an amount less than $5. Joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act and reduced by the percentage determined in accordance with the election of such annuity.

(2) All recertifications required by reason of the amendments made by this title shall be made by the Railroad Retirement Board without application therefor.

(c) For the purposes of this Act, the amount of a social security benefit computed under the Social Security Amendments of 1967 shall be deemed to be an amount equal to 87 per centum of such benefit computed under the Social Security Amendments of 1969, and the amount by which an individual's social security benefit was increased by reason of the Social Security Amendments of 1969 shall be deemed to be 13 per centum of such individual's social security benefit as computed under the Social Security Amendments of 1969.

SEC. 6. The first four sections of this Act, and the amendments made by such sections, shall cease to apply as of the close of [June 30, 1973] *December 31, 1974.* Annuities accruing for months after [June 30, 1973] *December 31, 1974,* and pensions due in calendar months after [June 30, 1973] *December 31, 1974,* shall be computed as if the first four sections of this Act, and the amendment made thereby, had not been enacted.

* * * * * * *

PUBLIC LAW 92-46

AN ACT To amend the Railroad Retirement Act of 1937 to provide a 10 per centum increase in annuities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new paragraph:

"(4) The annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 10 per centum."

SEC. 2. (a) Section 2(e) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out "section 3(a)(3) of this Act" and inserting in lieu thereof "section 3(a) (3) or (4) of this Act";

(2) by inserting "(before any reduction on account of age)" immediately after "shall" in the first sentence of the last paragraph;

(3) by striking out the last sentence; and

(4) by adding at the end thereof the following new paragraph:

"The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased by 10 per centum. The preceding sentence and the next preceding paragraph shall not operate to increase the annuity to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection. This paragraph shall be disregarded in the application of the preceding paragraph."

(b)(1) Section 2(i) of such Act is amended by striking out "the last paragraph" and inserting in lieu thereof "the last two paragraphs"

(2) Section 2(i) of such Act is further amended by inserting "or in that part of section 3(e) preceding the first proviso, or of the pension," immediately after "section 3(a)(1)".

(c) Section 2(j) of such Act is amended by inserting ", or section 5 (a) of this Act," after "this section".

SEC. 3. Section 5 of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following subsection:

"(o) The annuity computed under the preceding provisions of this section shall be increased by 10 per centum."

SEC. 4. For the purposes of approximating the offsets in railroad retirement benefits for increases in social security benefits by reason of amendments prior to the Social Security Amendments of 1971, the Railroad Retirement Board is authorized to prescribe adjustments in the percentages in the Railroad Retirement Act of 1937, and laws pertaining thereto, in order that these percentages, when applied against current social security benefits not in excess of $275.80 a month, will produce approximately the same amounts as those computed under the law in effect, except for changes in the wage base, before the Social Security Amendments of 1971 were enacted.

SEC. 5. All pensions under section 6 of the Railroad Retirement Act of 1937, and all annuities under the Railroad Retirement Act of 1935,

shall be increased by 10 per centum. All survivor annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 and all widows' and widowers' insurance annuities which are payable in the amount of the spouse's annuity to which the widow or widower was entitled shall, in cases where the employee died in or before the month in which the increases in annuities provided in section 2 of this Act are effective, be increased by 10 per centum. Joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act of 1937 and shall be reduced by the percentage determined in accordance with the election of such annuity.

SEC. 6. All recertifications required by reason of the amendments made by this Act shall be made by the Railroad Retirement Board without application therefor.

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SEC. 8. (a) The provisions of this Act shall be effective with respect to annuities accruing for months after December 1970 and with respect to pensions due in calendar months after January 1971; except that increases in benefits for months prior to the month of enactment of this Act shall be payable only to an individual who is entitled to an annuity or pension for the month of enactment, or who becomes so entitled in later months, on the basis of the same earnings record.

(b) The first six sections of this Act, and the amendments made by such sections (other than the amendments made by subsections (a)(2), (b)(2), and (c) of section 2), shall cease to apply as of the close of [June 30, 1973] *December 31, 1974.* Annuities accruing for months after [June 30, 1973] *December 31, 1974*, and pensions due in calendar months after [June 30, 1973] *December 31, 1974*, shall be computed as if the first six sections of this Act, and the amendments made by such sections (other than the amendments made by subsections (a)(2), (b)(2), and (c) of section 2), had not been enacted.

* * * * * * *

PUBLIC LAW 92-460

AN ACT To amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the 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 (a) section 3(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new paragraph:

"(5) The individual's annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 20 per centum.".

(d) Section 3(e) of such Act is amended—

(1) by striking out "section 3(a) (3) or (4) of this Act" and inserting in lieu thereof "section 3(a) (3), (4), or (5) of this Act";

(2) by striking out the second sentence of the last paragraph; and

(3) by adding at the end thereof the following new paragraph: "The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased by 20 per centum. The preceding sentence and the other provisions of this subsection shall not operate to increase the spouse's annuity (before any reduction on account of age) to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection. This paragraph shall be disregarded in the application of the preceding two paragraphs."

(c) Section 2(i) of such Act is amended by striking out "the last two paragraphs" and inserting in lieu thereof "the last paragraph plus the two preceding paragraphs".

(d) Section 3(e) of such Act is amended—

(1) by striking out the word "and" after clause (iv) in the second paragraph thereof and inserting after the semicolon in clause (v) in such second paragraph the following new clauses: "(vi) individuals not entitled to an annuity under section 2 or 5 of this Act shall not be included in the computation under such first proviso except a spouse who could qualify for an annuity under section 2(e) or (h) of this Act if the employee from whom the spouse's annuity under this Act would derive had attained age sixty-five, and such employee's children who meet the definition as such contained in section 216(e) of the Social Security Act; (vii) after an annuity has been certified for payment and such first proviso was inapplicable after allowing for any waiting period under section 223(c)(2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under such first proviso, or was then applicable but later became inapplicable, any recertification in such annuity under such first proviso shall not take into account individuals not entitled to an annuity under section 2 or 5 of this Act except a spouse who could qualify for an annuity under such 2(h) of this Act when she attains age sixty-two if the employee from whom the spouse's annuity would derive had attained age sixty-five, and who was married to such employee at the time he applied for the employee annuity; (viii) in computing the amount to be paid under such first proviso, the only benefits under title II of the Social Security Act which shall be considered shall be those to which the individuals included in the computation are entitled; (ix) the average monthly wage for an employee during his lifetime shall include (A) only his wages and self-employment income creditable under the Social Security Act through the later of December 31, 1971, or December 31 of the year preceding the year in which his annuity began to accrue, and (B) his compensation up to the date his annuity began to accrue; and (x) in computing the average monthly wage in clause (ix) above, section 215(b)(2)(C)(ii) of the Social Security Act shall, solely for the purpose of including compensation up to the date the employee's annuity began to accrue, be deemed to read as follows: 'the year succeeding the year in which he died or retired' "; and

(2) by striking out in the third paragraph thereof ", or on application, would be".

(e) Section 5(l)(1) of such Act is amended by striking out from the first sentence thereof "and (g)" and inserting in lieu thereof "(g), and (k)".

(f) Section 5 of such Act is further amended by inserting at the end thereof the following new subsection:

"(p) A survivor's annuity computed under the preceding provisions of this section (except an annuity in the amount determined under the proviso in subsection (a) or (b)) shall (before any reduction on account of age) be increased by 20 per centum."

SEC. 2. (a) All pensions under section 6 of the Railroad Retirement Act of 1937, all annuities under the Railroad Retirement Act of 1935, and all surviror annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 shall be increased by 20 per centum.

(b) All such widows' and widowers' insurance annuities which are payable in the amount of the spouse's annuity to which the widow or widower was entitled, shall, in cases where the employee died prior to October 1, 1972, be increased by 20 per centum.

(c) All such joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act of 1937 and shall be reduced by the percentage determined in accordance with the election of such annuity.

SEC. 3. All recertifications required by reason of the amendments made by this Act shall be made by the Railroad Retirement Board without application therefor.

SEC. 4. For the purposes of approximating the offsets in railroad retirement benefits for increases in social security benefits by reason of amendments prior to the Social Security Amendments of 1971, the Railroad Retirement Board is authorized to prescribe adjustments in the percentages in the Railroad Retirement Act of 1937 and laws pertaining thereto in order that these percentages, when applied against current social security benefits not in excess of the primary insurance amount applicable for an average monthly wage of $650, will produce approximately the same amounts as those computed under the law in effect, except for changes in the wage base, before the Social Security Amendments of 1971 were enacted.

SEC. 5. (a) The amendments made by this Act, except for subsections (d) and (e) of section 1, shall be effective with respect to annuities accruing for months after August, 1972 and with respect to pensions due in calendar months after September, 1972. The provisions of clauses (vi) through (x), which are added by section 1(d)(1) of this Act, and the provisions of section 1(d)(2) of this Act, shall be effective as follows: clause (vi) shall be effective with respect to annuities awarded after the enactment of this Act; clauses (vii) and (viii), and the provisions of section (1)(d)(2), shall be effective with respect to annuities awarded or recertified after the enactment of this Act; and clauses (ix) and (x) shall be effective with respect to calendar years after 1971.

(b) The first three sections of this Act, except for subsections (d) and (e) of section 1, and the amendments made by such sections, shall cease to apply as of the close of [June 30, 1973] *December 31, 1974.*

Annuities accruing for months after [June 30, 1973] *December 31, 1974*, and pensions due in calendar months after [June 30, 1973] *December 31, 1974*, shall be computed as if the first three sections of this Act, except for subsections (d) and (e) of section 1, and the amendments made by such sections, had not been enacted.

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INTERSTATE COMMERCE ACT

* * * * * * *

COMPLAINTS TO AND INVESTIGATIONS BY COMMISSION

SEC. 13. (1) That any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this part, in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the Commission. If such common carrier within the time specified shall make reparation for the injury alleged to have been done, the common carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier or carriers shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

(2) Said Commission shall, in like manner and with the same authority and powers, investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory at the request of such commissioner or commission, and the Interstate Commerce Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made, to or before said Commission by any provision of this part, or concerning which any question may arise under any of the provisions of this part, or relating to the enforcement of any of the provisions of this part. And the said Commission shall have the same powers and authority to proceed with any inquiry instituted on its own motion as though it had been appealed to by complaint or petition under any of the provisions of this part, including the power to make and enforce any order or orders in the case, or relating to the matter or thing concerning which the inquiry is had excepting orders for the payment of money. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. Repre-

sentatives of State commissions sitting with the Commission, under the provisions of this section, in cases pending before the Commission, shall receive such allowances for travel and subsistence expense as the Commission shall provide.

(3) Whenever in any investigation under the provisions of this part, or in any investigation instituted upon petition of the carrier concerned, which petition is hereby authorized to be filed, there shall be brought in issue any rate, fare, charge, classification regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of Federal control, the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this part or part III with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the Commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this part or part III.

(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce (which the Commission may find without a separation of interstate and intrastate property, revenues, and expenses, and without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State), which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, discrimination, or burden: *Provided*, That upon the filing of any petition authorized by the provisions of paragraph (3) hereof to be filed by the carrier concerned, the Commission shall forthwith institute an investigation as aforesaid into the lawfulness of such rate, fare, charge, classification, regulation, or practice (whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected

thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(5) Whenever, under the provisions of paragraph (4) of section 15a of this part, the Commission permits or authorizes any increase in the general level of rates, it shall require that any carrier or group of carriers making such an increase effective shall make it effective concurrently both as to interstate rate, fares, charges, classifications, regulations or practices and those made or imposed by authority of any State; and such intrastate increases shall be deemed to have been prescribed within the meaning and under the authority of paragraph (4) of this section: Provided, however, That to the extent any increases in rate finally authorized by the Commission under paragraph (4) of section 15a are less than increases in rates initially made effective hereunder, the carrier or carriers shall upon demand, subject to such tariff provisions as the Commission shall deem sufficient, make refunds in the amount by which the initially increased rate collected exceeds the finally authorized increased rate.

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RULE OF RATE MAKING

SEC. 15a. (1) When used in this section the term "rates" means rates, fares, and charges, and all classifications, regulations, and practices relating thereto.

(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management to provide such service.

(3) In a proceeding involving competition between carriers of different modes of transportation subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act.

(4)(a) The Commission shall by rule establish within ninety days after the date of enactment of this Act requirements for petitions for adjustment of interstate and intrastate rates of common carrier by railroad based upon increases in expenses of such carriers pursuant to section 102 of the Railroad Retirement Amendments of 1973. Such requirements established pursuant to section 553 of title 5, United States Code, shall be designed to facilitate fair and expeditious action on any such petition as required in paragraph (b) of this subsection by disclosing such information as the amount needed in rate increases

to offset such increases in expenses and the availability of means other than a rate increase by which the carrier might absorb or offset such increases in expenses.

(b) (1) The Commission shall, within sixty days of the filing of a verified petition by any carrier or group of carriers in accordance with rules promulgated under paragraph (a) of this subsection, act upon said petition.

(2) Prior to action upon any provision in a verified petition which relates to intrastate rates, the Commission shall request from any State authority having jurisdiction over any such rates within ten days from the filing of such petition, a recommendation as to the action the Commission should take. The Commission shall give due regard to any such recommendation received within forty-five days from the date of request.

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