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SENATE

REPORT
No. 93-215

AMENDMENTS TO THE RAILROAD RETIREMENT ACT

JUNE 13, 1973.—Ordered to be printed.

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

REPORT

[To accompany H.R. 7357]

The Committee on Labor and Public Welfare and the Committee on Finance, to which was referred the bill (H.R. 7357) to amend section 5(l)(1) of the Railroad Retirement Act of 1937 to simplify administration of the act; and to amend section 226(e) of the Social Security Act to extend kidney disease medicare coverage to railroad employees, their spouses, and their dependent children; and for other purposes, having considered the same, report favorably thereon and recommend that the bill do pass with amendments.

The committee amendment is in the nature of a substitute. The committee accepted the provisions of H.R. 7357, but added one amendment, which together with the provisions of H.R. 7357 were consolidated into the committee substitute. The new provision added by the committee was recommended to it by the Railroad Retirement Board. This amendment is technical in nature and conforms to the provision of present law which permits the Railroad Retirement Board to disregard postretirement earnings in computing the Social Security guaranty rate.

PURPOSE OF THE BILL

The bill has three major purposes: (1) to simplify administration of the social security minimum guaranty provision contained in section 3(e) of the Railroad Retirement Act; (2) to liberalize the eligibility conditions for children's benefits under the Railroad Retirement Act to conform with the liberalizations provided in such benefits under the Social Security Act by Public Law 92-603, approved October 30, 1972; and (3) to extend kidney disease medicare coverage to railroad employees, their spouses, and their dependent children on the same basis as such coverage is now provided for persons insured under the Social Security Act.

Background

Section 3(e) of the Railroad Retirement Act contains what 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. The implementation of this provision had become more and more difficult with each amendment to the Social Security Act since 1965, and, therefore, certain technical amendments to section 3(e) of the Railroad Retirement Act were proposed in 1972 for the purpose of simplifying the administration of the guaranty provision. These amendments were enacted on October 4, 1972, as Public Law 92–460.

One of the amendments enacted by Public Law 92–460 added clauses (ix) and (x) to section 3(e) of the Railroad Retirement Act. These clauses were added in order to relieve the Railroad Retirement Board of the burden of policing an employee's earnings record after his annuity had been awarded and of making recomputations to determine whether the guaranty provision would, in light of any such earnings, provide a higher benefit to the employee than the regular railroad retirement annuity formula. Since inclusion of the latest social security earnings generally did not result in an increase in the amount payable under the guaranty provision and since it is a rare case where inclusion of such earnings would result in an employee's annuity previously paid at the rate provided by the regular railroad retirement formula being transferred to the guaranty provision rate, clauses (ix) and (x) permit the Board to disregard the employee's earnings after retirement in computing his "average monthly wage". These provisions fully accomplished their intended purpose at the time of their enactment because under the then existing law the amounts of any benefits payable to an employee under the guaranty provision were related to the amount of his average monthly wage. Shortly thereafter, however, the Social Security Act was amended by Public Law 92–603 (approved October 30, 1972) to provide special minimum primary insurance amounts (section 215(a)(3) of that Act) and so-called "increment month" increases (section 202(w) of that Act), neither of which were related to the employee's average monthly wage. Therefore, clauses (ix) and (x) of section 3(e) cannot, under present law, be applied in making guaranty provisions computations as to the amount of a retired employee's special primary insurance amount or increment increases, thereby defeating the purpose of those clauses to a significant extent. The provisions of section 1 of the bill would remedy this situation so as to fully effectuate the original purpose of the clauses in question.

When technical amendments were originally proposed in 1972 to simplify the administration of the guaranty provision of section 3(e) of the Railroad Retirement Act, several provisions were included, the enactment of which was contingent upon the enactment of H.R. 1,

which was then being considered by the 92d Congress. Since it was believed that H.R. 1 would not be enacted in 1972, those provisions were deleted before the technical amendments of 1972 were enacted as Public Law 92–460. Subsequently, however, H.R. 1 was enacted, on October 30, 1972, as Public Law 92–603 and, therefore, the aforementioned provisions which were deleted from the 1972 Railroad Retirement Act technical amendments are included in this bill. The costs resulting from these provisions, together with the costs and savings from the technical amendments previously enacted in 1972 and additional financial interchange gains because of the enactment of Public Law 92–603, balance out, so that no financial burden to the railroad retirement system would result therefrom.

In 1965, when the medicare program was established, persons age 65 and over who were insured under the Railroad Retirement Act were provided the same hospital insurance and supplemental medical insurance benefits as persons insured under the Social Security Act. Again, when medicare coverage was extended in 1972 by Public Law 92–603 to disabled individuals under age 65, such coverage was accorded disabled railroad retirement beneficiaries on the same basis as to disabled social security beneficiaries. Public Law 92–603, however, also provided medicare coverage for certain individuals covered under the Social Security Act who need treatment for kidney disease, but, through an oversight, this provision failed to extend such benefits to individuals covered under the Railroad Retirement Act. This bill would correct that oversight. This provision was considered by the Committee on Finance, which has jurisdiction over the Social Security Act, and that committee submitted the following letter for inclusion in this report:

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 June 1, H.R. 7357, a bill affecting persons covered under the Railroad Retirement Act, was referred jointly to the Committee on Finance and the Committee on Labor and Public Welfare. On June 5, the Committee on Labor and Public Welfare ordered the bill favorably reported with an amendment striking everything after the enacting clause and adding instead a committee substitute. The committee amendment, like the House bill contains an amendment to the Social Security Act, which is within the jurisdiction of the Committee on Finance.

Last year, as part of Public Law 92–603, the Congress agreed to cover under Medicare all those persons who are fully or currently insured under social security, and their dependents, if they are medically determined to have chronic renal disease which necessitates kidney dialysis or implantation. This coverage begins with the third month after the course of dialysis is initiated, and it terminates 12 months after implantation or 12 months after dialysis is terminated. Under the amendment, the Secretary of Health, Education, and Welfare is authorized to limit reimbursement for implantation and dialysis procedures to centers which meet requirements he prescribes, including

requirements for a minimal utilization rate and for a medical review board to screen the appropriateness of the patient for the procedure. The new coverage becomes effective June 1, 1973.

With the exception of this new provision, the Medicare law applies equally to social security beneficiaries and railroad retirement beneficiaries. However, last year's provision extending Medicare coverage to persons needing kidney implantation or dialysis omitted any reference to railroad retirement beneficiaries. H.R. 7357 would correct this omission by extending the new provision to persons under the railroad retirement program.

On June 6, 1973, the Committee on Finance met in executive session and agreed to favorably report this provision.

I would appreciate it if you would include this letter in the joint committee report that will be filed on H.R. 7357.

With every good wish, I am

Sincerely,

CHAIRMAN.

REPORTS OF EXECUTIVE DEPARTMENTS AND AGENCIES

The report of the agency concerned with this bill is set forth in the appendix to this report. The bill was initiated by the Railroad Retirement Board and is supported by railroad management (Association of American Railroads) and railroad labor (Congress of Railway Unions and Railway Labor Executives' Association).

GENERAL EXPLANATION OF THE BILL

(1) Under present law the Railroad Retirement Board must take into account an employee's earnings in and after the year of retirement for some purposes in computing the amount of the benefit which would be payable to him under the social security minimum guaranty provision contained in section 3(e) of the Railroad Retirement Act and must disregard such earnings for other purposes in making the same computation. The amendments made by the bill would require the Board to disregard such earnings for all purposes in making the guaranty provision computation as to the amount of the benefit which would be payable to an employee thereunder. (Section 1.)

(2) Some eligibility conditions for benefits under the Social Security Act were liberalized by certain provisions in Public Law 92-603. Thus, a child's survivor benefit will continue after his adoption by anyone (in general, an adopted child's benefit entitlement previously continued only if he was adopted by a close relative); a survivor benefit will be paid to a child for a disability which began before age 22, instead of before age 18; a student child will continue to receive benefits after age 22 in some cases; and a dependent grandchild will be treated as a child of his grandparent. This bill would make the same liberalizations for annuities payable under the Railroad Retirement Act. The enactment of these provisions would also simplify administration of the guaranty provision of section 3(e) of the act. In computing annuity amounts payable under this provision, the Railroad Retirement Board is required to include certain spouses and children even if such persons could not themselves qualify for railroad retire-

ment annuities. The complications arising from the inclusion in the computation of the new categories of "ineligible persons" created by the provisions of Public Law 92–603 would be avoided by these amendments. (Section 2.)

(3) Section 299I of Public Law 92–603 extended medicare coverage to individuals insured under the Social Security Act, their spouses, or their dependent children who need treatment for kidney disease. This bill would extend the same coverage to individuals insured under the Railroad Retirement Act, their spouses, and dependent children. (Section 3.)

Section-by-Section Analysis of the Bill

Section 1

Under present law, although the Board is required to disregard an employee's earnings in and after the year of retirement for most purposes when computing the amount of the annuity which would be payable to him under the social security minimum guaranty provision contained in section 3(e) of the Railroad Retirement Act, it is required to include those earnings in determining whether his guaranty provision benefit would be higher if based on the special minimum primary insurance amount provided by section 215(a)(3) of the Social Security Act or in determining whether his guaranty provision benefit should be increased because of "increment months" as provided by section 202(w) of the Social Security Act. The inclusion of such earnings for any purpose whatever in computing an employee's guaranty provision benefit is clearly contrary to the intention of the 1972 technical amendments made by section 1(d)(1) of Public Law 92–460 which added clauses (ix) and (x) to section 3(e) of the Railroad Retirement Act. The purpose of those amendments was to free the Board from the burden of developing information as to the existence and amount of an employee's post-retirement earnings. Furthermore, the inclusion of such earnings does not, in most cases, benefit an employee annuitant because an annuitant who works after retirement would generally be entitled to a social security benefit, which would have to be deducted from the guaranty provision benefit which would otherwise be payable to him. Therefore, the guaranty provision benefit would not be paid in such a case because the annuitant would receive a higher railroad retirement benefit under the regular railroad retirement formula. To fully effectuate the intention of the 1972 technical amendments, the new clauses (xi) and (xii) added to section 3(e) by section 1 of the bill would permit the Board to disregard postretirement earnings for purposes of all guaranty provision calculaions of an employee benefit.

Section 2

Amendment to section 5(l)(1)(ii). Of the two amendments made in clause (ii) of section 5(l)(1), the first would permit continuing a child's annuity if adopted by any person (whether or not that person was the child's stepparent, grandparent, aunt or uncle, brother or sister). The other would make possible the payment of a child's annuity on the basis of disability which began before age 22 instead of age 18. It would also permit a wife under age 62 (if her husband

has attained age 65 and has been awarded an annuity) or a widow under age 60 to become eligible for a railroad retirement annuity if she has in her care a child who becomes disabled between the ages of 18 and 22. Finally, it would permit a child to become reentitled to an annuity if, although he had recovered from his disability, he again became disabled before the close of the 84th month following the month in which his original entitlement to a child's disability annuity terminated because of recovery. These changes would correspond to the changes in the Social Security Act which were made by sections 112 and 108, respectively, of Public Law 92–603.

Amendment to the third sentence of section 5(l)(1). Section 216(e) of the Social Security Act was amended by section 113 of Public Law 92–603 to include a dependent grandchild as a "child" and by adding paragraph (9) to section 202(d) of such Act to establish the conditions under which the grandchild will be considered dependent. Since the conditions under which a grandchild is considered dependent differ from such conditions for other children, the amendment made to the third sentence of section 5(l)(1) would make these conditions applicable for determination of rights to railroad retirement annuities.

Amendment inserting a new sentence in section 5(l)(1). The new sentence to be added after the seventh sentence of section 5(l)(1) provides the conditions for reentitlement of a child to an annuity based on disability. This corresponds to a similar provision in section 108 of Public Law 92–603.

Amendment adding a new paragraph to section 5(l)(1). The new paragraph to be added at the end of section 5(l)(1) is directed to full-time students. The purpose of this is to allow a child who is in school when he attains age 22, but has not received a degree, to receive a child's annuity through the end of the quarter or semester. This would correspond to the change in the Social Security Act which was made by section 109 of Public Law 92–603. Without this change, the Board would be required to terminate the annuity when the child attains age 22.

Section 3

As a result of the enactment of section 299I of Public Law 92–603, an individual insured under the Social Security Act, his spouse, or his dependent children who need treatment (hemodialysis or renal transplantation) for kidney disease, are covered under medicare, beginning July 1, 1973, in the same way as beneficiaries age 65 and over or disabled beneficiaries under age 65. This section of the bill would amend section 226(e) of the Social Security Act to extend the same coverage to railroad employees, their spouses, and their dependent children.

Section 4

This section provides the effective dates of the several provisions of the bill.

Changes in Existing Law

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

RAILROAD RETIREMENT ACT

* * * * * * *

"COMPUTATION OF ANNUITIES

"SEC. 3. (a) (1) * * *

"(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, * * *

"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'; *(xi) years of coverage as defined in section 215(a) of the Social Security Act for an employee who has been awarded an annuity under section 2 of this Act shall be determined only on the basis of his wages and self-employment income credited 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 (xii) in determining increment months for the purpose of a delayed retirement increase, section 202(w)(2)(B)(ii) of the Social Security Act shall be deemed to read as follows: 'such individual was not entitled to an old-age insurance benefit';* 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."

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"ANNUITIES AND LUMP SUMS FOR SURVIVORS

"SEC. 5. (a) * * *

* * * * * * *

"(1) Definitions.—For the purposes of this section the term 'employee' includes an individual who will have been an 'employee', and—

"(1) The qualifications for 'widow', 'widower', 'child', and 'parent' shall be, except for the purposes of subsection (f), those set forth in section 216(c), (e), (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 step parent, 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] *age twenty-two or before the close of the 84th month following the month in which his most recent entitlement to an annuity under section 5(c) of this Act terminated because he ceased to be under such a disability*, and

"(iii) a 'parent' shall have received, at the time of the death of the employee to whom the relationship of parent is claimed, at least one-half of his support from such employee.

A 'widow' or 'widower' shall be deemed to have been living with the employee if the conditions set forth in section 216(h)(2) or (3), whichever is applicable, of the Social Security Act, as in effect prior to 1957, are fulfilled, or if such widow or widower would be paid benefits, as such, under title II of the Social Security Act but for the fact that the employee died insured under this act. A 'child' shall be deemed to have been dependent upon a parent if the conditions set forth in section [202(d)(3) or (4)] *202(d)(3), (4) or (9)* 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, or 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. *A child whose entitlement to an annuity under section 5(c) of this Act was terminated because he ceased to be disabled as provided in clause (ii) of this paragraph and who becomes again disabled as provided in such clause (ii), may become reentitled to an annuity on the basis of such disability upon his application for such reentitlement.* Where a woman has qualified for an annuity under this section as a widow, and marries * * *. A child whose entitlement to a child's insurance annuity, on the basis of the compensation of an insured individual, terminated with the month preceding the month in which such child attained age eighteen, or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month thereafter in which he is a full-time student and has not attained the age of twenty-two, if he has filed an application for such reentitlement.

"A child who attains age twenty-two at a time when he is a full-time student (as defined in subparagraph (A) of paragraph 7 of section 202(d) of the Social Security Act and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining whether his entitlement to an annuity under this section has terminated under subsection (j) and for purposes of determining his

initial entitlement to such an annuity) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs).

Social Security Act

* * * * * * *

"Sec. 226(a)(1) * * *

"(e) Notwithstanding the foregoing provisions of this section, every individual who—

(1) has not attained the age of 65;

(2)(A) is fully or currently insured (as such terms are defined in section 214 of this Act) *or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term employment as defined in this Act*, or (B) is entitled to monthly insurance benefits under title II of this Act *or an annuity under the Railroad Retirement Act of 1937*, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured *or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term employment as defined in this Act*, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under title II of this Act *or an annuity under the Railroad Retirement Act of 1937*; and

(3) is medically determined to have chronic renal disease and who requires hemodialysis or renal transplantation for such disease;

shall be deemed to be disabled for purposes of coverage under parts A and B of Medicare subject to the deductible, premium, and copayment provisions of title XVIII."

APPENDIX—AGENCY REPORT

UNITED STATES OF AMERICA,
RAILROAD RETIREMENT BOARD,
Chicago, Ill., May 24, 1973.

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

DEAR MR. CHAIRMAN: This is the report of the Railroad Retirement Board on S. 1886 [identical to H.R. 7357, as reported], which was introduced by Mr. Hathaway on May 23, 1973. For the reasons stated below, the Board favors the bill and hopes for its early enactment. The amendments proposed by the bill were discussed with representatives of railroad management (Association of American Railroads) and railroad labor (Congress of Railway Unions and Railway Labor Executives' Association) who are also in favor of the bill.

The enactment of the amendments proposed by section 1 of the bill would simplify administration of the social security minimum guaranty provision contained in Section 3(a) of the Railroad Retirement Act. This provision guarantees that the combined monthly 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. Under the law prior to the enactment of Public Law 92–460 on October 4, 1972, when computing an annuity under the guaranty provision the Board was required to take into account an employee's earnings in and after the year of his retirement. This necessitated a continuous policing of an annuitant's post-retirement wage record to determine whether he had received additional nonrailroad earnings and, if he did, further necessitated recomputations to determine whether the guaranty provision would, in light of the post-retirement earnings, provide a higher benefit than the regular railroad retirement annuity formula. It is a rare case where the inclusion of post-retirement social security earnings in the guaranty provision computation would result in an annuity previously paid at the rate provided by the regular formula being transferred to the rate provided under the guaranty provision. Therefore, in order to relieve the Board of the problems created by the aforementioned requirement, clauses (ix) and (x) were added to Section 3(e) of the Act by Public Law 92–460 to provide that, in computing the "average monthly wage" for purposes of determining the amount payable under the guaranty provisions, only the individual's social security earnings through the year before his annuity began to accrue would be included.

While the provisions of clauses (ix) and (x) of Section 3(e) of the Railroad Retirement Act fully accomplished the purpose intended under the law in existence at the time of their enactment, the Social Security Act was amended shortly thereafter by Public Law 92–603 to provide special minimum primary insurance amounts (see section 215(a)(3) of that Act) and so-called "increment month" increases (see section 202(w) of that Act). Since the determination of either a special minimum primary insurance amount or an increment month increase does not involve the computation of an "average monthly wage", the provisions of clauses (ix) and (x) are not applicable in making such determinations, and, therefore, the purpose of these clauses is defeated to a significant extent. Enactment of section 1 of the bill would fully effectuate the original purpose of the clauses in question.

As a result of the enactment of Public Law 92–603, approved October 30, 1972, the eligibility conditions for children's benefits under the Social Security Act were liberalized, and the amendments proposed by section 2 of this bill would make the same liberalizations for annuities payable under the Railroad Retirement Act. Thus (1) a child's survivor benefit would continue after his adoption by anyone, instead of by a close relative only (section 1(1) of the bill); (2) a survivor benefit would be paid to a child for a disability which began before age 22, instead of before age 18 (section 1(2) of the bill); (3) a student child would continue to receive benefits after age 22 in some cases (section 1(5) of the bill); and (4) a dependent grandchild would be treated as a child of his grandparent (section 1(3) of the bill). In addition, as a result of the change mentioned in item (2), a wife under age 62 (if her husband has attained age 65 and has been awarded an annuity) or widow under age 60 would be eligible for a railroad retirement annuity if she has in her care a child who became disabled between the ages of 18 and 22.

The amendments proposed by section 2 of the bill were originally included in the bill for technical amendments sponsored last year by the Board. These provisions were deleted from the bill which was subsequently enacted, on October 4, 1972, as Public Law 92–460 because they were contingent upon the enactment of H.R. 1, 92d Congress, and it was believed that H.R. 1 would not be enacted in 1972; H.R. 1, however, was enacted on October 30, 1972, as Public Law 92–603. The costs resulting from these amendments together with the cost and savings from the technical amendments enacted in Public Law 92–460 and additional financial interchange gains because of the enactment of Public Law 92–603 balance out so that no financial burden would result.

The bill would also effect an amendment to section 226(e) of the Social Security Act to extend kidney disease Medicare coverage to railroad employees, their spouses, and their dependent children. As a result of the enactment of section 2991 of Public Law 92–603, an individual insured under the Social Security Act, his spouse, or his dependent children who need treatment (hemodialysis or renal transplanation) for kidney disease are covered under Medicare, beginning July 1, 1973, in the same way as beneficiaries age 65 and over or disabled beneficiaries under age 65. The present provision, however, does not cover railroad employees or their spouses or children unless they also happen to

be insured under the Social Security Act on the basis of wages only. Such an omission had to be the result of an oversight since in all other respects railroad retirement beneficiaries are entitled to the same Medicare coverage as their social security counterparts. The proposed amendment would correct this oversight.

The Board, therefore, recommends that your Committee act favorably on this bill.

A report on the identical bill H.R. 7357, introduced in the House of Representatives on April 30, 1973, by Mr. Staggers, has been cleared with the Office of Management and Budget which informed us that there was no objection to the presentation of the report from the standpoint of the administration's program.

Sincerely yours,

R. F. BUTLER, *Secretary.*

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