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93RD CONGRESS
2^D SESSION

H. R. 15301

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1974

Mr. STAGGERS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—THE RAILROAD RETIREMENT ACT OF**

4 **1974**

5 That the Railroad Retirement Act of 1937 is amended
6 to read as follows:

7 **“DEFINITIONS**

8 **“SECTION 1. For the purposes of this Act—**

9 **“(a) (1) The term ‘employer’ shall include—**



1 “(i) any express company, sleeping-car company,
2 and carrier by railroad, subject to part I of the Interstate
3 Commerce Act;

4 “(ii) any company which is directly or indirectly
5 owned or controlled by, or under common control with,
6 one or more employers as defined in paragraph (i) of
7 this subdivision, and which operates any equipment or
8 facility or performs any service (except trucking service,
9 casual service, and the casual operation of equipment or
10 facilities) in connection with the transportation of pas-
11 sengers or property by railroad, or the receipt, delivery,
12 elevation, transfer in transit, refrigeration or icing, stor-
13 age, or handling of property transported by railroad;

14 “(iii) any receiver, trustee, or other individual or
15 body, judicial or otherwise, when in the possession of the
16 property or operating all or any part of the business of
17 any employer as defined in paragraph (i) or (ii) of this
18 subdivision;

19 “(iv) any railroad association, traffic association,
20 tariff bureau, demurrage bureau, weighing and inspection
21 bureau, collection agency, and any other association, bu-
22 reau, agency, or organization which is controlled and
23 maintained wholly or principally by two or more em-
24 ployers as defined in paragraph (i), (ii), or (iii) of
25 this subdivision and which is engaged in the performance

1 of services in connection with or incidental to railroad
2 transportation; and

3 “(v) any railway labor organization, national in
4 scope, which has been or may be organized in accord-
5 ance with the provisions of the Railway Labor Act, as
6 amended, and its State and National legislative commit-
7 tees, general committees, insurance departments, and
8 local lodges and divisions, established pursuant to the
9 constitution or bylaws of such organization.

10 “(2) Notwithstanding the provisions of subdivision (1)
11 of this subsection, the term ‘employer’ shall not include—

12 “(i) any company by reason of its being engaged
13 in the mining of coal, the supplying of coal to an em-
14 ployer where delivery is not beyond the mine tipple,
15 and the operation of equipment or facilities therefor,
16 or in any of such activities; and

17 “(ii) any street, interurban, or suburban electric
18 railway, unless such railway is operating as a part of
19 a general diesel-railroad system of transportation, but
20 shall not exclude any part of the general diesel-railroad
21 system of transportation now or hereafter operated by
22 any other motive power. The Interstate Commerce
23 Commission is hereby authorized and directed upon re-
24 quest of the Board, or upon complaint of any party
25 interested, to determine after hearing whether any line

1 operated by electric power falls within the terms of this
2 paragraph.

3 “(b) (1) The term ‘employee’ means (i) any individual
4 in the service of one or more employers for compensation,
5 (ii) any individual who is in the employment relation to one
6 or more employers, and (iii) an employee representative:
7 *Provided, however,* That the term ‘employee’ shall include
8 an employee of a local lodge or division defined as an em-
9 ployer in subsection (a) only if he was in the service of
10 or in the employment relation to an employer as defined
11 in paragraph (i) of subsection (a) (1) on or after
12 August 29, 1935.

13 “(2) The term ‘employee’ shall not include any individ-
14 ual while such individual is engaged in the physical operations
15 consisting of the mining of coal, the preparation of coal, the
16 handling (other than movement by rail with standard rail-
17 road locomotives) of coal not beyond the mine tipple, or
18 the loading of coal at the tipple.

19 “(c) The term ‘employee representative’ means any
20 officer or official representative of a railway labor organization
21 other than a labor organization included in the term employer
22 as defined in subsection (a) who before or after August 29,
23 1935, was in the service of an employer as defined in sub-
24 section (a) and who is duly authorized and designated to
25 represent employees in accordance with the Railway Labor

1 Act, as amended, and any individual who is regularly assigned
2 to or regularly employed by such officer or official represent-
3 ative in connection with the duties of his office.

4 “(d) (1) An individual is in the service of an employer
5 whether his service is rendered within or without the United
6 States if—

7 “(i) (A) he is subject to the continuing authority
8 of the employer to supervise and direct the manner of
9 rendition of his service, or (B) he is rendering profes-
10 sional or technical services and is integrated into the staff
11 of the employer, or (C) he is rendering, on the property
12 used in the employer’s operations, personal services the
13 rendition of which is integrated into the employer’s
14 operations; and

15 “(ii) he renders such service for compensation, or
16 a method of computing the monthly compensation for
17 such service is provided in section 3 (j).

18 “(2) Notwithstanding the provisions of subdivision (1)
19 of this subsection—

20 “(i) an individual shall be deemed to be in the
21 service of an employer, other than a local lodge or
22 division or a general committee of a railway-labor-or-
23 ganization employer, not conducting the principal part
24 of its business in the United States only when he is ren-
25 dering service to it in the United States;

1 “(ii) an individual shall be deemed to be in the
2 service of a local lodge or division of a railway-labor-
3 organization employer not conducting the principal part
4 of its business in the United States only if (A) all, or
5 substantially all, the individuals constituting the mem-
6 bership of such local lodge or division are employees of
7 an employer conducting the principal part of its busi-
8 ness in the United States; or (B) the headquarters of
9 such local lodge or division is located in the United
10 States; and

11 “(iii) an individual shall be deemed to be in the
12 service of a general committee of a railway-labor-organi-
13 zation employer not conducting the principal part of
14 its business in the United States only if (A) he is rep-
15 resenting a local lodge or division described in clause
16 (A) or (B) of paragraph (ii); or (B) all, or sub-
17 stantially all, the individuals represented by such gen-
18 eral committee are employees of an employer conduct-
19 ing the principal part of its business in the United
20 States; or (C) he acts in the capacity of a general
21 chairman or an assistant general chairman of a general
22 committee which represents individuals rendering serv-
23 ice in the United States to an employer, but in such
24 case if his office or headquarters is not located in the
25 United States and the individuals represented by such

1 general committee are employees of an employer not
2 conducting the principal part of its business in the
3 United States, only such proportion of the remuneration
4 for such service shall be regarded as compensation as
5 the proportion which the mileage in the United States
6 under the jurisdiction of such general committee bears
7 to the total mileage under its jurisdiction, unless such
8 mileage formula is inapplicable, in which case the Board
9 may prescribe such other formula as its finds to be equit-
10 able, and if the application of such mileage formula, or
11 such other formula as the Board may prescribe, would
12 result in the compensation of the individual being less
13 than 10 per centum of his remuneration for such service
14 no part of such remuneration shall be regarded as
15 compensation.

16 “(3) Notwithstanding the provisions of subdivisions
17 (1) and (2) of this subsection, an individual not a citizen
18 or resident of the United States shall not be deemed to be in
19 the service of an employer when rendering service outside
20 the United States to an employer who is required under the
21 laws applicable in the place where the service is rendered to
22 employ therein, in whole or in part, citizens or residents
23 thereof. For purposes of this subdivision, the laws appli-
24 cable on August 29, 1935, in the place where the service is

1 rendered shall be deemed to have been applicable there at all
2 times prior to that date.

3 “(e) (1) An individual shall be deemed to have been in
4 the employment relation to an employer on August 29, 1935,
5 if—

6 “(i) he was on that date on leave of absence from
7 his employment, expressly granted to him by the em-
8 ployer by whom he was employed, or by a duly au-
9 thorized representative of such employer, and the grant
10 of such leave of absence will have been established to
11 the satisfaction of the Board before July 1947;

12 “(ii) he was in the service of an employer after
13 August 29, 1935, and before January 1946 in each of
14 six calendar months, whether or not consecutive;

15 “(iii) before August 29, 1935, he did not retire
16 and was not retired or discharged from the service of
17 the last employer by whom he was employed or its cor-
18 porate or operating successor, but (A) solely by reason
19 of his physical or mental disability he ceased before
20 August 29, 1935, to be in the service of such employer
21 and thereafter remained continuously disabled until he
22 attained age sixty-five or until August 1945, or (B)
23 solely for such last stated reason an employer by whom
24 he was employed before August 29, 1935, or an em-
25 ployer who is its successor did not on or after August 29,

1 1935, and before August 1945 call him to return to
2 service, or (C) if he was so called he was solely for
3 such reason unable to render service in six calendar
4 months as provided in paragraph (ii) ; or

5 “(iv) he was on August 29, 1935, absent from the
6 service of an employer by reason of a discharge which,
7 within one year after the effective date thereof, was
8 protested, to an appropriate labor representative or to
9 the employer, as wrongful, and which was followed
10 within ten years of the effective date thereof by his
11 reinstatement in good faith to his former service with
12 all his seniority rights.

13 “(2) Notwithstanding the provisions of subdivision (1)
14 of this subsection, an individual shall not be deemed to have
15 been in the employment relation to an employer on Au-
16 gust 29, 1935, if before that date he was granted a pension
17 or gratuity on the basis of which a pension was awarded
18 to him pursuant to section 6 of the Railroad Retirement Act
19 of 1937, or if during the last payroll period before Au-
20 gust 29, 1935, in which he rendered service to an employer
21 he was not in the service of an employer, in accordance
22 with subsection (d), with respect to any service in such
23 payroll period, or if he could have been in the employment
24 relation to an employer only by reason of his having been,
25 either before or after August 29, 1935, in the service of a

1 local lodge or division defined as an employer in sub-
2 section (a).

3 “(f) (1) The term ‘years of service’ shall mean the
4 number of years an individual as an employee shall have
5 rendered service to one or more employers for compensation
6 or received remuneration for time lost, and shall be computed
7 in accordance with the provisions of section 3 (i). Twelve
8 calendar months, consecutive or otherwise, in each of which
9 an employee has rendered such service or received such
10 wages for time lost, shall constitute a year of service. Ulti-
11 mate fractions shall be taken at their actual value, except that
12 if the individual will have had not less than one hundred and
13 twenty-six months of service, an ultimate fraction of six
14 months or more shall be taken as one year.

15 “(2) Where service prior to August 29, 1935, may be
16 included in the computation of years of service as provided
17 in subdivision (3) of section 3 (i), it may be included as
18 to—

19 “(i) service rendered to a person which was an
20 employer on August 29, 1935, irrespective of whether
21 such person was an employer at the time such service
22 was rendered;

23 “(ii) service rendered to any express company,
24 sleeping-car company, or carrier by railroad which was a
25 predecessor of a company which, on August 29, 1935,

1 was an employer as defined in paragraph (i) of subsec-
2 tion (a) (1), irrespective of whether such predecessor
3 was an employer at the time such service was rendered;
4 and

5 “(iii) service rendered to a person not an employer
6 in the performance of operations involving the use of
7 standard railroad equipment if such operations were per-
8 formed by an employer on August 29, 1935.

9 “(g) (1) For purposes of section 3 (i) (2) of this
10 Act, an individual shall be deemed to have been in ‘military
11 service’ when commissioned or enrolled in the active serv-
12 ice of the land or naval forces of the United States and until
13 resignation or discharge therefrom; and the service of any
14 individual in any reserve component of the land or naval
15 forces of the United States, while serving in the land or naval
16 forces of the United States for any period, even though less
17 than thirty days, shall be deemed to have been active serv-
18 ice in such force during such period.

19 “(2) For purposes of section 3 (i) (2) of this Act, a
20 ‘war service period’ shall mean (A) any war period, or (B)
21 with respect to any particular individual, any period dur-
22 ing which such individual (i) having been in military
23 service at the end of a war period, was required to continue
24 in military service, or (ii) was required by call of the Presi-
25 dent, or by any Act of Congress or regulation, order, or

1 proclamation pursuant thereto, to enter and continue in
2 military service, or (C) any period after September 7, 1939,
3 with respect to which a state of national emergency was duly
4 declared to exist which requires a strengthening of the na-
5 tional defense.

6 “(3) For purposes of section 3 (i) (2) of this Act, a
7 ‘war period’ shall be deemed to have begun on whichever
8 of the following dates is the earliest: (A) the date on which
9 the Congress of the United States declared war; or (B) the
10 date as of which the Congress of the United States declared
11 that a state of war has existed; or (C) the date on which
12 war was declared by one or more foreign states against the
13 United States; or (D) the date on which any part of the
14 United States or any territory under its jurisdiction was in-
15 vaded or attacked by any armed force of one or more foreign
16 states; or (E) the date on which the United States engaged
17 in armed hostilities for the purpose of preserving the Union
18 or of maintaining in any State of the Union a republican
19 form of government.

20 “(4) For purposes of section 3 (i) (2) of this Act, a
21 ‘war period’ shall be deemed to have ended on the date on
22 which hostilities ceased.

23 “(h) (1) The term ‘compensation’ means any form of
24 money remuneration paid to an individual for services ren-
25 dered as an employee to one or more employers, or as an

1 employee representative, including remuneration paid for
2 time lost as an employee, but remuneration paid for time
3 lost shall be deemed earned in the month in which such time
4 is lost. A payment made by an employer to an individual
5 through the employer’s payroll shall be presumed, in the
6 absence of evidence to the contrary, to be compensation for
7 service rendered by such individual as an employee of the
8 employer in the period with respect to which the payment
9 is made. Compensation earned in any calendar month before
10 1947 shall be deemed paid in such month regardless of
11 whether or when payment will have been in fact made, and
12 compensation earned in any calendar year after 1946 but
13 paid after the end of such calendar year shall be deemed to be
14 compensation paid in the calendar year in which it will have
15 been earned if it is so reported by the employer before Febru-
16 ary 1 of the next succeeding calendar year or if the employee
17 establishes, subject to the provisions of section 9, the period
18 during which such compensation will have been earned.

19 “(2) An employee shall be deemed to be paid ‘for time
20 lost’ the amount he is paid by an employer with respect to
21 an identifiable period of absence from the active service
22 of the employer, including absence on account of personal
23 injury, and the amount he is paid by the employer for loss
24 of earnings resulting from his displacement to a less remu-
25 nerative position or occupation. If a payment is made by an

1 employer with respect to a personal injury and includes
 2 pay for time lost, the total payment shall be deemed to be
 3 paid for time lost unless, at the time of payment, a part of
 4 such payment is specifically apportioned to factors other
 5 than time lost, in which event only such part of the payment
 6 as is not so apportioned shall be deemed to be paid for time
 7 lost.

8 “(3) Solely for purposes of determining amounts to be
 9 included in the compensation of an employee, the term ‘com-
 10 pensation’ shall also include cash tips received by an em-
 11 ployee in any calendar month in the course of his employ-
 12 ment by an employer unless the amount of such cash tips
 13 is less than \$20.

14 “(4) Tips included as compensation by reason of the
 15 provisions of subdivision (3) shall be deemed to be paid
 16 at the time a written statement including such tips is fur-
 17 nished to the employer pursuant to section 6053 (a) of the
 18 Internal Revenue Code of 1954 or, if no statement includ-
 19 ing such tips is so furnished, at the time received. Tips so
 20 deemed to be paid in any month shall be deemed paid for
 21 services rendered in such month.

22 “(5) In determining compensation, there shall be at-
 23 tributable as compensation paid to an employee in calendar
 24 months in which he is in military service creditable under
 25 section 3 (i) (2), in addition to any other compensation paid

1 to him with respect to such months, \$160 for each such
 2 calendar month prior to 1968 and \$260 for each such calen-
 3 dar month after 1967.

4 “(6) Notwithstanding the provisions of the preceding
 5 subdivisions of this subsection, the term ‘compensation’ shall
 6 not include—

7 “(i) tips, except as is provided under subdivision
 8 (3) of this subsection;

9 “(ii) the voluntary payment by an employer, with-
 10 out deduction from the remuneration of the employee,
 11 of any tax now or hereafter imposed with respect to the
 12 compensation of such employee;

13 “(iii) remuneration for service which is performed
 14 by a nonresident alien individual for the period he is
 15 temporarily present in the United States as a nonimmi-
 16 grant under subparagraph (F) or (J) of section 101
 17 (a) (15) of the Immigration and Nationality Act, as
 18 amended, and which is performed to carry out the pur-
 19 pose specified in subparagraph (F) or (J), as the case
 20 may be;

21 “(iv) remuneration earned in the service of a local
 22 lodge or division of a railway-labor-organization em-
 23 ployer with respect to any calendar month in which the
 24 amount of such remuneration is less than \$25; and

1 “(v) remuneration for service as a delegate to a
2 national or international convention of a railway-labor-
3 organization employer if the individual rendering such
4 service has not previously rendered service, other than
5 as such a delegate, which may be included in his ‘years
6 of service’.

7 “(i) The term ‘Board’ means the Railroad Retirement
8 Board.

9 “(j) The term ‘company’ includes corporations, associa-
10 tions, and joint-stock companies.

11 “(k) The term ‘employee’ includes an officer of an
12 employer.

13 “(l) The term ‘person’ means an individual, a partner-
14 ship, an association, a joint-stock company, a corporation,
15 or the United States or any other governmental body.

16 “(m) The term ‘United States,’ when used in a geo-
17 graphical sense, means the States and the District of Co-
18 lumbia.

19 “(n) The term ‘Social Security Act’ means the Social
20 Security Act as amended from time to time.

21 “(o) An individual shall be deemed to have ‘a current
22 connection with the railroad industry’ at the time an an-
23 nuity begins to accrue to him and at death if, in any thirty
24 consecutive calendar months before the month in which an
25 annuity under this Act begins to accrue to him, or the month

1 in which he dies if that first occurs, he will have been in serv-
2 ice as an employee in not less than twelve calendar months
3 and, if such thirty calendar months do not immediately pre-
4 cede such month, he will not have been engaged in any
5 regular employment other than employment for an em-
6 ployer or employment with the Department of Transporta-
7 tion, the Interstate Commerce Commission, the National
8 Mediation Board, or the Railroad Retirement Board in the
9 period before such month and after the end of such thirty
10 months. For the purposes of section 2 (d) only, an individ-
11 ual shall be deemed also to have a ‘current connection with
12 the railroad industry’ if he will have completed ten years of
13 service and (A) he would be neither fully nor currently in-
14 sured under the Social Security Act if his service as an em-
15 ployee after December 31, 1936, were included in the term
16 ‘employment’ as defined in that Act, or (B) he has no quar-
17 ters of coverage under the Social Security Act.

18 “(p) The term ‘annuity’ means a monthly sum which is
19 payable on the first day of each calendar month for the
20 accrual during the preceding calendar month.

21 “(q) The terms ‘quarter’ and ‘calendar quarter’ shall
22 mean a period of three calendar months ending on March 31,
23 June 30, September 30, or December 31.

24 “(r) For purposes of this Act, a person shall be con-
25 sidered to be permanently insured under the Social Security

1 Act on December 31, 1974, if he or she would be fully in-
 2 sured within the meaning of section 214 (a) of that Act
 3 when he or she attains age 62 solely on the basis of his or her
 4 quarters of coverage under that Act acquired prior to Jan-
 5 uary 1, 1975.

6 "ANNUITY ELIGIBILITY REQUIREMENTS

7 "SEC. 2. (a) (1) The following-described individuals, if
 8 they shall have completed ten years of service and shall have
 9 filed application for annuities, shall, subject to the conditions
 10 set forth in subsections (e), (f), and (h), be entitled to
 11 annuities in the amounts provided under section 3 of this
 12 Act—

13 "(i) individuals who have attained the age of sixty-
 14 five;

15 "(ii) individuals who have attained the age of sixty
 16 and have completed thirty years of service;

17 "(iii) individuals who have attained the age of sixty-
 18 two and have completed less than thirty years of service,
 19 but the annuity of such individuals shall be reduced by
 20 1/180 for each calendar month that he or she is under
 21 age sixty-five when the annuity begins to accrue;

22 "(iv) individuals who have a current connection
 23 with the railroad industry, whose permanent physical or
 24 mental condition is such as to be disabling for work in
 25 their regular occupation, and who (A) have completed

1 twenty years of service or (B) have attained the age of
 2 sixty; and

3 "(v) individuals whose permanent physical or men-
 4 tal condition is such that they are unable to engage in
 5 any regular employment.

6 "(2) For the purposes of paragraph (iv) of sub-
 7 division (1), the Board, with the cooperation of employers
 8 and employees, shall secure the establishment of standards
 9 determining the physical and mental conditions which perma-
 10 nently disqualify employees for work in the several occupa-
 11 tions in the railroad industry, and the Board, employers,
 12 and employees shall cooperate in the promotion of the
 13 greatest practicable degree of uniformity in the standards
 14 applied by the several employers. An individual's condition
 15 shall be deemed to be disabling for work in his regular
 16 occupation if he will have been disqualified by his employer
 17 for service in his regular occupation in accordance with the
 18 applicable standards so established; if the employee will not
 19 have been so disqualified by his employer, the Board shall
 20 determine whether his condition is disabling for work in his
 21 regular occupation in accordance with the standards generally
 22 established; and, if the employee's regular occupation is not
 23 one with respect to which standards will have been estab-
 24 lished, the standards relating to a reasonably comparable
 25 occupation shall be used. If there is no such comparable

1 occupation, the Board shall determine whether the em-
 2 ployee's condition is disabling for work in his regular occupa-
 3 tion by determining whether under the practices generally
 4 prevailing in industries in which such occupation exists such
 5 condition is a permanent disqualification for work in such
 6 occupation. For purposes of this subdivision and paragraph
 7 (iv) of subdivision (1), an employee's 'regular occupation'
 8 shall be deemed to be the occupation in which he will have
 9 been engaged in more calendar months than the calendar
 10 months in which he will have been engaged in any other
 11 occupation during the last preceding five calendar years,
 12 whether or not consecutive, in each of which years he will
 13 have earned wages or salary, except that, if an employee
 14 establishes that during the last fifteen consecutive calendar
 15 years he will have been engaged in another occupation in
 16 one-half or more of all the months in which he will have
 17 earned wages or salary, he may claim such other occupation
 18 as his regular occupation.

19 "(3) Such satisfactory proof shall be made from time
 20 to time as prescribed by the Board, of the disability provided
 21 for in paragraph (iv) or (v) of subdivision (1) and of
 22 the continuance of such disability (according to the stand-
 23 ards applied in the establishment of such disability) until
 24 the employee attains the age of sixty-five. If the individual
 25 fails to comply with the requirements prescribed by the

1 Board as to proof of the continuance of the disability until
 2 he attains the age of sixty-five years, his right to an annuity
 3 by reason of such disability shall, except for good cause
 4 shown to the Board, cease, but without prejudice to his
 5 rights to any subsequent annuity to which he may be
 6 entitled.

7 "(b) (1) An individual who—

8 "(i) has attained age 60 and completed thirty
 9 years of service or attained age 65;

10 "(ii) has completed twenty-five year of service;

11 "(iii) is entitled to the payment of an annuity
 12 under subsection (a) (1); and

13 "(iv) had a current connection with the railroad
 14 industry at the time such annuity began to accrue,

15 shall, subject to the conditions set forth in subdivision (2)
 16 of this subsection and in subsections (e) and (h), be en-
 17 titled to a supplemental annuity in the amount provided
 18 under section 3 of this Act: *Provided, however,* That in
 19 cases where an individual's annuity under subsection (a) (1)
 20 begins to accrue on other than the first day of the month,
 21 the amount of any supplemental annuity to which he is
 22 entitled for that month shall be reduced by one-thirtieth
 23 for each day with respect to which he is not entitled to an
 24 annuity under subsection (a) (1).

1 “(2) No individual shall be entitled to a supplemental
 2 annuity provided by this subsection for any period after he
 3 renders any service as an employee for compensation after
 4 his supplemental annuity closing date, which is the last day
 5 of the month following the month in which he attains age
 6 65: *Provided, however,* That the supplemental annuity
 7 closing date of an individual who attained age 65 prior to
 8 January 1, 1975, shall be determined under section 3 (j) (4)
 9 of the Railroad Retirement Act of 1937: *Provided further,*
 10 That for an employee whose supplemental annuity closing
 11 date occurs after he has completed at least 23 years of
 12 service but before he has completed 25 years of service and
 13 before he would have been entitled (upon filing an applica-
 14 tion therefor) to monthly insurance benefits under section
 15 202 (a) of the Social Security Act if he had no service as
 16 an employee under this Act, such closing date shall be
 17 extended to the earlier of (A) the day before the first day
 18 of the first month for which he would (on application) be
 19 entitled to monthly insurance benefits under section 202 (a)
 20 of the Social Security Act if he had no service as an employee
 21 under this Act, or (B) the last day of the first month for
 22 which he qualifies for a supplemental annuity under this
 23 subsection.

24 “(3) The provisions of subdivision (2) shall not super-
 25 sede the provisions of any agreement reached through col-

1 lective bargaining which provides for mandatory retirement
 2 at an age less than the applicable supplemental annuity
 3 closing date determined under such subdivision.

4 “(c) (1) The spouse of an individual if—

5 “(i) such individual (A) is entitled to an annu-
 6 ity under subsection (a) (1) and (B) has attained
 7 the age of 60 and has completed thirty years of service
 8 or has attained the age of 62, and

9 “(ii) such spouse (A) has attained the age of
 10 65, or (B) has attained the age of 60 and such indi-
 11 vidual has completed thirty years of service, or (C),
 12 in the case of a wife, has in her care (individually or
 13 jointly with her husband) a child who meets the quali-
 14 fications prescribed in paragraph (iii) of subsection
 15 (d) (1) (without regard to the provisions of clause
 16 (B) of such paragraph),

17 shall, subject to the conditions set forth in subsections (e),
 18 (f), and (h), be entitled to a spouse's annuity, if he or
 19 she has filed application therefor, in the amount provided
 20 under section 4 of this Act.

21 “(2) A spouse who would be entitled to an annuity
 22 under subdivision (1) if he or she had attained the age of 65
 23 may elect upon or after attaining the age of 62 to receive
 24 such annuity, but the annuity in any such case shall be re-

1 duced by 1/180 for each calendar month that the spouse is
2 under age 65 when the annuity begins to accrue.

3 “(3) For the purposes of this Act, the term ‘spouse’
4 shall mean the wife or husband of an annuitant under sub-
5 section (a) (1) who (i) was married to such annuitant for
6 a period of not less than one year immediately preceding the
7 day on which the application for a spouse’s annuity is filed,
8 or in the month prior to his or her marriage to such annuitant
9 was eligible for an annuity under paragraph (i) or (iv) of
10 subsection (d) (1) or, on the basis of disability, under para-
11 graph (iii) thereof, or is the parent of such annuitant’s son
12 or daughter, if, as of the day on which the application for a
13 spouse’s annuity is filed, such wife or husband and such an-
14 nuitant were members of the same household, or such wife
15 or husband was receiving regular contributions from such
16 annuitant toward her or his support, or such annuitant has
17 been ordered by any court to contribute to the support of
18 such wife or husband; and (ii) in the case of a husband, was
19 receiving at least one-half of his support from his wife at the
20 time his wife’s annuity under subsection (a) (1) began.

21 “(d) (1) The following described survivors of a deceased
22 employee who will have completed ten years of service and
23 will have had a current connection with the railroad industry
24 at the time of his death shall, subject to the conditions set
25 forth in subsections (g) and (h), be entitled to annuities, if

1 they have filed application therefor, in the amounts provided
2 under section 4 of this Act—

3 “(i) a widow (as defined in section 216 (c) and
4 (k) of the Social Security Act) or widower (as de-
5 fined in section 216 (g) and (k) of the Social Security
6 Act) of such a deceased employee who has not remar-
7 ried and who (A) will have attained the age of sixty or
8 (B) will have attained the age of fifty but will not have
9 attained age sixty and is under a disability which began
10 before the end of the period prescribed in subdivision
11 (2), and who, in the case of a widower, was receiving
12 at least one-half of his support from the deceased em-
13 ployee at the time of her death or at the time her an-
14 nuity under subsection (a) (1) began;

15 “(ii) a widow (as defined in section 216 (c) and
16 (k) of the Social Security Act) of such a deceased
17 employee who has not remarried and who (A) is not
18 entitled to an annuity under paragraph (i), and (B)
19 at the time of filing an application for an annuity under
20 this paragraph, will have in her care a child of such de-
21 ceased employee, which child is entitled to an annuity
22 under paragraph (iii) (other than an annuity payable
23 to a child who has attained age 18 and is not under a
24 disability);

1 “(iii) a child (as defined in section 216 (e) and
 2 (k) of the Social Security Act) of such a deceased
 3 employee who (A) will be less than eighteen years of
 4 age, or (B) will be less than twenty-two years of age
 5 and a full-time student at an educational institution, or
 6 (C) will, without regard to his age, be under a disability
 7 which began before he attained age twenty-two or before
 8 the close of the eighty-fourth month following the month
 9 in which his most recent entitlement to an annuity under
 10 this paragraph terminated because he ceased to be under
 11 a disability, and who is unmarried and was dependent
 12 upon the employee at the time of the employee’s death;
 13 and

14 “(iv) a parent (as defined in section 202 (h) (3)
 15 of the Social Security Act) of such a deceased employee
 16 who (A) will have attained the age of sixty and (B)
 17 will have received at least one-half of his or her support
 18 from such deceased employee at the time of the em-
 19 ployee’s death and (C) will not have remarried after the
 20 employee’s death: *Provided, however,* That no parent
 21 will be entitled to an annuity under this paragraph on
 22 the basis of the deceased employee’s compensation and
 23 years of service in any case where such employee died
 24 leaving a widow or widower or a child who is, or who

1 might in the future become, entitled to an annuity under
 2 this subsection.

3 “(2) The period referred to in clause (B) of subdivision
 4 (1) (i) is the period (i) beginning with the latest of (A)
 5 the month of the employee’s death, (B) in the case of a
 6 widow, the last month for which she was entitled to an
 7 annuity under paragraph (ii) of subdivision (1) as the
 8 widow of the deceased employee, or (C) the month in which
 9 the widow’s or widower’s previous entitlement to an annuity
 10 as the widow or widower of the deceased employee termi-
 11 nated because her or his disability had ceased and (ii) end-
 12 ing with the month before the month in which she or he
 13 attains age sixty, or, if earlier, with the close of the eighty-
 14 fourth month following the month with which such period
 15 began.

16 “(3) For purposes of paragraph (i) or (iii) of sub-
 17 division (1), a widow, widower, or child shall be under
 18 a disability if her or his permanent physical or mental con-
 19 dition is such that she or he is unable to engage in any
 20 regular employment. The provisions of subsection (a) (3)
 21 of this section as to the proof of disability shall apply with
 22 regard to determinations with respect to disability under
 23 subdivision (1).

24 “(4) In determining for purposes of this subsection
 25 and subdivision (3) of subsection (c) whether an appli-

1 cant is the wife, husband, widow, widower, child, or parent
 2 of a deceased employee as claimed, the rules set forth in
 3 section 216(h) of the Social Security Act shall be applied
 4 deeming, for this purpose, individuals entitled to an annuity
 5 under subsection (c) to be entitled to benefits under subsec-
 6 tion (b) or (c) of section 202 of the Social Security Act and
 7 individuals entitled to an annuity under paragraph (i) or
 8 (ii) of subsection (d) (1) to be entitled to a benefit under
 9 subsection (e), (f), or (g) of section 202 of the Social Se-
 10 curity Act. For purposes of paragraph (iii) of subdivision
 11 (1), a child shall be deemed to have been dependent upon
 12 his parent employee if the conditions set forth in section
 13 202(d) (3), (4), or (9) of the Social Security Act are
 14 fulfilled. The provisions of paragraph (7) of section 202 (d)
 15 of the Social Security Act (defining the terms 'full-time
 16 student' and 'educational institution') shall be applied by
 17 the Board in the administration of this subsection as if the
 18 references therein to the Secretary were references to the
 19 Board. A child who attains age twenty-two at a time when
 20 he is a full-time student (as defined in subparagraph (A) of
 21 paragraph (7) of section 202 (d) of the Social Security Act
 22 and without the application of subparagraph (B) of such
 23 paragraph) but has not (at such time) completed the re-
 24 quirements for, or received, a degree from a four-year col-
 25 lege or university shall be deemed (for purposes of deter-

1 mining his continuing or initial entitlement to an annuity
 2 under this subsection) not to have attained such age until
 3 the first day of the first month following the end of the
 4 quarter or semester in which he is enrolled at such time
 5 (or, if the educational institution in which he is en-
 6 rolled is not operated on a quarter or semester sys-
 7 tem, until the first day of the first month following the
 8 completion of the course in which he is enrolled or until
 9 the first day of the third month beginning after such time,
 10 whichever first occurs).

11 “(e) (1) No individual shall be entitled to an annuity
 12 under subsection (a) (1) until he shall have ceased to render
 13 compensated service to any person, whether or not an em-
 14 ployer as defined in section 1(a) (but with the right to
 15 engage in other employment to the extent not prohibited by
 16 subdivision (3) or (4) of this subsection or by subsection
 17 (f)).

18 “(2) An annuity under subsection (a) (1) shall be
 19 paid only if the applicant shall have relinquished such rights
 20 as he may have to return to the service of an employer and
 21 of the person, or persons, by whom he was last employed:
 22 *Provided, however,* That this requirement shall not apply to
 23 individuals mentioned in paragraphs (iv) and (v) of sub-
 24 section (a) (1) prior to attaining age sixty-five: *Provided*
 25 *further,* That, notwithstanding the provisions of the pre-

1 ceding proviso and of clause (i) of subsection (c) (1) of
 2 this section, an annuity shall be paid to the spouse of an
 3 individual only if such individual shall have satisfied the
 4 requirements of this subdivision without regard to the pre-
 5 ceding proviso: *And provided further*, That, notwithstanding
 6 the provisions of the first proviso of this subdivision and of
 7 clause (iii) of subsection (b) (1) of this section, a supple-
 8 mental annuity shall be paid to an individual only if such
 9 individual shall have satisfied the requirements of this sub-
 10 division without regard to the first proviso thereof.

11 “(3) No annuity under subsection (a) (1) or supple-
 12 mental annuity under subsection (b) (1) shall be paid with
 13 respect to any month in which an individual in receipt of
 14 an annuity or supplemental annuity thereunder shall render
 15 compensated service to an employer or to the last person, or
 16 persons, by whom he was employed prior to the date on
 17 which the annuity under subsection (a) (1) began to accrue.
 18 Individuals receiving annuities under subsection (a) (1)
 19 shall report to the Board immediately all such compensated
 20 service.

21 “(4) No annuity under paragraph (iv) or (v) of sub-
 22 section (a) (1) shall be paid to an individual with respect
 23 to any month in which the individual is under age sixty-five
 24 and is paid more than \$200 in earnings from employment
 25 or self-employment of any form: *Provided, however*, That for

1 purposes of this subdivision, if a payment in any one calen-
 2 dar month is for accruals in more than one calendar month,
 3 such payment shall be deemed to have been paid in each of
 4 the months in which accrued to the extent accrued in such
 5 month. Any such individual under the age of sixty-five shall
 6 report to the Board any such payment of earnings for such
 7 employment or self-employment before receipt and acceptance
 8 of an annuity for the second month following the month of
 9 such payment. A deduction shall be imposed, with respect
 10 to any such individual who fails to make such report, in the
 11 annuity or annuities otherwise due the individual, in an
 12 amount equal to the amount of the annuity for each month
 13 in which he is paid such earnings in such employment or self-
 14 employment, except that the first deduction imposed pur-
 15 suant to this sentence shall in no case exceed an amount
 16 equal to the amount of the annuity otherwise due for the
 17 first month with respect to which the deduction is imposed.
 18 If pursuant to the first sentence of this subdivision an annuity
 19 was not paid to an individual with respect to one or more
 20 months in any calendar year, and it is subsequently estab-
 21 lished that the total amount of such individual's earnings
 22 during such year as determined in accordance with that sen-
 23 tence (but exclusive of earnings for services described in
 24 subdivision (3)) did not exceed \$2,400, the annuity with
 25 respect to such month or months, and any deduction imposed

1 by reason of the failure to report earnings for such month
 2 or months under the third sentence of this subdivision, shall
 3 then be payable. If the total amount of such individual's
 4 earnings during such year (exclusive of earnings for services
 5 described in subdivision (3)) is in excess of \$2,400, the
 6 number of months in such year with respect to which an
 7 annuity is not payable by reason of such first and third
 8 sentences shall not exceed one month for each \$200 of such
 9 excess, treating the last \$100 or more of such excess as \$200;
 10 and if the amount of the annuity has changed during such
 11 year, any payments of annuities which become payable
 12 solely by reason of the limitations contained in this sentence
 13 shall be made first with respect to the month or months for
 14 which the annuity is larger.

15 “(5) The annuity of a spouse under subsection (c)
 16 shall, with respect to any month, be subject to the same
 17 provisions of this subsection as the individual's annuity. In
 18 addition, the annuity of a spouse under subsection (c) shall
 19 not be payable for any month if the individual's annuity un-
 20 der subsection (a) (1) is not payable for such month by
 21 reason of the provisions of this subsection.

22 “(f) (1) That portion of the individual's annuity as is
 23 computed under section 3 (a) of this Act on the basis of (A)
 24 his compensation and years of service subsequent to De-

1 cember 31, 1974, and (B) his wages and self-employment
 2 income derived from employment and self-employment un-
 3 der the Social Security Act and that portion of the individ-
 4 ual's annuity as is computed under section 3 (h) of this Act
 5 shall be subject to deductions on account of work pursuant
 6 to the provisions of section 203 of the Social Security Act
 7 in the same manner as if such portion of such annuity were
 8 a monthly insurance benefit under that Act: *Provided, how-*
 9 *ever,* That the provisions of this subdivision shall be appli-
 10 cable to the annuity of an individual only if such individual
 11 would be fully insured under the Social Security Act on the
 12 basis of wages and self-employment under that Act and on
 13 employment and self-employment under that Act and on
 14 the basis of compensation derived from service as an em-
 15 ployee after December 31, 1974, if such service as an em-
 16 ployee had been included in the term employment as de-
 17 fined in that Act. Any person in receipt of an annuity sub-
 18 ject to deduction under this subsection shall report to the
 19 Board the receipt of excess earnings as defined in paragraph
 20 (3) of section 203 (f) of the Social Security Act.

21 “(2) That portion of the spouse's annuity under sub-
 22 section (c) which is derived from the portion of the individ-
 23 ual's annuity subject to deductions under subdivision (1)
 24 and that portion of the spouse's annuity as is computed under
 25 section 4 (e) of this Act shall be subject to deductions on

1 account of work pursuant to the provisions of section 203
 2 of the Social Security Act in the same manner as if such por-
 3 tion of such spouse's annuity were a monthly insurance
 4 benefit under that Act. In addition, such portion of the
 5 spouse's annuity shall be subject to deductions if the in-
 6 dividual's annuity is subject to deductions under subdivision
 7 (1) in the same manner as if such portion of such spouse's
 8 annuity were a monthly insurance benefit under the Social
 9 Security Act.

10 “(g) (1) No annuity shall be paid to a survivor under
 11 subsection (d) with respect to any month in which such
 12 survivor renders service for compensation as an employee
 13 of an employer. Survivors receiving annuities under sub-
 14 section (d) shall report to the Board immediately all such
 15 service for compensation.

16 “(2) Deductions, in amounts and at such time or times
 17 as the Board shall determine, shall be made from any pay-
 18 ments to which a survivor is entitled under subsection (d)
 19 until the total of such deductions equals such survivor's an-
 20 nuity under that subsection for any month, if for such month
 21 such survivor is under the age of seventy-two and is charged
 22 with excess earnings under section 203 (f) of the Social Se-
 23 curity Act or, having engaged in any activity outside the
 24 United States, would be charged under such section 203 (f)
 25 with any excess earnings derived from such activity if it had

1 been an activity within the United States. For purposes of
 2 this subdivision the Board shall have the authority to take
 3 such actions and to make such determinations and such sus-
 4 pensions of payment of benefits in the manner and to the
 5 extent that the Secretary of Health, Education, and Welfare
 6 would be authorized to take or to make under section 203
 7 (h) (3) of the Social Security Act if the survivors were
 8 receiving the annuities to which this subdivision applies under
 9 section 202 of such Act: *Provided, however,* That in deter-
 10 mining a survivor's excess earnings for a year for the pur-
 11 poses of this subdivision there shall not be included his in-
 12 come from employment or self-employment during months
 13 beginning with the month with respect to which he ceases
 14 to be qualified for an annuity. Survivors receiving annuities
 15 under subsection (d) shall report to the Board the receipt of
 16 excess earnings described in this subdivision.

17 “(h) (1) In the event military service credited under
 18 section 3 (i) (2) of this Act is or has been used as the
 19 basis or as a partial basis for a pension, disability compen-
 20 sation, or any other gratuitous benefits payable on a periodic
 21 basis under any other Act of Congress, any annuity of an
 22 individual under subsection (a) (1) which is based in part
 23 on such military service shall be reduced, with respect to a
 24 calendar month for all or part of which such other benefit
 25 is also payable, by (i) the proportion which the number of

1 years of service by which such military service increases the
 2 years of service bears to the total years of service, or (ii)
 3 the aggregate amount of such pension or other benefit with
 4 respect to that month, whichever would result in the smaller
 5 reduction: *Provided, however,* That in no case shall the
 6 reduction under this subdivision operate to reduce the annu-
 7 ity of an individual under subsection (a) (1) below the
 8 amount it would have been if military service had not been
 9 included in the individual's years of service. If the annuity
 10 of an individual under subsection (a) (1) is reduced for any
 11 month by reason of this subdivision, any annuity payable
 12 to the spouse of such individual for such month under sub-
 13 section (c) shall be reduced proportionately.

14 “(2) The supplemental annuity provided an individual
 15 by subsection (b) shall, with respect to any month, be re-
 16 duced by the amount of the supplemental pension, attributa-
 17 ble to the employer's contribution, that such individual is
 18 entitled to receive for that month under any other supple-
 19 mental pension plan: *Provided, however,* That the maxi-
 20 mum of such reduction shall be equal to the amount of the
 21 supplemental annuity less any amount by which the supple-
 22 mental pension is reduced by reason of the supplemental
 23 annuity.

24 “(3) If a spouse entitled to an annuity under subsec-
 25 tion (c) or a survivor entitled to an annuity under sub-

1 section (d) for any month is also entitled to an annuity under
 2 subsection (a) (1) for such month, the annuity under sub-
 3 section (c) or (d) shall be reduced, but not below zero, by
 4 an amount equal to the annuity under subsection (a) (1):
 5 *Provided, however,* That the provisions of this subdivision
 6 shall not apply if either the spouse or survivor or the individ-
 7 ual upon whose earnings record the spouse's or survivor's
 8 annuity under subsection (c) or (d) is based rendered serv-
 9 ice as an employee to an employer, or as an employee repre-
 10 sentative, prior to January 1, 1975.

11 “(4) If an annuitant is entitled to more than one an-
 12 nuity under subsections (c) and (d) for a month, such an-
 13 nuitant shall be entitled to only the larger of such annuities
 14 for such month, except that, if such annuitant so elects, he
 15 shall instead be entitled to only the smaller of such annuities
 16 for such month.

17 “COMPUTATION OF EMPLOYEE ANNUITIES

18 “SEC. 3. (a) (1) The annuity of an individual under
 19 section 2 (a) (1) of this Act shall be in an amount equal to
 20 the amount (before any reduction on account of age and
 21 before any deductions on account of work) of the old-age
 22 insurance benefit or disability insurance benefit to which such
 23 individual would have been entitled under the Social Security
 24 Act if all of his or her service as an employee after Decem-

ber 31, 1936, had been included in the term employment as defined in that Act.

“(2) For purposes of this subsection, individuals entitled to an annuity under paragraph (ii) of section 2 (a) (1) of this Act shall, except for purposes of recomputations in accordance with the provisions of section 215 (f) of the Social Security Act, be deemed to have attained age 65, and individuals entitled to an annuity under paragraph (iv) or (v) of such section 2 (a) (1) shall be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act.

“(b) (1) The amount of the annuity of an individual provided under subsection (a) of this section shall be increased by an amount equal to (A) the amount of the annuity to which such individual would have been entitled (without regard to the requirement that an individual's years of service be ten or more) under section 2 (a) 1 of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, on the basis of his compensation and years of service prior to January 1, 1975, deeming such individual (i) to be eligible for such an annuity and (ii) to be entitled to no other benefit under either that Act or the Social Security Act except a benefit under the Social Security Act in the amount computed in accordance with the provisions of subclause (ii) of clause (C) of subsection (h) (1) or (h) (2) of this sec-

tion, minus (B) the amount of the old-age insurance benefit to which such individual would have been entitled (before any deductions on account of work and subject to the last sentence of this subdivision) under the Social Security Act as in effect on December 31, 1974, if all his service as an employee after December 31, 1936, and before January 1, 1975, were included in the term ‘employment’ as defined in that Act, and if such individual (i) were age 65 and otherwise eligible for such a benefit and (ii) had no wages or self-employment income under that Act other than wages derived from service as an employee after December 31, 1936, and before January 1, 1975. For purposes of computing amounts under clause (A) of this subdivision, the Board shall have the authority to approximate the effect of the reductions prescribed by sections 3 (a) (2) and 3 (a) (3) of the Railroad Retirement Act of 1937 in cases where the individual is entitled to a benefit under subsection (h) (1) or (h) (2) of this section. For purposes of this subdivision, ‘benefit computation years’ shall be used in calculating an individual's ‘average monthly wage’, except in computing increases in amounts determined under clause (A) of this subdivision pursuant to section 3 (a) (6) of the Railroad Retirement Act of 1937.

“(2) The amount computed under subdivision (1) of this subsection shall be increased by 65 per centum of the

1 percentage increase obtained by comparing the unadjusted
2 Consumer Price Index for the month of September 1976
3 with the unadjusted Consumer Price Index for the September
4 immediately preceding the earlier of (A) the calendar year
5 in which the individual's annuity under section 2 (a) (1) of
6 this Act begins to accrue or (B) the calendar year 1981.

7 “(c) If an individual entitled to an annuity under sec-
8 tion 2 (a) (1) of this Act will have rendered service as an
9 employee to an employer, or as an employee representative,
10 subsequent to December 31, 1974, the amount of the an-
11 nuity of such individual provided under the preceding sub-
12 sections of this section shall be increased by \$1.50 for each
13 of the first ten years of service that the individual has prior
14 to January 1, 1975, and by \$1.00 for each year of service
15 prior to January 1, 1975, that the individual has in excess
16 of ten years.

17 “(d) (1) The amount of the annuity of an individual
18 provided under the preceding subsections of this section shall
19 be increased by an amount equal to the sum of (A) the prod-
20 uct obtained by multiplying such individual's years of service
21 subsequent to December 31, 1974, by 0.5 per centum of his
22 average monthly compensation for such years of service and
23 (B) \$4.00 for each of such years of service.

24 “(2) The amount computed under subdivision (1) of
25 this subsection shall be increased (but subject to the re-

1 duction prescribed by the following sentence) by an amount
2 equal to (A) the sum of (i) 0.5 per centum of the individ-
3 ual's average monthly compensation for his years of service
4 subsequent to December 31, 1974, disregarding, for this
5 purpose, compensation for any month after December 31,
6 1980, in excess of one-twelfth of the maximum annual tax-
7 able 'wages' (as defined in section 3121 of the Internal
8 Revenue Code of 1954) for the calendar year 1980, and
9 (ii) \$4, multiplied by (B) the product of (i) the individ-
10 ual's years of service subsequent to December 31, 1974,
11 and (ii) 65 per centum of the percentage increase obtained
12 by comparing the unadjusted Consumer Price Index for
13 the month of September 1976 with the unadjusted Con-
14 sumer Price Index for the September immediately preced-
15 ing the earlier of the calendar year in which the individual's
16 annuity under section 2 (a) (1) of this Act begins to accrue
17 or the calendar year 1981. The amount determined under
18 the provisions of the first sentence of this subdivision shall
19 be reduced by the amount by which (C) the product of
20 (i) 0.5 per centum of the individual's average monthly com-
21 pensation for his years of service subsequent to December
22 31, 1974, disregarding for this purpose, compensation for
23 any month after December 31, 1980, in excess of one-
24 twelfth of the maximum annual taxable 'wages' (as defined
25 in section 3121 of the Internal Revenue Code of 1954) for

1 the calendar year 1980, times (ii) the individual's years of
 2 service subsequent to December 31, 1974, exceeds (D)
 3 the product of (i) 0.5 per centum of the individual's aver-
 4 age monthly compensation for his years of service subse-
 5 quent to December 31, 1974, disregarding, for this pur-
 6 pose, compensation for any month after December 31, 1976,
 7 in excess of one-twelfth of the maximum annual taxable
 8 'wages' (as defined in section 3121 of the Internal Revenue
 9 Code of 1954) for the calendar year 1976, times (ii) the
 10 individual's years of service subsequent to December 31,
 11 1974: *Provided, however,* That the provisions of this sen-
 12 tence shall not operate to reduce the amount determined
 13 under the preceding sentence below an amount equal to \$4
 14 multiplied by the amount computed under clause (B) of
 15 the preceding sentence.

16 " (e) The supplemental annuity of an individual under
 17 section 2 (b) of this Act shall be \$23 plus an additional
 18 amount of \$4 for each year of service that the individual has
 19 in excess of 25 years, but in no case shall the supplemental
 20 annuity exceed \$43.

21 " (f) (1) If the total amount of an individual's annuity
 22 and supplemental annuity computed under the preceding
 23 subsections of this section would, before any reductions on
 24 account of age and disregarding any increases in such total
 25 amount which become effective after the date on which such

1 individual's annuity under section 2 (a) (1) of this Act
 2 begins to accrue, exceed an amount equal to the sum of
 3 (A) 100 per centum of his "final average monthly compen-
 4 sation" up to an amount equal to 50 per centum of one-
 5 twelfth of the maximum annual taxable 'wages' (as defined
 6 in section 3121 of the Internal Revenue Code of 1954) for
 7 the calendar year in which such individual's annuity under
 8 section 2 (a) (1) of this Act begins to accrue, plus (B) 80
 9 per centum of so much of his "final average monthly com-
 10 pensation" as exceeds 50 per centum of one-twelfth of the
 11 maximum annual taxable 'wages' (as defined in section 3121
 12 of the Internal Revenue Code of 1954) for the calendar
 13 year in which such individual's annuity under section 2 (a)
 14 (1) of this Act begins to accrue, the supplemental annuity
 15 of such individual first, and then, if necessary, the annuity
 16 amount of such individual as computed under subsections
 17 (b), (c), and (d) of this section, shall be reduced until
 18 such total amount of such individual's annuity and supple-
 19 mental annuity equals such sum or until such supplemental
 20 annuity and such annuity amount computed under subsections
 21 (b), (c), and (d) of this section are reduced to zero, which-
 22 ever occurs first: *Provided, however,* That the provisions of
 23 this subdivision shall not operate to reduce the total amount
 24 of an individual's annuity and supplemental annuity com-
 25 puted under the preceding subsections of this section below

1 \$1,200. For purposes of this subdivision, the "final average
 2 monthly compensation" of an individual shall be determined
 3 by dividing the total compensation received by such indi-
 4 vidual in the two calendar years, consecutive or otherwise, in
 5 which he was credited with the highest total compensation
 6 during the ten-year period ending with December 31 of the
 7 year in which such individual's annuity under section 2 (a)
 8 (1) of this Act begins to accrue by 24. For purposes of this
 9 subdivision, the term 'compensation' shall include 'compen-
 10 sation' as defined in section 1 (h) of this Act, 'wages' as
 11 defined in section 209 of the Social Security Act, 'self-
 12 employment income' as defined in section 211 (b) of the
 13 Social Security Act, and wages deemed to have been paid
 14 under section 217 or 229 of the Social Security Act on
 15 account of military service: *Provided, however,* That in no
 16 case shall the compensation with respect to any calendar
 17 month exceed the limitation on the compensation for such
 18 month prescribed in subsection (j) of this section. Wages
 19 and self-employment income included as compensation for
 20 purposes of this subdivision shall, in the absence of evidence
 21 to the contrary, be presumed to have been paid in equal pro-
 22 portions with respect to all months in the calendar quarter in
 23 which credited, in the case of wages, or in equal proportions
 24 with respect to all months in the calendar year in which
 25 credited, in the case of self-employment income.

1 "(2) If, in the case of an individual whose annuity
 2 under section 2 (a) (1) of this Act began to accrue prior
 3 to January 1, 1983, the annuity (disregarding any amount
 4 provided by subsection (h) of this section) plus the supple-
 5 mental annuity to which such individual is entitled for any
 6 month under this Act, together with the annuity, if any,
 7 of the spouse of such individual (disregarding any amount
 8 provided by section 4 (e) of this Act), before any reductions
 9 under the provisions of section 2 (f) of this Act, is less than
 10 the total amount which would have been payable to such
 11 individual and his spouse for such month, on the basis of the
 12 individual's compensation and years of service, under the
 13 provisions of the Railroad Retirement Act of 1937 as in
 14 effect on December 31, 1974, disregarding, for purposes of
 15 the computations under such Railroad Retirement Act of
 16 1937, compensation for any month after December 31, 1974,
 17 in excess of one-twelfth of the maximum annual taxable
 18 'wages' (as defined in section 3121 of the Internal Revenue
 19 Code of 1954) for the calendar year 1974, the annuity
 20 of such individual and the annuity of such spouse, if any,
 21 shall be increased, without regard to the provisions of sub-
 22 division (1) of this subsection, proportionately so as to
 23 equal such total amount. For the purpose of computing
 24 amounts under this subdivision, the Board shall have the
 25 authority to approximate the effect of the reductions pre-

1 scribed by sections 3 (a) (2) and 3 (a) (3) of the Railroad
 2 Retirement Act of 1937. For purposes of computing amounts
 3 payable under the Railroad Retirement Act of 1937, any
 4 increases in the amounts determined under the first proviso
 5 of section 3 (e) of such Act which would have become
 6 effective after December 31, 1974, shall be disregarded.

7 “(3) If for any month in which an annuity accrues
 8 and is payable under this Act the annuity to which an in-
 9 dividual is entitled under this Act (or would have been
 10 entitled except for a reduction pursuant to a joint and sur-
 11 vivor election), together with the annuity, if any, of the
 12 spouse of such individual, is less than the total amount, or
 13 the additional amount, which would have been payable to
 14 all persons for such month under the Social Security Act
 15 if such individual's service as an employee after December 31,
 16 1936, were included in the term 'employment' as defined in
 17 that Act, such annuity or annuities shall be increased pro-
 18 portionately to such total amount, or such additional amount:
 19 *Provided, however,* That if an annuity accrues to an individ-
 20 ual or a spouse for a part of a month, the amount payable
 21 for such part of a month under this subdivision shall be
 22 one-thirtieth of the amount payable under this subdivision
 23 for an entire month, multiplied by the number of days in such
 24 part of a month. For purposes of this subdivision, (i) per-
 25 sons not entitled to an annuity under section 2 of this Act

1 shall not be included in the computation under this sub-
 2 division except a spouse who could qualify for an annuity
 3 under section 2 (c) of this Act if the individual from whom
 4 the spouse's annuity under this Act would derive had at-
 5 tained age 60 or 62, as the case may be, and such individual's
 6 children who meet the definition as such contained in sec-
 7 tion 216 (e) of the Social Security Act; (ii) after an annuity
 8 has been certified for payment and this subdivision was in-
 9 applicable after allowing for any waiting period under
 10 section 223 (c) (2) of the Social Security Act, and after
 11 having considered the inclusion of all persons who were then
 12 eligible for inclusion in the computation under this subdivi-
 13 sion, or was then applicable but later became inapplicable,
 14 any recertification in such annuity under this subdivision
 15 shall not take into account persons not entitled to an annuity
 16 under section 2 of this Act except a spouse who could qualify
 17 for an annuity under section 2 (c) of this Act when she
 18 attains age 60 or 62, as the case may be, if the individual
 19 from whom the spouse's annuity would derive had attained
 20 age 60 or 62, as the case may be, and who was married to
 21 such individual at the time he applied for his annuity; and
 22 (iii) in computing the amount to be paid under this sub-
 23 division the only benefits under title II of the Social Se-
 24 curity Act which shall be considered shall be those to which
 25 the persons included in the computation are entitled.

1 “(g) Those portions of the annuity of an individual as
 2 are computed under subsections (b) and (d) of this section
 3 shall, if such individual’s annuity under section 2(a)(1) of
 4 this Act began to accrue on or before the date on which the
 5 applicable increase under this subsection becomes effective,
 6 be increased by 32.5 per centum of the percentage increase,
 7 if any (rounded to the nearest one-tenth of 1 percent), ob-
 8 tained by comparing (A) the unadjusted Consumer Price
 9 Index for the calendar quarter ending March 31, 1977, with
 10 such index for the calendar quarter ending March 31, 1976,
 11 (B) the unadjusted Consumer Price Index for the calendar
 12 quarter ending March 31, 1978, with the higher of (i) such
 13 index for the calendar quarter ending March 31, 1977, or
 14 (ii) such index for the calendar quarter ending March 31,
 15 1976, (C) the unadjusted Consumer Price Index for the
 16 calendar quarter ending March 31, 1979, with the highest
 17 of (i) such index for the calendar quarter ending March 31,
 18 1978, (ii) such index for the calendar quarter ending
 19 March 31, 1977, or (iii) such index for the calendar quar-
 20 ter ending March 31, 1976, and (D) the unadjusted Con-
 21 sumer Price Index for the calendar quarter ending March 31,
 22 1980, with the highest of (i) such index for the calendar
 23 quarter ending March 31, 1979, (ii) such index for the
 24 calendar quarter ending March 31, 1978, (iii) such index for
 25 the calendar quarter ending March 31, 1977, or (iv) such

1 index for the calendar quarter ending March 31, 1976. The
 2 unadjusted Consumer Price Index for any calendar quarter
 3 shall be the arithmetical mean of such index for the three
 4 months in such quarter. The increases provided under clauses
 5 (A), (B), (C), and (D) of this subsection shall be effec-
 6 tive on June 1, 1977, June 1, 1978, June 1, 1979, and
 7 June 1, 1980, respectively.

8 “(h) (1) The amount of the annuity provided under
 9 subsections (a) through (d) of this section of an individual
 10 who (A) will have (i) rendered service as an employee to
 11 an employer, or as an employee representative, during the
 12 calendar year 1974, or (ii) had a current connection with
 13 the railroad industry on December 31, 1974, or at the time
 14 his annuity under section 2(a)(1) of this Act began to ac-
 15 crue, or (iii) completed twenty-five years of service prior to
 16 January 1, 1975, and (B) will have (i) completed ten
 17 years of service prior to January 1, 1975, and (ii) been
 18 permanently insured under the Social Security Act on De-
 19 cember 31, 1974, shall be increased by an amount equal to
 20 the amount by which (C) the sum of (i) the primary insur-
 21 ance amount to which such individual would have been en-
 22 titled, upon the attainment of age 65 (or, if later, for Janu-
 23 ary 1975), under the provisions of the Social Security Act
 24 as in effect on December 31, 1974, if his service as an em-
 25 ployee after December 31, 1936, and prior to January 1,

1 1975, were included in the term 'employment' as defined in
 2 that Act and if he had no wages or self-employment income
 3 under that Act other than wages derived from such service
 4 as an employee, and (ii) the primary insurance amount to
 5 which such individual would have been entitled, upon the
 6 attainment of age 65 (or, if later, for January 1975), under
 7 the provisions of the Social Security Act as in effect on De-
 8 cember 31, 1974, on the basis of his wages and self-employ-
 9 ment income derived from employment and self-employment
 10 under that Act prior to January 1, 1975, exceeds (D) the
 11 primary insurance amount to which such individual would
 12 have been entitled, upon the attainment of age 65 (or, if
 13 later, for January 1975), under the provisions of the Social
 14 Security Act as in effect on December 31, 1974, on the basis
 15 of his wages and self-employment income derived from em-
 16 ployment and self-employment under that Act prior to Janu-
 17 ary 1, 1975, and on the basis of compensation derived from
 18 service as an employee after December 31, 1936, and prior
 19 to January 1, 1975, if such service as an employee had been
 20 included in the term 'employment' as defined in that Act.

21 “(2) The amount of the annuity provided under sub-
 22 sections (a) through (d) of this section to an individual
 23 who (A) will not have met the conditions set forth in sub-
 24 clause (i), (ii), or (iii) of clause (A) of subdivision (1) of
 25 this subsection, but (B) will have (i) completed ten years

1 of service prior to January 1, 1975, and (ii) been perma-
 2 nently insured under the Social Security Act as of December
 3 31 of the calendar year in which he last rendered service
 4 as an employee to an employer, or as an employee repre-
 5 sentative, shall be increased by an amount equal to the
 6 amount by which (C) the sum of (i) the primary insurance
 7 amount to which such individual would have been entitled,
 8 upon the attainment of age 65 (or, if later, for January
 9 1975), under the provisions of the Social Security Act as
 10 in effect on December 31, 1974, if his service as an employee
 11 after December 31, 1936, and prior to January 1, 1975,
 12 were included in the term employment as defined in that
 13 Act and if he had no wages or self-employment income un-
 14 der that Act other than wages derived from such service
 15 as an employee, and (ii) the primary insurance amount to
 16 which such individual would have been entitled, upon the
 17 attainment of age 65 (or, if later, for January 1975), under
 18 the provisions of the Social Security Act as in effect on
 19 December 31, 1974, on the basis of his wages and self-
 20 employment income derived from employment and self-
 21 employment under that Act as of December 31 of the cal-
 22 endar year in which he last performed service as an em-
 23 ployee under this Act, exceeds (D) the primary insurance
 24 amount to which such individual would have been entitled,
 25 upon the attainment of age 65 (or, if later, for January

1 1975), under the provisions of the Social Security Act as
 2 in effect on December 31, 1974, on the basis of his wages
 3 and self-employment income derived from employment and
 4 self-employment under that Act as of December 31 of the
 5 calendar year in which he last performed service as an em-
 6 ployee under this Act and on the basis of compensation de-
 7 rived from service as an employee after December 31, 1936,
 8 and prior to January 1, 1975, if such service as an employee
 9 had been included in the term employment as defined in
 10 that Act.

11 “(3) The amount of the annuity provided under sub-
 12 sections (a) through (d) of this section of an individual who
 13 (A) will have (i) rendered service as an employee to an
 14 employer, or as an employee representative, during the cal-
 15 endar year 1974, or (ii) had a current connection with the
 16 railroad industry on December 13, 1974, or at the time his
 17 annuity under section 2 (a) (1) of this Act began to accrue,
 18 or (iii) completed twenty-five years of service prior to Jan-
 19 uary 1, 1975, and (B) will have completed ten years of
 20 service prior to January 1, 1975, and is the wife, husband,
 21 widow, or widower of a person who will have been perma-
 22 nently insured under the Social Security Act of December 31,
 23 1974, shall be increased by an amount equal to the smaller of
 24 (C) the wife’s, husband’s, widow’s or widower’s insurance
 25 benefit to which such individual would have been entitled,

1 upon attaining age 65 (or, if later, for January 1975), under
 2 the provisions of the Social Security Act as in effect on Decem-
 3 ber 31, 1974, on the basis of such person’s wages and self-
 4 employment income derived from employment and self-
 5 employment under that Act prior to January 1, 1975, or
 6 (D) the primary insurance amount to which such individual
 7 would have been entitled upon attaining age 65 (or, if later,
 8 for January 1975), under the provisions of the Social Se-
 9 curity Act as in effect on December 31, 1974, on the basis
 10 of such individual’s wages and self-employment income de-
 11 rived from employment and self-employment under that Act
 12 prior to January 1, 1975, and on the basis of compensation
 13 derived from service as an employee after December 31,
 14 1936, and prior to January 1, 1975, if such service as an
 15 employee had been included in the term employment as de-
 16 fined in that Act.

17 “(4) The amount of the annuity provided under sub-
 18 sections (a) through (d) of this section of an individual
 19 who (A) will not have met the conditions set forth in sub-
 20 clause (i), (ii), or (iii) of clause (A) of subdivision (3)
 21 of this subsection, but (B) will have completed ten years of
 22 service prior to January 1, 1975, and is the wife, husband,
 23 widow, or widower of a person who will have been perma-
 24 nently insured under the Social Security Act as of Decem-
 25 ber 31 of the calendar year in which such individual last

1 rendered service as an employee to an employer, or as an
 2 employee representative, shall be increased by an amount
 3 equal to the smaller of (C) the wife's, husband's, widow's, or
 4 widower's insurance benefit to which such individual would
 5 have been entitled, upon attaining age 65 (or, if later, for
 6 January 1975), under the provisions of the Social Security
 7 Act as in effect on December 31, 1974, on the basis of such
 8 person's wages and self-employment income derived from em-
 9 ployment and self-employment under that Act as of Decem-
 10 ber 31 of the calendar year in which such individual last per-
 11 formed service as an employee under this Act or (D) the
 12 primary insurance amount to which such individual would
 13 have been entitled upon attaining age 65 (or, if later, for
 14 January 1975), under the provisions of the Social Security
 15 Act as in effect on December 31, 1974, on the basis of such
 16 individual's wages and self-employment income derived from
 17 employment and self-employment under that Act as of
 18 December 31 of the calendar year in which such individual
 19 last performed service as an employee under this Act and
 20 on the basis of compensation derived from service as an
 21 employee after December 31, 1936, and prior to January 1,
 22 1975, if such service as an employee had been included in
 23 the term 'employment' as defined in that Act.

24 " (5) The amount computed under subsection (1) or
 25 (2) of this subsection shall be increased by the same per-

1 centage, or percentages, as primary insurance amounts under
 2 section 202 of the Social Security Act are increased during
 3 the period from January 1, 1975, to the date on which the
 4 individual's annuity under section 2 (a) (1) of this Act began
 5 to accrue.

6 " (6) The amount computed under subdivision (3)
 7 or (4) of this subsection shall be increased by the same
 8 percentage, or percentages, as wife's, husband's, widow's,
 9 or widower's insurance benefits, whichever is pertinent, are
 10 increased during the period from January 1, 1975, to the
 11 date on which the individual's annuity under section 2 (a)
 12 (1) of this Act began to accrue.

13 " (i) (1) The 'years of service' of an individual shall
 14 include all his service subsequent to December 31, 1936.

15 " (2) The 'years of service' of an individual shall also
 16 include his voluntary or involuntary military service, within
 17 or without the United States, during any war service period:
 18 *Provided, however,* That such military service shall be in-
 19 cluded only if, prior to the beginning of his military service
 20 and in the same calendar year in which such military service
 21 began, or in the next preceding calendar year, the individual
 22 rendered service for compensation to an employer or to a
 23 person service to which is otherwise creditable under this
 24 Act, or lost time as an employee for which he received
 25 remuneration, or was serving as an employee representative:

1 *Provided further*, That such military service shall be included
 2 only subject to and in accordance with the provisions of
 3 subdivisions (1) and (3) of this subsection in the same
 4 manner as though military service were service rendered as
 5 an employee: *And provided further*, That an individual who
 6 entered military service prior to a war service period shall
 7 not be regarded as having been in military service in a war
 8 service period with respect to any part of the period for which
 9 he entered such military service.

10 “(3) The ‘years of service’ of an individual who was
 11 an employee on August 29, 1935, shall, if the total number
 12 of his ‘years of service’ as determined under subdivisions (1)
 13 and (2) is less than thirty, also include his service prior
 14 to January 1, 1937, but not so as to make his total years of
 15 service exceed thirty: *Provided, however*, That with respect
 16 to any such individual who rendered service to any employer
 17 subsequent to December 31, 1936, and who on August 29,
 18 1935, was not an employee of an employer conducting the
 19 principal part of its business in the United States, no greater
 20 proportion of his service rendered prior to January 1, 1937,
 21 shall be included in his ‘years of service’ than the proportion
 22 which his total compensation (without regard to any limita-
 23 tion on the amount of compensation otherwise provided in
 24 this Act) for service subsequent to December 31, 1936,
 25 rendered anywhere to an employer conducting the principal

1 part of its business in the United States or rendered in the
 2 United States to any other employer bears to his total com-
 3 pensation (without regard to any limitation on the amount
 4 of compensation otherwise provided in this Act) for service
 5 rendered anywhere to an employer subsequent to Decem-
 6 ber 31, 1936. Where the ‘years of service’ include only part
 7 of the service prior to January 1, 1937, the part included
 8 shall be taken in reverse order beginning with the last cal-
 9 endar month of such service.

10 “(j) The ‘average monthly compensation’ shall be the
 11 average compensation paid to an employee with respect to
 12 calendar months included in his ‘years of service’, except
 13 (1) that with respect to service prior to January 1, 1937,
 14 the monthly compensation shall be the average compensa-
 15 tion paid to an employee with respect to calendar months
 16 included in his years of service in the years 1924–1931,
 17 and (2) the amount of compensation paid or attributable
 18 as paid to him with respect to each month of service before
 19 September 1941 as a station employee whose duties con-
 20 sisted of or included the carrying of passengers’ hand baggage
 21 and otherwise assisting passengers at passenger stations and
 22 whose remuneration for service to the employer was, in
 23 whole or in substantial part, in the forms of tips, shall be
 24 the monthly average of the compensation paid to him as
 25 a station employee in his months of service in the period

1 September 1940 through August 1941: *Provided, however,*
2 That where service in the period 1924 through 1931 in the
3 one case, or in the period September 1940 through August
4 1941 in the other case, is, in the judgment of the Board,
5 insufficient to constitute a fair and equitable basis for deter-
6 mining the amount of compensation paid or attributable as
7 paid to him in each month of service before 1937, or Septem-
8 ber 1941, respectively, the Board shall determine the amount
9 of such compensation for each such month in such manner
10 as in its judgment shall be fair and equitable. In computing
11 the monthly compensation, no part of any month's compen-
12 sation in excess of \$300 for any month before July 1, 1954,
13 or in excess of \$350 for any month after June 30, 1954,
14 and before June 1, 1959, or in excess of \$400 for any
15 month after May 31, 1959, and before November 1, 1963,
16 or in excess of \$450 for any month after October 31, 1963,
17 and before October 1, 1965, or in excess of (i) \$450, or
18 (ii) an amount equal to one-twelfth of the current maximum
19 annual taxable 'wages' as defined in section 3121 of the
20 Internal Revenue Code of 1954, whichever is greater, for
21 any month after September 30, 1965, shall be recognized.
22 If the employee earned compensation in service after June
23 30, 1937, and after the last day of the calendar year in which
24 he attained age sixty-five, such compensation and service
25 shall be disregarded in computing the average monthly

1 compensation if the result of taking such compensation into
2 account in such computation would be to diminish his annu-
3 ity. If the 'average monthly compensation' computed under
4 this subsection is not a multiple of \$1, it shall be rounded
5 to the next lower multiple of \$1. Where an employee claims
6 credit for months of service rendered within two years prior
7 to his retirement from the service of an employer, with
8 respect to which the employer's return pursuant to section
9 9 of this Act has not been entered on the records of the
10 Board before the employee's annuity could otherwise be cer-
11 tified for payment, the Board may, in its discretion (subject
12 to subsequent adjustment at the request of the employee)
13 include such months in the computation of the annuity with-
14 out further verification and may consider the compensation
15 for such months to be the average of the compensation
16 for months in the last period for which the employer has filed
17 a return of the compensation of such employee and such
18 return has been entered on the records of the Board.

19 " (k) The annuity of an individual who shall have been
20 an employee representative shall be determined in the same
21 manner and with the same effect as if the employee organi-
22 zation by which he shall have been employed were an
23 employer.

24 " (l) In cases where an annuity awarded under para-
25 graph (ii) of section 2 (a) (1) or under section 2 (c) (2)

1 of this Act is increased either by a change in the law or by
2 a recomputation, the reduction for the increase in the annuity
3 shall be determined separately and the period with respect
4 to which the reduction applies shall be determined as if such
5 increase were a separate annuity payable for and after the
6 first month for which such increase is effective.

7 "COMPUTATION OF SPOUSE AND SURVIVOR ANNUITIES

8 "SEC. 4. (a) (1) The annuity of a spouse of an indi-
9 vidual under section 2 (c) of this Act shall be in an amount
10 equal to the amount (before any reduction on account of age
11 and before any deductions on account of work) of the wife's
12 insurance benefit or the husband's insurance benefit to which
13 such spouse would have been entitled under the Social Se-
14 curity Act if such individual's service as an employee after
15 December 31, 1936, had been included in the term em-
16 ployment as defined in that Act.

17 "(2) For purposes of this subsection, spouses entitled
18 to an annuity under clause (B) of paragraph (ii) of section
19 2 (c) (1) of this Act shall be deemed to have attained
20 age 65.

21 "(b) The amount of the annuity of a spouse of an
22 individual provided under subsection (a) of this section shall
23 be increased by an amount equal to 50 per centum of that
24 portion of the individual's annuity as is computed under sub-
25 sections (b), (c), and (d) of section 3 of this Act: *Pro-*

1 *vided, however,* That if the spouse is entitled to an annuity
2 amount provided by subsection (e) (1) or (e) (2) of this
3 section, the amount of such spouse's annuity provided by the
4 preceding provisions of this subsection shall be reduced by
5 the amount by which the amount computed in accordance
6 with the provisions of clause (C) of subsection (e) (1) or
7 (e) (2) of this section was increased by the Social Security
8 Amendments of 1965, 1967, and 1969, disregarding (A)
9 the amount of any such increase resulting from the Social
10 Security Amendments of 1967 equal to, or less than, the
11 excess of \$5 over 5.8 per centum of the lesser of (i) the
12 amount computed under clause (C) of subsection (e) (1)
13 or (e) (2) of this section before any increases derived from
14 legislation enacted after the Social Security Amendments of
15 1967 or (ii) the amount of the spouse's annuity to which
16 such spouse would have been entitled under section 2 (e) of
17 the Railroad Retirement Act of 1937, without regard to
18 section 3 (a) (2) of that Act or to increases derived from
19 legislation enacted after 1968 and before any reduction on
20 account of age, on the basis of the individual's compensation
21 and years of service prior to January 1, 1975, and (B) the
22 amount of any such increase resulting from the Social
23 Security Amendments of 1969 equal to, or less than, \$5:
24 *Provided further,* That if the total of (A) the amount of
25 the spouse's annuity provided under subsection (a) of this

1 section, or, in the case of a spouse entitled to an annuity
 2 under section 2 (a) (1) of this Act or to an old-age insur-
 3 ance benefit or a disability insurance benefit under section
 4 202 or 223 of the Social Security Act, the amount to which
 5 such spouse would be entitled under subsection (a) if she
 6 or he were not entitled to an annuity under section 2 (a) (1)
 7 of this Act or to an old-age insurance benefit or a disability
 8 insurance benefit under section 202 or 223 of the Social
 9 Security Act, plus (B) the amount of her or his annuity
 10 under this subsection would, with respect to any month,
 11 before any reductions on account of age, exceed 110 per
 12 centum of an amount equal to the maximum amount which
 13 could be paid to anyone, with respect to such month, as a
 14 wife's insurance benefit under section 202 (b) of the Social
 15 Security Act, the amount of the annuity of such spouse under
 16 this subsection shall be reduced until the total of such annuity
 17 amounts equals 110 per centum of such amount. The Board
 18 shall have the authority to approximate the amount of any
 19 reduction prescribed by the first proviso of this subsection.

20 " (c) If (A) the total amount of the annuity of a spouse
 21 of an individual as computed under the preceding subsections
 22 of this section as of the date on which the annuity of such
 23 individual under section 2 (a) (1) of this Act began to
 24 accrue plus (B) the total amount of the annuity and supple-
 25 mental annuity of the individual subject to the provisions of

1 section 3 (f) (1) of this Act would, before any reductions in
 2 the amounts specified in clauses (A) and (B) on account of
 3 age and disregarding any increases in such amounts which
 4 become effective after the date on which the individual's
 5 annuity under section 2 (a) (1) of this Act began to accrue,
 6 exceed the amount determined under clauses (A) and (B)
 7 of section 3 (f) (1) of this Act, the portion of the annuity of
 8 such spouse determined under subsection (b) of this section
 9 as of the date on which the individual's annuity under sec-
 10 tion 2 (a) (1) began to accrue shall be reduced until the sum
 11 of the amounts specified in clauses (A) and (B) of this
 12 subsection equals the amount determined under clauses (A)
 13 and (B) of section 3 (f) (1) or until such amount under
 14 subsection (b) is reduced to zero, whichever occurs first.
 15 If, after such amount under subsection (b) is reduced to
 16 zero, the sum of the remaining amounts specified in clauses
 17 (A) and (B) of this subsection still exceeds the amount
 18 determined under clauses (A) and (B) of section 3 (f) (1),
 19 the supplemental annuity of the individual first, and then, if
 20 necessary, the annuity amount of the individual computed
 21 under subsection (b), (c), and (d) of section 3 as of the
 22 date on which the individual's annuity under section 2 (a) (1)
 23 began to accrue, shall be reduced until the amounts specified
 24 in clauses (A) and (B) of this subsection equals the amount
 25 determined under clauses (A) and (B) of section 3 (f) (1)

1 or until such supplemental annuity and such annuity amount
 2 are reduced to zero, whichever occurs first. Notwithstanding
 3 the preceding provisions of this subsection, the provisions of
 4 this subsection shall not operate to reduce the total of the
 5 amounts specified in clauses (A) and (B) of this subsection
 6 below \$1,200.

7 “(d) That portion of the annuity of the spouse of an
 8 individual as is determined under subsections (b) and (c)
 9 of this section shall be increased by the same percentage, or
 10 percentages, as the individual’s annuity is, or has been, in-
 11 creased pursuant to the provisions of section 3 (g) of this
 12 Act.

13 “(e) (1) The amount of the annuity of the spouse of an
 14 individual determined under subsections (a) and (b) of this
 15 section, if (A) such individual will have (i) rendered
 16 service as an employee to an employer, or as an employee
 17 representative, during the calendar year 1974, or (ii) had
 18 a current connection with the railroad industry on December
 19 31, 1974, or at the time his annuity under section 2 (a) (1)
 20 of this Act began to accrue, or (iii) completed twenty-five
 21 years of service prior to January 1, 1975, and (B) such
 22 individual will have completed ten years of service prior to
 23 January 1, 1975, and such spouse will have been perma-
 24 nently insured under the Social Security Act on December 31,
 25 1974, shall be increased by an amount equal to the smaller of

1 (C) the primary insurance amount to which such spouse
 2 would have been entitled, upon attaining age 65, under the
 3 provisions of the Social Security Act as in effect on December
 4 31, 1974, on the basis of her or his wages and self-employ-
 5 ment income derived from employment under that Act prior
 6 to January 1, 1975, or (D) the wife’s or husband’s insur-
 7 ance benefit to which such spouse would have been entitled,
 8 upon attaining age 65, under the provisions of the Social
 9 Security Act as in effect on December 31, 1974, if such
 10 individual’s service as an employee after December 31, 1936,
 11 and prior to January 1, 1975, were included in the term em-
 12 ployment as defined in that Act, if such individual had no
 13 wages or self-employment income under that Act other than
 14 wages derived from such service as an employee, and if such
 15 spouse were entitled to no other benefit under that Act:
 16 *Provided, however,* That the increase under the provisions of
 17 this subdivision shall not be less than 50 per centum of the
 18 portion of the annuity, if any, of such individual determined
 19 under the provisions of section 3 (h) (1) of this Act prior to
 20 any increases under the provisions of section 3 (h) (5) of this
 21 Act.

22 “(2) The amount of the annuity of the spouse of an
 23 individual determined under subsections (a) and (b) of this
 24 section, if (A) such individual will not have met the condi-
 25 tions set forth in subclause (i), (ii), or (iii) of clause (A)

1 of subdivision (1) of this subsection, but (B) such individ-
2 ual will have completed ten years of service prior to January
3 1, 1975, and such spouse will have been permanently insured
4 under the Social Security Act as of December 31 of the
5 calendar year in which such individual last rendered service
6 as an employee, shall be increased by an amount equal to the
7 smaller of (C) the primary insurance amount to which such
8 spouse would have been entitled, upon attaining age 65,
9 under the provisions of the Social Security Act as in effect on
10 December 31, 1974, on the basis of his or her wages and
11 self-employment income derived from employment and self-
12 employment under that Act as of December 31 of the calen-
13 dar year in which such individual last rendered service as an
14 employee or (D) the wife's or husband's insurance benefit
15 to which such spouse would have been entitled, upon attain-
16 ing age 65, under the provisions of the Social Security Act as
17 in effect on December 31, 1974, if such individual's service
18 as an employee after December 31, 1936, and prior to Janu-
19 ary 1, 1975, were included in the term employment as de-
20 fined in that Act, if such individual had no wages or self-
21 employment income under that Act other than wages derived
22 from such service as an employee, and if such spouse were
23 entitled to no other benefit under that Act: *Provided, how-*
24 *ever,* That the increase under the provisions of this subdivi-
25 sion shall not be less than 50 per centum of the portion of

1 the annuity, if any, of such individual determined under the
2 provisions of section 3 (h) (2) of this Act prior to any in-
3 creases under the provisions of section 3 (h) (5) of this Act.

4 “(3) The amount of the annuity of the spouse of an
5 individual determined under subsections (a) and (b) of this
6 section, if (A) such individual is entitled to an amount de-
7 termined under the provisions of section 3 (h) (1) or
8 3 (h) (2) of this Act and (B) such spouse is not entitled
9 to an amount determined under the provisions of subdivision
10 (1) or (2) of this subsection, shall be increased by an
11 amount equal to 50 per centum of the portion of the annuity
12 of such individual determined under the provisions of section
13 3 (h) (1) or 3 (h) (2) of this Act prior to any increases
14 under the provisions of section 3 (h) (5) of this Act.

15 “(4) The amount determined under the provisions of
16 subdivision (1), (2), or (3) of this subsection shall be
17 increased by the same percentage or percentages, as wife's
18 and husband's insurance benefits under section 202 of the
19 Social Security Act are increased during the period from
20 January 1, 1975, to the date on which the individual's an-
21 nuity under section 2 (a) (1) of this Act began to accrue.

22 “(f) (1) The annuity of a survivor of a deceased em-
23 ployee under section 2 (d) of this Act shall be in an amount
24 equal to the amount (before any deductions on account of
25 work) of the widow's insurance benefit, widower's insurance

1 benefit, mother's insurance benefit, parent's insurance bene-
 2 fit, or child's insurance benefit, whichever is applicable, to
 3 which he or she would have been entitled under the Social
 4 Security Act if such deceased employee's service as an em-
 5 ployee after December 31, 1936, had been included in the
 6 term 'employment' as defined in that Act.

7 “(2) For purposes of this subsection—

8 “(i) a widow or widower or a parent who is
 9 entitled to an annuity based on age under section 2 (d)
 10 (1) of this Act and who has not attained age 62
 11 shall be deemed to be age 62: *Provided, however,* That
 12 the provisions of this paragraph shall not apply in the
 13 case of a widow or widower who was entitled to an
 14 annuity under section 2 (d) (1) on the basis of disability
 15 for the month before the month in which he or she
 16 attained age 60, and

17 “(ii) a widow or widower or a child who is
 18 entitled to an annuity under section 2 (d) (1) of this
 19 Act on the basis of disability shall be deemed to be
 20 entitled to a widow's insurance benefit, a widower's in-
 21 surance benefit, or a child's insurance benefit under the
 22 Social Security Act on the basis of disability.

23 “(g) The annuity of a survivor of a deceased employee
 24 determined under subsection (f) of this section shall, with
 25 respect to any month, be increased by an amount equal to

1 30 per centum of the amount of the annuity (before any
 2 deductions on account of work) to which such survivor is
 3 entitled for such month under the provisions of subsection
 4 (f) of this section, or to which such survivor would have
 5 been entitled for such month under such subsection if such
 6 survivor were entitled to no other monthly benefit under
 7 section 2 of this Act or under the Social Security Act:
 8 *Provided, however,* That if (A) (i) the amount of the an-
 9 nuity to which a widow or widower of a deceased employee
 10 is entitled under subsection (f) of this section, or the an-
 11 nuity to which such widow or widower would be entitled
 12 under such subsection if such widow or widower were entitled
 13 to no other monthly benefit under section 2 of this Act or
 14 under the Social Security Act, plus (ii) the amount of an-
 15 nuity to which such widow or widower is entitled under this
 16 subsection is (before any deductions on account of work)
 17 less than (B) the total of the annuity amounts to which
 18 such widow or widower was entitled (or would have been
 19 entitled except for the provisions of sections 2 (e) and 2 (f)
 20 or 2 (h) of this Act or of section 202 (k) or 202 (q) of the
 21 Social Security Act) as a spouse under subsections (a) and
 22 (b) of this section (after any reduction on account of age)
 23 in the month preceding the employee's death, the annuity
 24 amount of such widow or widower under this subsection shall
 25 be increased until the total of the annuity amounts described

1 in clause (A) of this proviso equals the total of the annuity
2 amounts described in clause (B).

3 “(h) (1) The amount of the annuity of the widow or
4 widower of a deceased employee determined under subsec-
5 tions (f) and (g) of this section, if such deceased employee
6 will have completed ten years of service prior to January
7 1, 1975, and such widow or widower will have been per-
8 manently insured under the Social Security Act on December
9 31, 1974, shall be increased by an amount equal to the
10 amount, if any, by which (A) the sum of (i) the widow’s
11 or widower’s insurance annuity to which such widow or
12 widower would have been entitled, upon attaining age 65,
13 under section 5 (a) of the Railroad Retirement Act of 1937
14 as in effect on December 31, 1974 (without regard to the
15 proviso of that section or the first proviso of section 3 (e)
16 of that Act), on the basis of the deceased employee’s re-
17 munerated and service prior to January 1, 1975, and (ii)
18 the primary insurance amount to which such widow or
19 widower would have been entitled, upon attaining age 65,
20 under the provisions of the Social Security Act as in effect on
21 December 31, 1974, on the basis of her or his wages and
22 self-employment income derived from employment and self-
23 employment under that Act prior to January 1, 1975, ex-
24 ceeds (B) 130 per centum of the amount of the widow’s or
25 widower’s insurance benefit to which such widow or widower

1 would have been entitled, upon attaining age 65, under the
2 provisions of the Social Security Act as in effect on December
3 31, 1974, on the basis of the deceased employee’s wages
4 and self-employment income derived from employment and
5 self-employment under that Act prior to January 1, 1975,
6 and on the basis of compensation derived from service as an
7 employee after December 31, 1936, and before January 1,
8 1975, if the deceased employee’s service as an employee
9 after December 31, 1936, and before January 1, 1975, had
10 been included in such employment and if such widow or
11 widower were entitled to no other monthly benefit under
12 section 2 of this Act or under the Social Security Act.

13 “(2) The amount determined under the provisions of
14 subdivision (1) of this subsection shall be increased by the
15 same percentage, or percentages, as widow’s and widower’s
16 insurance benefits under section 202 of the Social Security
17 Act are increased during the period from January 1, 1975,
18 to the earlier of the date of the deceased employee’s death
19 or the date on which the deceased employee’s annuity under
20 section 2 (a) (1) of this Act began to accrue.

21 “ANNUITY BEGINNING AND ENDING DATES

22 “SEC. 5. (a) An annuity under section 2 of this Act
23 shall begin with the month in which eligibility therefor was
24 otherwise acquired, but—

1 “(i) not earlier than the date specified in the ap-
2 plication therefor;

3 “(ii) not earlier than the first day of the twelfth
4 month before the month in which the application there-
5 for was filed; and

6 “(iii) in the case of an applicant otherwise eligible
7 for an annuity under section 2(a)(1) or 2(c) not
8 earlier than the date following the last day of compen-
9 sated service of the applicant.

10 “(b) An application for any payment under this Act
11 shall be made and filed in such manner and form as the Board
12 may prescribe. An application filed with the Board for an
13 annuity under this Act shall, unless the applicant specifies
14 otherwise, be deemed to be an application for any benefit to
15 which such applicant may be entitled under this Act or the
16 Social Security Act. An individual who was entitled to an
17 annuity under paragraph (iv) or (v) of section 2(a)(1)
18 of this Act for the month preceding the month in which he
19 attained the age of 65, shall be deemed to have filed an appli-
20 cation for an annuity under paragraph (i) of section 2(a)
21 (1) on the date on which he attained age 65, and a widow
22 or widower who was entitled to an annuity under section
23 2(d)(1) of this Act on the basis of disability for the month
24 preceding the month in which she or he attained age 60, shall
25 be deemed to have filed an application for an annuity under

1 such section 2(d)(1) on the basis of age on the date on
2 which she or he attained age 60.

3 “(c)(1) An individual’s entitlement to an annuity
4 under paragraph (i), (ii), or (iii) of section 2(a)(1) or
5 to a supplemental annuity under section 2(b) shall end with
6 the month preceding the month in which he dies.

7 “(2) An individual’s entitlement to an annuity under
8 paragraph (iv) or (v) of section 2(a)(1) shall end on
9 (A) the last day of the second month following the month
10 in which he ceases to be disabled as provided for purposes of
11 such paragraphs, (B) the last day of the month preceding
12 the month in which he attains age 65, or (C) the last day of
13 the month preceding the month in which he dies, whichever
14 first occurs.

15 “(3) The entitlement of a spouse of an individual to
16 an annuity under section 2(c) shall end on the last day of
17 the month preceding the month in which (A) the spouse
18 or the individual dies, (B) the spouse and the individual are
19 absolutely divorced, or (C), in the case of a wife who does
20 not satisfy the requirements of clause (ii)(A) or (ii)(B)
21 of section 2(c)(1) (other than a wife who is receiving
22 such annuity by reason of an election under section 2(c)
23 (2)), such wife no longer has in her care a child described
24 in clause (ii)(C) of section 2(c)(1), whichever first
25 occurs.

1 “(4) The entitlement of a widow or widower of a de-
2 ceased employee to an annuity under paragraph (i) of
3 section 2(d) (1) on the basis of age shall end on (A) the
4 last day of the month preceding the month in which she or
5 he dies or (B) the last day of the month preceding the
6 month in which she or he remarries after the employee’s
7 death, whichever first occurs.

8 “(5) The entitlement of a widow or widower of a de-
9 ceased employee to an annuity under paragraph (i) of sec-
10 tion 2(d) (1) on the basis of disability shall end on (A)
11 the last day of the month preceding the month in which she
12 or he dies, (B) the last day of the month preceding the
13 month in which she or he remarries after the employee’s
14 death, (C) the last day of the second month following the
15 month in which she or he ceases to be disabled as provided
16 for purposes of such paragraph, or (D) the last day of the
17 month preceding the month in which she or he attains age
18 60, whichever first occurs.

19 “(6) The entitlement of a widow of a deceased em-
20 ployee to an annuity under paragraph (ii) of section 2(d)
21 (1) shall end on (A) the last day of the month preceding
22 the month in which she dies, (B) the last day of the month
23 preceding the month in which she remarries after the em-
24 ployee’s death, or (C) the last day of the month preceding
25 the month in which she no longer has in her care a child

1 described in clause (B) of such paragraph (ii), whichever
2 first occurs.

3 “(7) The entitlement of a child of a deceased employee
4 to an annuity under paragraph (iii) of section 2(d) (1)
5 shall end on (A) the last day of the month preceding the
6 month in which he or she dies, (B) the last day of the
7 month preceding the month in which he or she marries,
8 (C) the last day of the month preceding the month in
9 which he or she attains age 18 and does not meet the
10 qualifications set forth in clause (B) or (C) of such para-
11 graph (iii), (D) the last day of the month preceding (i)
12 the month during no part of which he or she is a full-time
13 student or (ii) the month in which he or she attains age
14 22, and does not meet the qualifications set forth in clause
15 (A) or (C) of such paragraph (iii), or (E) the last day
16 of the second month following the month in which he or
17 she ceases to be disabled for purposes of such paragraph
18 (iii) and does not meet the qualifications set forth in clause
19 (A) or (B) of such paragraph (iii), whichever first oc-
20 curs. A child whose entitlement to an annuity under para-
21 graph (iii) of section 2(d) (1) terminated by reason of
22 clause (E) of this subdivision because he or she ceased to
23 be disabled and who again becomes disabled as provided
24 in clause (C) of such paragraph (iii), may become re-
25 entitled to an annuity on the basis of such disability upon

1 his application for such reentitlement. A child whose entitle-
 2 ment to an annuity under paragraph (iii) of section 2 (d)
 3 (1) terminated with the month preceding the month in
 4 which he or she attained age 18, or with a subsequent
 5 month, may again become entitled to such an annuity
 6 (providing no event to disqualify the child has occurred)
 7 beginning with the first month thereafter in which he or
 8 she meets the qualifications set forth in clause (B) or (C)
 9 of such paragraph (iii), if he or she has filed an application
 10 for such reentitlement.

11 “(8) The entitlement of a parent of a deceased employee
 12 to an annuity under paragraph (iv) of section 2 (d) (1)
 13 shall end on the last day of the month preceding the month
 14 in which (A) such parent dies or (B) such parent remar-
 15 ries after the employee's death, whichever first occurs.

16 “LUMP-SUM PAYMENTS

17 “SEC. 6. (a) (1) Annuities under section 2 (a) (1) and
 18 supplemental annuities under section 2 (b) which will have
 19 become due an individual but will not have been paid at the
 20 time of such individual's death shall be payable to the person,
 21 if any, who is determined by the Board to be such individ-
 22 ual's widow or widower and to have been living with such
 23 individual at the time of such individual's death and who will
 24 not have died before receiving payments of such annuities
 25 If there be no such widow or widower, such annuities shall

1 be payable to any person or persons, equitably entitled
 2 thereto, to the extent and in the proportions that he or they
 3 shall have paid the expenses of burial of such individual, and
 4 to the extent that he or they will not have been reimbursed
 5 under subsection (b) of this section for having paid such
 6 expenses. If there be no person or persons so entitled, or if
 7 the total of such annuities exceeds the amount payable un-
 8 der this subdivision to such person or persons, such total, or
 9 the remainder thereof, as the case may be, shall be paid to
 10 the children, grandchildren, parents, or brothers and sisters
 11 of the deceased individual in the same manner as if such an-
 12 nuities and benefits were a lump sum payable under subsec-
 13 tion (c) (1) of this section.

14 “(2) Annuities under section 2 (d) which will have
 15 become due a survivor of an employee but will not have
 16 been paid at the time of such survivor's death shall be pay-
 17 able to the person, if any, who is determined by the Board
 18 to be such employee's widow or widower and to have been
 19 living with such employee at the time of the employee's
 20 death and who will not have died before receiving payment
 21 of such annuities. If there be no such widow or widower,
 22 such annuities and benefits shall be payable to the children,
 23 grandchildren, parents, or brothers and sisters of the de-
 24 ceased employee in the same manner as if such unpaid an-

1 nnuities and benefits were a lump sum payable under sub-
2 section (c) (1) of this section.

3 “(3) Annuities under section 2 (c) which will have
4 become due a spouse of an individual but which will not
5 have been paid at the time of such spouse’s death shall be
6 payable to the individual from whose employment such an-
7 nuities derived and who will not have died before receiving
8 payment of such annuities. If there be no such individual,
9 such annuities shall be paid as provided in the last two
10 sentences of subdivision (1) of this subsection as if such
11 annuities were annuities due to an individual but unpaid at
12 the time of such individual’s death.

13 “(4) Applications for accrued and unpaid annuities
14 provided for in the preceding subdivisions of this subsection
15 shall be filed prior to the expiration of two years after the
16 death of the person to whom such annuities were originally
17 due.

18 “(5) If there is no person to whom all or any part
19 of the payments described in subdivision (1), (2), or
20 (3) can be made, such payment or part thereof shall
21 escheat to the credit of the Railroad Retirement Account.

22 “(6) For the purposes of this subsection and subsec-
23 tion (c) of this section, a widow or widower of an indi-
24 vidual shall be deemed to have been living with the indi-
25 vidual at the time of the individual’s death if the applicable

1 conditions set forth in section 216 (h) (2) or (3) of the
2 Social Security Act, as in effect before 1957, are fulfilled.

3 “(7) In determining for purposes of this subsection
4 and subsections (c) and (d) of this section whether an
5 applicant is the widow, widower, child, or parent of an
6 employee as claimed, the rules set forth in section 216 (h)
7 of the Social Security Act shall be applied. In determining
8 for purposes of this subsection and subsections (c) and (d)
9 of this section whether an applicant is the grandchild,
10 brother, or sister of an employee as claimed, the Board shall
11 apply such law as would be applied in determining the devo-
12 lution of intestate personal property by the courts of the
13 State in which such employee was domiciled at the time of
14 his death, or if such employee was not so domiciled in any
15 State, by the courts of the District of Columbia. Applicants
16 who according to such law would have the same status
17 relative to taking personal property as a grandchild, brother,
18 or sister shall be deemed such.

19 “(b) (1) Upon the death of an individual who will have
20 completed ten years of service prior to January 1, 1975, and
21 will have had a current connection with the railroad industry
22 at the time of his death, a lump-sum payment shall be made
23 in accordance with the provisions of section 5 (f) (1) of the
24 Railroad Retirement Act of 1937 as in effect on December
25 31, 1974, in an amount, if any, which would have been pay-

1 able under such section 5 (f) (1) on the basis of (A) the
 2 individual's compensation after December 31, 1936, and
 3 prior to January 1, 1975, and (B) the individual's wages
 4 (as defined in section 209 of the Social Security Act) prior
 5 to January 1, 1975. Any lump sum payable under this sub-
 6 division shall be in an amount computed as if the individual
 7 had died on January 1, 1975.

8 “(2) Upon the death of an individual who will not have
 9 completed ten years of service prior to January 1, 1975, but
 10 who (i) will have completed ten years of service at the time
 11 of his death, (ii) will have had a current connection with the
 12 railroad industry at the time of his death, and (iii) will have
 13 died leaving no widow, widower, child, or parent who would
 14 on proper application therefor be entitled to receive an an-
 15 nuity under section 2 (d) of this Act for the month in which
 16 such death occurred, a lump-sum death payment shall be
 17 made in accordance with the provisions of section 202 (i) of
 18 the Social Security Act in an amount equal to the amount
 19 which would have been payable under such section 202 (i)
 20 if such individual's service as an employee after December
 21 31, 1936, were included in the term employment as defined
 22 in that Act. If a lump sum would be payable to a widow or
 23 widower under this subdivision except for the fact that a
 24 survivor will have been entitled to receive an annuity for the
 25 month in which the individual will have died, but within

1 one year after the individual's death there will not have ac-
 2 crued to survivors of the individual, by reason of his death.
 3 annuities which, after all deductions pursuant to sections 2
 4 (g) and 2 (h) of this Act, are equal to such lump sum, a
 5 payment equal to the amount by which such lump sum ex-
 6 ceeds such annuities so accrued after such deductions shall
 7 then nevertheless be made under this subdivision to the
 8 widow or widower to whom a lump sum would have been
 9 payable under this subdivision except for the fact that a
 10 monthly benefit under section 2 (d) of this Act was payable
 11 for the month in which the individual died, if such widow or
 12 widower will not have died before receiving payment of such
 13 lump sum.

14 “(c) (1) Whenever it shall appear, with respect to the
 15 death of an employee, that no benefits, or no further benefits
 16 (other than benefits payable to a widow, widower, or parent
 17 under either this Act or the Social Security Act upon attain-
 18 ing the age of eligibility therefor at a future date) will be
 19 payable under this Act or under the Social Security Act, a
 20 lump sum in an amount computed under subdivision (2) of
 21 this subsection shall be paid to such person or persons as the
 22 deceased employee may have designated by a writing filed
 23 with the Board prior to his or her death, or if there be no
 24 designation, to the following person (or, if more than one,
 25 in equal shares to the persons) whose relationship to the

1 deceased employee will have been determined by the Board
2 and who will not have died before receiving payment of the
3 lump sum provided for in this subdivision—

4 “(i) the widow or widower of the deceased em-
5 ployee who was living with such employee at the time
6 of such employee’s death; or

7 “(ii) if there be no such widow or widower, to any
8 child or children of such employee; or

9 “(iii) if there be no such widow, widower, or child,
10 to any grandchild or grandchildren of such employee; or

11 “(iv) if there be no such widow, widower, child, or
12 grandchild, to any parent or parents of such employee;
13 or

14 “(v) if there be no such widow, widower, child,
15 grandchild, or parent, to any brother or sister of such
16 employee; or

17 “(vi) if there be no such widow, widower, child,
18 grandchild, parent, brother, or sister, to the estate of
19 such employee:

20 *Provided, however,* That if the employee is survived by a
21 widow, widower, or parents who may upon attaining the
22 age of eligibility be entitled to benefits under this Act or
23 under the Social Security Act, such lump sum shall not be
24 paid unless such widow, widower, or parent makes and files
25 with the Board an irrevocable election, in such form as the

1 Board may prescribe, to have such lump sum be paid in lieu
2 of all benefits to which such widow, widower, or parent might
3 otherwise become entitled under this Act on the basis of the
4 deceased employee’s compensation and years of service or
5 under the Social Security Act on the basis of the deceased
6 employee’s wages from (A) employment with an employer
7 as defined in section 1 (a) of this Act or (B) service as an
8 employee representative as defined in section 1 (c) of this
9 Act. Any election made and filed by a widow, widower, or
10 parent pursuant to this subdivision shall be legally effective
11 according to its terms.

12 “(2) The lump sum provided under subdivision (1) of
13 this subsection shall be in an amount equal to (A) the sum
14 of 4 per centum of the deceased employee’s compensation
15 paid after December 31, 1936, and prior to January 1, 1947,
16 plus 7 per centum of such employee’s compensation paid after
17 December 31, 1946, and before January 1, 1959, plus $7\frac{1}{2}$
18 per centum of such employee’s compensation paid after De-
19 cember 31, 1958, and before January 1, 1962, plus 8 per
20 centum of such employee’s compensation paid after De-
21 cember 31, 1961, and before January 1, 1966, plus an
22 amount equal to the total of all employee taxes payable by
23 such employee after December 31, 1965, and before Janu-
24 ary 1, 1975, under the provisions of section 3201 of the Rail-
25 road Retirement Tax Act (excluding, for this purpose, the

1 amount of the employee tax attributable to that portion of the
2 tax rate derived from section 3101 (b) of the Internal Revenue Code of 1954), plus one-half of 1 per centum of the
3 compensation on which such taxes were payable, deeming
4 the compensation attributable to creditable military service
5 after June 30, 1963, and before January 1, 1975, to be taxable compensation, and one-half of the taxes payable by an
6 employee representative under section 3211 of the Railroad Retirement Tax Act to be employee taxes under section 3201
7 of such Act, minus (B) the sum of all benefits paid to such
8 employee, and to others deriving from such employee, during
9 his or her life, or to others by reason of his or her death,
10 under this Act, the Railroad Retirement Act of 1937, or
11 the Social Security Act (excluding, for this purpose, payments to providers of services under section 7 (d) of this
12 Act or section 21 of the Railroad Retirement Act of 1937,
13 any amounts by which that portion of the annuities provided
14 the employee under section 3 (a) of this Act or his spouse
15 under section 4 (a) of this Act were increased by reason
16 of the employee's wages and self-employment income derived from employment and self-employment under the Social Security Act, that portion of the annuities provided the
17 employee under section 3 (h) of this Act or his spouse under
18 section 4 (e) of this Act, and so much of the benefits paid
19 to the employee and to others deriving from him or her under

1 the Social Security Act during his or her lifetime as would
2 have been payable under that Act if such employee had not
3 rendered service as an employee as defined in section 1 (b) of this Act). In computing compensation for purposes of this
4 subdivision there shall be excluded compensation in excess
5 of \$300 for any month before July 1, 1954; compensation
6 in excess of \$350 for any month after June 30, 1954, and
7 before June 1, 1959; compensation in excess of \$400 for any
8 month after May 31, 1959, and before November 1, 1963;
9 compensation in excess of \$450 for any month after October
10 31, 1963, and before October 1, 1965; and compensation in
11 excess of (i) \$450 or (ii) an amount equal to one-twelfth of
12 the current maximum annual taxable 'wages' as defined in
13 section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965.
14
15 “(d) (1) Every individual who will have completed
16 ten years of service at the time of his retirement or death,
17 but does not meet the qualifications for an annuity amount
18 determined under the provisions of section 3 (h) (1) or 3
19 (h) (2) of this Act, shall, at the time his annuity under
20 section 2 (a) (1) begins to accrue, be entitled to a lump sum
21 in the amount provided under subdivision (2) of this subsection. If an individual otherwise eligible for a lump sum
22 under this section dies before he becomes entitled to an
23 annuity under section 2 (a) (1) of this Act, or before he

1 receives payment of such lump sum, such lump sum shall be
 2 payable to the person, if any, who is determined by the
 3 Board to be such individual's widow or widower and who
 4 will not have died before receiving payment of such lump
 5 sum. If there be no such widow or widower, such lump sum
 6 shall be payable to the children, grandchildren, parents,
 7 brothers and sisters, or the estate of the deceased individual
 8 in the same manner as if such lump sum were a lump sum
 9 payable under subsection (c) (1) of this section.

10 “(2) The lump sum provided under subdivision (1) of
 11 this subsection shall be in an amount equal to the sum of (A)
 12 1.5 per centum of so much of such individual's combined earn-
 13 ings for any calendar year after 1950 and before 1954 as is in
 14 excess of \$3,600, plus (B) 2 per centum of so much of such
 15 individual's combined earnings for any calendar year after
 16 1953 and before 1957 as is in excess of \$4,200, plus (C)
 17 2.25 per centum of so much of such individual's combined
 18 earnings for any calendar year after 1956 and before 1959 as
 19 is in excess of \$4,200, plus (D) 2.5 per centum of so much
 20 of such individual's combined earnings for the calendar year
 21 1959 as is in excess of \$4,800, plus (E) 3 per centum of so
 22 much of such individual's combined earnings for each of the
 23 calendar years 1960 and 1961 as is in excess of \$4,800, plus
 24 (F) 3.125 per centum of so much of such individual's com-
 25 bined earnings for the calendar year 1962 as is in excess of

1 \$4,800, plus (G) 3.625 per centum of so much of such indi-
 2 vidual's combined earnings for any calendar year after 1962
 3 and before 1966 as is in excess of \$5,400, plus (H) 4.2 per
 4 centum of so much of such individual's combined earnings for
 5 the calendar year 1966 as is in excess of \$6,600, plus (I)
 6 4.4 per centum of so much of such individual's combined
 7 earnings for the calendar year 1967 as is in excess of \$6,600,
 8 plus (J) 3.8 per centum of so much of such individual's com-
 9 bined earnings for the calendar year 1968 as is in excess of
 10 \$7,800, plus (K) 4.2 per centum of so much of such individ-
 11 ual's combined earnings for each of the calendar years 1969
 12 and 1970 as is in excess of \$7,800, plus (L) 4.6 per centum
 13 of so much of such individual's combined earnings for the
 14 calendar year 1971 as is in excess of \$7,800, plus (M) 4.6
 15 per centum of so much of such individual's combined earnings
 16 for the calendar year 1972 as is in excess of \$9,000, plus
 17 (N) 4.85 per centum of so much of such individual's com-
 18 bined earnings for the calendar year 1973 as is in excess of
 19 \$10,800, plus (O) 4.95 per centum of so much of such in-
 20 dividual's combined earnings for the calendar year 1974 as is
 21 in excess of \$13,200. For purposes of this subsection, the
 22 term 'combined earnings' shall include 'compensation' as de-
 23 fined in section 1(h) of the Railroad Retirement Act of
 24 1937, 'wages' as defined in section 209 of the Social Security

1 Act, and 'self-employment' income as defined in section 211
2 (b) of the Social Security Act.

3 "POWERS AND DUTIES OF THE BOARD

4 "SEC. 7. (a) This Act shall be administered by the
5 Railroad Retirement Board established by the Railroad Re-
6 tirement Act of 1937 as an independent agency in the execu-
7 tive branch of the Government and composed of three
8 members appointed by the President, by and with the advice
9 and consent of the Senate. Each member shall hold office
10 for a term of five years, except that any member appointed
11 to fill a vacancy occurring prior to the expiration of the term
12 for which his predecessor was appointed shall be appointed
13 for the remainder of the term and any member holding
14 office pursuant to appointment under the Railroad Retire-
15 ment Act of 1937 when this Act becomes effective shall hold
16 office until the term for which he was appointed under such
17 Railroad Retirement Act of 1937 expires. One member shall
18 be appointed from recommendations made by representatives
19 of the employees and one member shall be appointed from
20 recommendations made by representatives of employers as
21 defined in paragraph (i) of section 1 (a) (1) of this Act,
22 in both cases as the President shall direct, so as to provide
23 representation on the Board satisfactory to the largest num-
24 ber, respectively, of employees and employers concerned.
25 One member, who shall be the chairman of the Board, shall

1 be appointed without recommendation by either employers
2 or employees and shall not be in the employment of or be
3 pecuniarily or otherwise interested in any employer or orga-
4 nization of employees. Vacancies in the Board shall not
5 impair the powers or affect the duties of the Board or of
6 the remaining members of the Board, of whom a majority of
7 those in office shall constitute a quorum for the transaction
8 of business. Upon the expiration of his term of office a
9 member shall continue to serve until his successor is ap-
10 pointed and shall have qualified.

11 "(b) (1) The Board shall have and exercise all the
12 duties and powers necessary to administer this Act. The
13 Board shall take such steps as may be necessary to enforce
14 such Act and make awards and certify payments. Decisions
15 by the Board upon issues of law and fact relating to annu-
16 ities or death benefits shall not be subject to review by any
17 other administrative or accounting officer, agent, or employee
18 of the United States.

19 "(2) In addition to administering this Act, the Board
20 shall have all the duties and powers necessary to determine
21 entitlement to (in accordance with the rules and regulations
22 established by the Secretary of Health, Education, and Wel-
23 fare), make awards of, and certify payments of, any monthly
24 insurance benefits and any lump-sum death benefits payable
25 under section 202 or 223 of the Social Security Act to (A)

1 an individual who will have completed ten years of service
 2 creditable under this Act, (B) the wife or husband of such
 3 an individual, (C) any survivor of such an individual if such
 4 survivor is entitled, or could upon application become en-
 5 titled, to an annuity under section 2 of this Act, and (D)
 6 any other person entitled to benefits under section 202 of
 7 the Social Security Act on the basis of the wages and self-
 8 employment income of such an individual, except a survivor
 9 of such an individual if such individual did not have a current
 10 connection with the railroad industry at the time of his
 11 death. Decisions by the Board upon issues of law and fact
 12 relating to such monthly insurance benefits or lump-sum
 13 death benefits shall not be subject to review by any other ad-
 14 ministrative or accounting officer, agent, or employee of the
 15 United States.

16 “(3) If the Board finds that an applicant is entitled to
 17 an annuity or death benefit under the provisions of this Act,
 18 or, pursuant to the provisions of subdivision (2), to a benefit
 19 under the Social Security Act then the Board shall make an
 20 award fixing the amount of the annuity or benefit, as the case
 21 may be, and shall certify the payment thereof as hereinafter
 22 provided; otherwise the application shall be denied. For
 23 purposes of this section the Board shall have and exercise
 24 such of the powers, duties, and remedies provided in subsec-
 25 tions (a), (b), (d), and (n) of section 12 of the Railroad

1 Unemployment Insurance Act as are not inconsistent with
 2 the express provisions of this Act. The Board is authorized
 3 to delegate to any member, officer, or employee of the Board
 4 any of the powers conferred upon the Board by this Act, ex-
 5 cluding only the power to prescribe rules and regulations,
 6 including the power to make decisions on applications for
 7 annuities or other benefits: *Provided, however,* That any
 8 person aggrieved by a decision on his application for an
 9 annuity or other benefit shall have the right to appeal to the
 10 Board. Notice of a decision of the Board, or of an employee
 11 thereof, shall be communicated to the applicant in writing
 12 within thirty days after such decision shall have been made.

13 “(4) The Board shall from time to time certify to the
 14 Secretary of the Treasury the name and address of each
 15 individual entitled to receive a payment, the amount of such
 16 payment, and the time at which it should be made, and the
 17 Secretary of the Treasury through the Division of Disburse-
 18 ments of the Treasury Department, and prior to audit by the
 19 General Accounting Office, shall make payment in accord-
 20 ance with the certification by the Board.

21 “(5) The Board shall establish and promulgate rules
 22 and regulations to provide for the adjustment of all contro-
 23 versial matters arising in the administration of this Act. All
 24 rules, regulations, or decisions of the Board shall require the

1 approval of at least two members, and they shall be entered
2 upon the records of the Board, which shall be a public record.

3 “(6) The Board shall gather, keep, compile, and pub-
4 lish in convenient form such records and data as may be
5 necessary to assure proper administration of this Act, includ-
6 ing subdivision (2) of this subsection. The Board shall have
7 power to require all employers and employees and any
8 officer, board, commission, or other agency of the United
9 States to furnish such information and records as shall be
10 necessary for the administration of this Act, including sub-
11 division (2) of this subsection. The several district courts of
12 the United States and the District Court of the United States
13 for the District of Columbia shall have jurisdiction upon suit
14 by the Board to compel obedience to any order of the Board
15 issued pursuant to this section. The orders, writs, and proc-
16 esses of the District Court of the United States for the District
17 of Columbia in such suits may run and be served anywhere
18 in the United States. Witnesses summoned before the Board
19 shall be paid the same fees and mileage that are paid wit-
20 nesses in the district courts of the United States. The Board
21 shall make an annual report to the President of the United
22 States to be submitted to Congress.

23 “(7) The Secretary of Health, Education, and Welfare
24 shall furnish the Board certified reports of wages, self-em-
25 ployment income, and periods of service and of other records

1 in his possession, or which he may secure, pertinent to the
2 administration of this Act. The Board shall furnish the Sec-
3 retary of Health, Education, and Welfare certified reports
4 of records of compensation and periods of service reported to
5 it pursuant to section 9 of this Act, of determinations under
6 subdivision (2) of this subsection and section 2 of this Act,
7 and of other records in its possession, or which it may secure,
8 pertinent to subsection (c) of this section or to the adminis-
9 tration of the Social Security Act as affected by section 18
10 of this Act. Such certified reports shall be conclusive in ad-
11 judication as to the matters covered therein: *Provided, how-*
12 *ever,* That if the Board or the Secretary of Health, Educa-
13 tion, and Welfare receives evidence inconsistent with a certi-
14 fied report and the application involved is still in course of
15 adjudication or otherwise open for such evidence such re-
16 certification of such report shall be made as, in the judgment
17 of the Board or the Secretary of Health, Education, and
18 Welfare, whichever made the original certification, the evi-
19 dence warrants. Such recertification and any subsequent re-
20 certification shall be treated in the same manner and be sub-
21 ject to the same conditions as an original certification.

22 “(8) Any department or agency of the United States
23 maintaining records of military service, at the request of
24 the Board, shall certify to the Board, with respect to any
25 individual, the number of months of military service which

1 such department or agency finds the individual to have had
 2 during any period or periods with respect to which the
 3 Board's request is made, the date and manner of entry
 4 into such military service, and the conditions under which
 5 such service was continued. Any department or agency of
 6 the United States which is authorized to make awards of
 7 pensions, disability compensation, or any other gratuitous
 8 benefits or allowances payable, on a periodic basis or other-
 9 wise, under any other Act of Congress on the basis of mili-
 10 tary service, at the request of the Board, shall certify to the
 11 Board, with respect to any individual, the calendar months
 12 for all or part of which any such pension, compensation, bene-
 13 fit, or allowance is payable to, or with respect to, the indi-
 14 vidual, the amounts of any such pension, compensation,
 15 benefit, or allowance, and the military service on which
 16 such pension, compensation, benefit, or allowance is based.
 17 Any certification made pursuant to the provisions of this
 18 subdivision shall be conclusive on the Board: *Provided,*
 19 *however,* That if evidence inconsistent with any such cer-
 20 tification is submitted, and the claim is in the course of
 21 adjudication or is otherwise open for such evidence, the Board
 22 shall refer such evidence to the department or agency which
 23 made the original certification and such department or agency
 24 shall make such recertification as in its judgment the evidence
 25 warrants. Such recertification, and any subsequent recertifica-

1 tion, shall be conclusive, made in the same manner, and sub-
 2 ject to the same conditions as an original certification.
 3 “(9) The Board shall maintain such offices, provide
 4 such equipment, furnishings, supplies, services, and facilities,
 5 and employ such individuals and provide for their com-
 6 pensation and expenses as may be necessary for the proper
 7 discharge of its functions. All positions to which such indi-
 8 viduals are appointed, except one administrative assistant
 9 to each member of the Board, shall be in and under the
 10 competitive civil service and shall not be removed or ex-
 11 cepted therefrom. In the employment of such individuals
 12 under the civil service laws and rules the Board shall give
 13 preference over all others to individuals who have had expe-
 14 rience in railroad service, if, in the judgment of the Board,
 15 they possess the qualifications necessary for the proper dis-
 16 charge of the duties of the positions to which they are to be
 17 appointed. For purposes of its administration of this Act
 18 or the Railroad Unemployment Insurance Act, or both,
 19 the Board may place, without regard to the numerical limi-
 20 tations contained in section 505 of the Classification Act
 21 of 1949, as amended, four positions in grade GS-16 of
 22 the General Schedule established by that Act, four positions
 23 in grade GS-17 of such schedule, and one position in grade
 24 GS-18 of such schedule.

1 “(c) (1) Benefit payments determined by the Board
2 to be payable under this Act or, pursuant to subdivision (2)
3 of section 7 (b), under section 202 or 223 of the Social
4 Security Act shall be made from the Railroad Retirement
5 Account, except that payments of supplemental annuities
6 under section 2 (b) of this Act shall be made from the
7 Railroad Retirement Supplemental Account.

8 “(2) Prior to the close of the fiscal year ending June 30,
9 1975, and each fiscal year thereafter, the Board and the
10 Secretary of Health, Education, and Welfare shall determine
11 the amounts, if any, which if added to or subtracted from
12 the Federal Old-Age and Survivors Insurance Trust Fund,
13 the Federal Disability Insurance Trust Fund, and the Federal
14 Hospital Insurance Trust Fund would, as of the end of each
15 month of the following fiscal year, place each such Trust
16 Fund in the same position in which it would have been if
17 (A) service as an employee after December 31, 1936, had
18 been included in the term ‘employment’ as defined in the
19 Social Security Act and in the Federal Insurance Contribu-
20 tions Act and (B) this Act had not been enacted. Such
21 determination with respect to each such Trust Fund shall
22 be made, on an estimated basis subject to later adjustment
23 (on the basis of actual experience), by the close of the fiscal
24 year ending prior to the fiscal year to which it relates. If
25 for any month any amount is to be added to any such Trust

1 Fund, the Board shall, within ten days after the end of the
2 month, certify such amount to the Secretary of the Treasury
3 for transfer from the Railroad Retirement Account to such
4 Trust Fund. If for any month any amount is to be subtracted
5 from any such Trust Fund, the Secretary of Health, Educa-
6 tion, and Welfare shall, within ten days after the end of
7 the month, certify such amount to the Secretary of the
8 Treasury for transfer from such Trust Fund to the Railroad
9 Retirement Account. Any amount so certified shall further
10 include interest (at the rate determined in subdivision (3)
11 for the month under consideration) payable from the close
12 of such month until the date of certification. The Secretary
13 of the Treasury is authorized and directed to transfer to the
14 Railroad Retirement Account from the Federal Old-Age
15 and Survivors Insurance Trust Fund, the Federal Disability
16 Insurance Trust Fund, or the Federal Hospital Insurance
17 Trust Fund or to any such Trust Fund from the Railroad
18 Retirement Account, as the case may be, such amounts as,
19 from time to time, may be determined by the Board and
20 the Secretary of Health, Education, and Welfare pursuant
21 to the provisions of this subdivision and certified by the Board
22 or the Secretary of Health, Education, and Welfare for
23 transfer from any such Trust Fund or from the Railroad
24 Retirement Account.

1 “(3) For purposes of subdivision (2), for any month,
 2 the rate of interest to be used shall be equal to the average
 3 rate of interest, computed as of the end of the month preced-
 4 ing the close of such month, borne by all interest-bearing
 5 obligations of the United States then forming a part of the
 6 public debt; except that where such average rate is not a
 7 multiple of one-eighth of 1 per centum, the rate of interest
 8 shall be the multiple of one-eighth of 1 per centum next
 9 lower than such average rate.

10 “(4) For purposes of this subsection, the amounts of
 11 the annuities provided any person under the provisions of
 12 section 3 (h), 4 (e), or 4 (h) of this Act or under the provi-
 13 sions of section 204 (a) (3), 204 (a) (4), 206 (a) (3), or
 14 207 (3) of title II of this Act shall be deemed to be monthly
 15 insurance benefits which would have been payable to such
 16 person under the Social Security Act if (A) service as an
 17 employee after December 31, 1936, had been included in
 18 the term ‘employment’ as defined in that Act and in the
 19 Federal Insurance Contributions Act and (B) this Act had
 20 not been enacted. The provisions of this subdivision shall be
 21 effective notwithstanding clause (B) of subdivision (2) of
 22 this subsection.

23 “(d) (1) The Board shall, for purposes of this sub-
 24 section, have the same authority to determine the rights of
 25 individuals described in subdivision (2) to have payments

1 made on their behalf for hospital insurance benefits con-
 2 sisting of inpatient hospital services, posthospital extended
 3 care services, posthospital home health services, and out-
 4 patient hospital diagnostic services (all hereinafter referred
 5 to as ‘services’) under section 226, and parts A and C of
 6 title XVIII, of the Social Security Act as the Secretary of
 7 Health, Education, and Welfare has under such section and
 8 such parts with respect to individuals to whom such sections
 9 and such parts apply. For purposes of section 8, a determina-
 10 tion with respect to the rights of an individual under this sub-
 11 section shall, except in the case of a provider of services,
 12 be considered to be a decision with respect to an annuity.

13 “(2) Except as otherwise provided in this subsection,
 14 every person who—

15 “(i) has attained age 65 and (A) is entitled to
 16 an annuity under this Act or (B) would be entitled
 17 to such an annuity had he ceased compensated service
 18 and, in the case of a spouse, had such spouse’s husband
 19 or wife ceased compensated service; or

20 “(ii) has not attained age 65 and (A) has been
 21 entitled to an annuity under section 2 of this Act, or
 22 under the Railroad Retirement Act of 1937 and section 2
 23 of this Act, or could have been includible in the computa-
 24 tion of an annuity under section 3 (f) (3) of this Act, for
 25 not less than 24 consecutive months and (B) could

1 have been entitled for 24 consecutive calendar months,
 2 and could currently be entitled, to monthly insurance
 3 benefits under section 223 of the Social Security Act
 4 or under section 202 of that Act on the basis of disability
 5 if service as an employee after December 31, 1936, had
 6 been included in the term 'employment' as defined in
 7 that Act and if an application for disability benefits
 8 had been filed,

9 shall be certified to the Secretary of Health, Education, and
 10 Welfare as a qualified railroad retirement beneficiary under
 11 section 226 of the Social Security Act.

12 “(3) If an individual entitled to an annuity under
 13 paragraph (iv) or (v) of section 2(a)(1) of this Act
 14 would have been insured for disability insurance benefits
 15 as determined under section 223(c)(1) of the Social Se-
 16 curity Act at the time such annuity began, he shall be
 17 deemed, solely for purposes of paragraph (ii) of subdivision
 18 (2), to be entitled to a disability insurance benefit under
 19 section 223 of the Social Security Act for each month, and
 20 beginning with the first month, in which he would meet the
 21 requirements for entitlement to such a benefit, other than
 22 the requirement of being insured for disability insurance
 23 benefits, if service as an employee after December 31, 1936,
 24 had been included in the term 'employment' as defined in

1 the Social Security Act and if an application for disability
 2 benefits had been filed.

3 “(4) The rights of individuals described in subdivision
 4 (2) of this subsection to have payment made on their behalf
 5 for the services referred to in subdivision (1) but provided
 6 in Canada shall be the same as those individuals to whom
 7 section 226 and part A of title XVIII of the Social Security
 8 Act apply, and this subdivision shall be administered by the
 9 Board as if the provisions of section 226 and part A of title
 10 XVIII of the Social Security Act were applicable, as if refer-
 11 ences to the Secretary of Health, Education, and Welfare
 12 were to the Board, as if references to the Federal Hospital
 13 Insurance Trust Fund were to the Railroad Retirement Ac-
 14 count, as if references to the United States or a State included
 15 Canada or a subdivision thereof, and as if the provisions of
 16 sections 1862(a)(4), 1863, 1864, 1867, 1868, 1869, 1874
 17 (b), and 1875 were not included in such title. The payments
 18 for services herein provided for in Canada shall be made from
 19 the Railroad Retirement Account (in accordance with, and
 20 subject to, the conditions applicable under section 7(b), in
 21 making payment of other benefits) to the hospital, extended
 22 care facility, or home health agency providing such services
 23 in Canada to individuals to whom subdivision (2) of this
 24 subsection applies, but only to the extent that the amount of
 25 payments for services otherwise hereunder provided for an

1 individual exceeds the amount payable for like services pro-
 2 vided pursuant to the law in effect in the place in Canada
 3 where such services are furnished. For the purposes of sec-
 4 tion 10 of this Act, any overpayment under this subdivision
 5 shall be treated as if it were an overpayment of an annuity.

6 “(5) The Board and the Secretary of Health, Educa-
 7 tion, and Welfare shall furnish each other with such informa-
 8 tion, records, and documents as may be considered necessary
 9 to the administration of this subsection or section 226, and
 10 part A of title XVIII, of the Social Security Act.

11 “(e) The Board is authorized to accept on behalf of the
 12 United States money gifts and bequests made unconditionally
 13 to the Railroad Retirement Account, to the Railroad Retire-
 14 ment Supplemental Account, or to the Railroad Unemploy-
 15 ment Insurance Account, or to the Board, or any member,
 16 officer, or employee thereof, for the benefit of such accounts
 17 or any activity financed through such accounts. Any such
 18 gift accepted pursuant to the authority granted in this sub-
 19 section shall be deposited in the specific account designated
 20 by the donor or, if the donor has made no such specific
 21 designation, in the Railroad Retirement Account.

22 “COURT JURISDICTION

23 “SEC. 8. Decisions of the Board determining the rights
 24 or liabilities of any person under this Act or, pursuant to the
 25 authority granted by subdivision (2) of section 7 (b), under

1 the Social Security Act shall be subject to judicial review in
 2 the same manner, subject to the same limitations, and all
 3 provisions of law shall apply in the same manner as though
 4 the decision were a determination of corresponding rights or
 5 liabilities under the Railroad Unemployment Insurance Act
 6 except that the time within which proceedings for the review
 7 of a decision with respect to an annuity, monthly insurance
 8 benefit, supplemental annuity, or lump-sum benefit may be
 9 commenced shall be one year after the decision will have
 10 been entered upon the records of the Board and communi-
 11 cated to the claimant.

12 “RETURNS OF COMPENSATION

13 “SEC. 9. Employers shall file with the Board, in such
 14 manner and form and at such times as the Board by rules
 15 and regulations may prescribe, returns of compensation of
 16 employees, and, if the Board shall so require, shall furnish
 17 employees with statements of their compensation as reported
 18 to the Board. The Board's record of the compensation so re-
 19 turned shall be conclusive as to the amount of compensation
 20 paid to an employee during each period covered by the re-
 21 turn, and the fact that the Board's records show that no re-
 22 turn was made of the compensation claimed to have been
 23 paid to an employee during a particular period shall be
 24 taken as conclusive that no compensation was paid to such
 25 employee during that period, unless the error in the amount

1 of compensation returned in the one case, or the failure to
2 make return of the compensation in the other case, is called
3 to the attention of the Board within four years after the
4 day on which return of the compensation was required to
5 be made.

6 "ERRONEOUS PAYMENTS

7 "SEC. 10. (a) If the Board finds that at any time more
8 than the correct amount of annuities or other benefits has
9 been paid to any individual under this Act or, in the case of
10 benefits determined to be payable pursuant to the authority
11 granted by section 7 (b) (2) of this Act, under the Social
12 Security Act or payment has been made to an individual
13 not entitled thereto, recovery by adjustment in subsequent
14 payments to which such individual, or any other individual
15 on the basis of the same compensation, wages, or self-em-
16 ployment income, is entitled under this Act, the Social Se-
17 curity Act, or the Railroad Unemployment Insurance Act
18 may, except as otherwise provided in this section, be made
19 under regulations prescribed by the Board. If the individual
20 to whom more than the correct amount has been paid dies
21 before recovery is completed, recovery may be made by set-
22 off or adjustments, under regulations prescribed by the Board,
23 in subsequent payments due, under this Act, the Social Se-
24 curity Act, or the Railroad Unemployment Insurance Act,
25 to the estate of such individual or to any person on the basis

1 of the compensation, wages, or self-employment income of
2 such individual.

3 "(b) Adjustments under this section may be made
4 either by deductions from subsequent payments or, with re-
5 spect to payments which are to be made during a lifetime
6 or lifetimes, by subtracting the total amount of annuities or
7 other benefits paid in excess of the proper amount from the
8 actuarial value, as determined by the Board, of such pay-
9 ments to be made during a lifetime or lifetimes and recertify-
10 ing such payments on the basis of the reduced actuarial
11 value. In the latter case, recovery shall be deemed to have
12 been completed upon such recertification.

13 "(c) There shall be no recovery in any case in which
14 more than the correct amount of annuities or other benefits
15 has been paid under this Act or, in the case of benefits deter-
16 mined to be payable pursuant to the authority granted by
17 section 7 (b) (2) of this Act, under the Social Security
18 Act to an individual or payment has been made to an
19 individual not entitled thereto who, in the judgment of the
20 Board, is without fault when, in the judgment of the Board,
21 recovery would be contrary to the purpose of the Acts or
22 would be against equity or good conscience.

23 "(d) No certifying or disbursing officer shall be held
24 liable for any amount certified or paid by him in good
25 faith to any person where the recovery of such amount is

1 waived under subsection (c) of this section or has been
2 begun but cannot be completed under subsection (a) of
3 this section.

4 "WAIVER OF ANNUITIES

5 "SEC. 11. Any person awarded an annuity under this
6 Act may decline to accept all or any part of such annuity by
7 a waiver signed and filed with the Board. Such a waiver
8 may be revoked in writing at any time, but no payment
9 of the annuity waived shall be made covering the period
10 during which such waiver was in effect. Such a waiver
11 will have no effect on entitlement to, or the amount of, any
12 other annuity or benefit.

13 "INCOMPETENCE

14 "SEC. 12. (a) Every individual receiving or claiming
15 benefits, or to whom any right or privilege is extended, under
16 this Act or any other Act of Congress now or hereafter
17 administered, in whole or in part, by the Board shall be
18 conclusively presumed to have been competent until the
19 date on which the Board receives written notice, in a form
20 and manner acceptable to the Board, that he is an incom-
21 petent, or a minor, for whom a guardian or other person
22 legally vested with the care of his person or estate has been
23 appointed: *Provided, however,* That, regardless of the legal
24 competency or incompetency of an individual entitled to a
25 benefit administered by the Board, the Board may, if it finds

1 the interest of such individual to be served thereby, recognize
2 actions by, and conduct transactions with, and make pay-
3 ments to, such individual, or recognize actions by, and con-
4 duct transactions with, and make payments to, a relative
5 or some other person for such individual's use and benefit.

6 "(b) Every guardian or other person legally vested
7 with the care of the person or estate of an incompetent or
8 minor who is receiving or claiming benefits, or to whom any
9 right or privilege is extended, under this Act or any other
10 Act of Congress now or hereafter administered, in whole or
11 in part, by the Board shall have power everywhere, in the
12 manner and to the extent prescribed by the Board, but sub-
13 ject to the provisions of the preceding subsection, to take
14 any action necessary or appropriate to perfect any right
15 or exercise any privilege of the incompetent or minor and to
16 conduct all transactions on his behalf under this or any
17 other Act of Congress now or hereafter administered, in
18 whole or in part, by the Board. Any payment made pursuant
19 to the provisions of this section shall be a complete settlement
20 and satisfaction of any claim, right, or interest in and to
21 such payment.

22 "PENALTIES

23 "SEC. 13. (a) Any person who shall knowingly fail or
24 refuse to make any report or furnish any information re-
25 quired by the Board in the administration of this Act, includ-

1 ing the provisions of section 7 (b) (2) thereof, or who shall
 2 knowingly make or cause to be made any false or fraudulent
 3 statement or report when a statement or report is required
 4 to be made for the purpose of this Act, or who shall know-
 5 ingly make or aid in making any false or fraudulent state-
 6 ment or claim for the purpose of causing an award of payment
 7 to be made, shall be punished by a fine of not more than
 8 \$10,000 or by imprisonment not exceeding one year, or
 9 both.

10 “(b) All fines and penalties imposed by a court pur-
 11 suant to this Act shall be paid to the court and be remitted
 12 from time to time by order of the judge to the Treasury of
 13 the United States to be credited to the Railroad Retirement
 14 Account.

15 “EXEMPTION FROM LEGAL PROCESS

16 “SEC. 14. Notwithstanding any other law of the United
 17 States, or of any State, territory, or the District of Co-
 18 lumbia, no annuity or supplemental annuity shall be assign-
 19 able or be subject to any tax or to garnishment, attachment,
 20 or other legal process under any circumstances whatsoever,
 21 nor shall the payment thereof be anticipated: *Provided, how-*
 22 *ever,* That the provisions of this section shall not operate to
 23 exclude the amount of any supplemental annuity paid to an
 24 individual under section 2 (b) of this Act from income tax-

1 able pursuant to the Federal income tax provisions of the
 2 Internal Revenue Code of 1954.

3 “RAILROAD RETIREMENT ACCOUNT

4 “SEC. 15. (a) The Railroad Retirement Account estab-
 5 lished by section 15 (a) of the Railroad Retirement Act of
 6 1937 shall continue to be maintained in the Treasury of the
 7 United States. There is hereby appropriated to such Account
 8 for each fiscal year, beginning with the fiscal year ending
 9 June 30, 1975, to provide for the payment of benefits to be
 10 made from such Account in accordance with the provisions of
 11 section 7 (c) (1) of this Act, and to provide for expenses
 12 necessary for the Board in the administration of all provisions
 13 of this Act, an amount equal to amounts covered into the
 14 Treasury (minus refunds) during each fiscal year under the
 15 Railroad Retirement Tax Act, except those portions of the
 16 amounts covered into the Treasury under sections 3211 (b),
 17 3221 (c), and 3221 (d) of such Tax Act as are necessary to
 18 provide sufficient funds to meet the obligation to pay supple-
 19 mental annuities at the level provided under section 3 (e) of
 20 this Act and, with respect to those entitled to supplemental
 21 annuities under section 205 (a) of title II of this Act, at the
 22 level provided under section 205 (a). The Board is directed
 23 to determine what portion of the taxes collected under sections
 24 3211 (b), 3221 (c), and 3221 (d) of the Railroad Retire-
 25 ment Tax Act is to be credited to the Railroad Retirement

1 Account pursuant to the preceding provisions of this subsec-
 2 tion and what portion of such taxes is to be credited to the
 3 Railroad Retirement Supplemental Account pursuant to the
 4 provisions of subsection (c) of this section. The Board shall
 5 make such a determination with respect to each calendar
 6 quarter commencing with the quarter beginning January 1,
 7 1975, shall make each such determination not later than
 8 fifteen days before each calendar quarter, and shall, as soon
 9 as practicable after each such determination, advise the Sec-
 10 retary of the Treasury of the determination made. The Sec-
 11 retary of the Treasury shall credit the amounts covered into
 12 the Treasury under sections 3211 (b), 3221 (c), and 3221
 13 (d) of the Railroad Retirement Tax Act to the Railroad Re-
 14 tirement Account and the Railroad Retirement Supplemental
 15 Account in such proportions as is determined by the Board
 16 pursuant to the provisions of this subsection.

17 “(b) In addition to the amount authorized to be appro-
 18 priated in subsection (a) of this section, there is hereby au-
 19 thorized to be appropriated to the Railroad Retirement Ac-
 20 count for each fiscal year, beginning with the fiscal year
 21 ending June 30, 1975, such amount as the Board determines
 22 to be necessary to meet (A) the additional costs, resulting
 23 from the crediting of military service under this Act, of
 24 benefits payable under section 2 of this Act, but only to
 25 the extent that such Account is not reimbursed for such costs

1 under section 7 (c) (2), (B) the additional administrative
 2 expenses resulting from the crediting of military service
 3 under this Act, and (C) any loss in interest to such Account
 4 resulting from the payment of additional benefits based on
 5 military service credited under this Act: *Provided, however,*
 6 That, in determining the amount to be appropriated to the
 7 Railroad Retirement Account for any fiscal year pursuant to
 8 the provisions of this subsection, there shall not be consid-
 9 ered any costs resulting from the crediting of military serv-
 10 ice under this Act for which appropriations to such Account
 11 have already been made pursuant to section 4 (1) of the
 12 Railroad Retirement Act of 1937. Any determination as to
 13 loss in interest to the Railroad Retirement Account pursuant
 14 to clause (C) of the first sentence of this subsection shall
 15 take into account interest from the date each annuity based,
 16 in part, on military service began to accrue or was increased
 17 to the date or dates on which the amount appropriated is
 18 credited to the Account. The cost resulting from the payment
 19 of additional benefits under this Act based on military serv-
 20 ice determined pursuant to the preceding provisions of this
 21 subsection shall be adjusted by applying thereto the ratio
 22 of the total net level cost of all benefits under this Act to the
 23 portion of such net level cost remaining after the exclusion
 24 of administrative expenses and interest charges on the un-
 25 funded accrued liability as determined under the last com-

1 pleted actuarial valuation pursuant to the provisions of sub-
2 section (f) of this section. At the close of the fiscal year
3 ending June 30, 1975, and each fiscal year thereafter, the
4 Board shall, as promptly as practicable, determine the
5 amount to be appropriated to the Account pursuant to the
6 provisions of this subsection, and shall certify such amount
7 to the Secretary of the Treasury for transfer from the general
8 fund in the Treasury to the Railroad Retirement Account.
9 The Secretary of the Treasury is authorized and directed
10 to transfer to the Railroad Retirement Account from the
11 general fund in the Treasury such amounts as, from time to
12 time, may be determined by the Board pursuant to the pro-
13 visions of this subsection and certified by the Board for trans-
14 fer to such Account. In any determination made pursuant
15 to section 7 (c) (2) of this Act, no further charges shall be
16 made against the Trust Funds established by title II of
17 the Social Security Act for military service rendered before
18 January 1, 1957, and with respect to which appropriations
19 authorized by clause (2) of the first sentence of section 4 (1)
20 of the Railroad Retirement Act of 1937 shall have been
21 credited to the Railroad Retirement Account, but the addi-
22 tional benefit payments incurred by such Trust Funds by
23 reason of such military service shall be taken into account
24 in making any such determination.

1 “(c) The Railroad Retirement Supplemental Account
2 established by section 15 (b) of the Railroad Retirement Act
3 of 1937 shall continue to be maintained in the Treasury of
4 the United States. There is hereby appropriated to such
5 account for each fiscal year, beginning with the fiscal year
6 ending June 30, 1975, to provide for the payment of sup-
7 plemental annuities under section 2 (b) of this Act, and to
8 provide for the expenses necessary for the Board in the ad-
9 ministration of the payment of such supplemental annuities,
10 an amount equal to such portions of the amounts covered
11 into the Treasury (minus refunds) during each fiscal year
12 under sections 3211 (b), 3221 (c), and 3221 (d) of the
13 Railroad Retirement Tax Act as are not appropriated to the
14 Railroad Retirement Account pursuant to the provisions of
15 subsection (a) of this section.

16 “(d) At the request and direction of the Board, it shall
17 be the duty of the Secretary of the Treasury to invest such
18 portion of the amounts credited to the Railroad Retirement
19 Account and the Railroad Retirement Supplemental Ac-
20 count as, in the judgment of the Board, is not immediately
21 required for the payment of annuities, supplemental annu-
22 ities, and death benefits. Such investments may be made only
23 in interest-bearing obligations of the United States or in ob-
24 ligations guaranteed as to both principal and interest by the
25 United States. For such purpose such obligations may be

1 acquired (A) on original issue at the issue price; or (B)
 2 by purchase of outstanding obligations at the market price.
 3 The purposes for which obligations of the United States may
 4 be issued under the Second Liberty Bond Act, as amended,
 5 are hereby extended to authorize the issuance at par of
 6 special obligations exclusively to the accounts. Such obliga-
 7 tions issued for purchase by the accounts shall have ma-
 8 turities fixed with due regard for the needs of the accounts,
 9 and shall bear interest at a rate equal to the average market
 10 yield, computed as of the end of the calendar month next
 11 preceding the date of such issue, borne by all marketable
 12 interest-bearing notes of the United States then forming a
 13 part of the public debt that are not due or callable until after
 14 the expiration of three years from the end of such calendar
 15 month, except that where such rate is not a multiple of one-
 16 eighth of 1 per centum, the rate of interest on such obliga-
 17 tions shall be the multiple of one-eighth of 1 per centum
 18 nearest such rate: *Provided*, That the rate of interest on
 19 such obligations shall in no case be less than 3 per centum
 20 per annum. The Secretary of the Treasury may purchase
 21 other interest-bearing obligations of the United States, or
 22 obligations guaranteed as to both principal and interest by
 23 the United States, on original issue or at the market price
 24 only if he determines that such purchases are in the public
 25 interest: *Provided*, That the investment yield of such obli-

1 gations shall not be less than the interest rate determined in
 2 accordance with the preceding sentence. If it is in the interest
 3 of the accounts so to do, the Secretary of the Treasury
 4 may sell and dispose of obligations in the accounts and he
 5 may sell obligations acquired by the accounts (other than
 6 special obligations issued exclusively to the accounts) at the
 7 market price. Special obligations issued exclusively to the
 8 accounts shall, at the request of the Board, be redeemed at
 9 par plus accrued interest. All amounts credited to the ac-
 10 counts shall be available for all purposes of the accounts.
 11 “(e) The Board is hereby authorized and directed to
 12 select two actuaries, one from recommendations made by
 13 representatives of employees and the other from recom-
 14 mendations made by representatives of employers as defined
 15 in paragraph (i) of section 1(a)(1) of this Act. These
 16 actuaries, along with a third who shall be designated by
 17 the Secretary of the Treasury, shall be known as the Actuarial
 18 Advisory Committee with respect to the Railroad Retire-
 19 ment Account. The actuaries so selected shall hold member-
 20 ship in the American Academy of Actuaries and shall be
 21 qualified in the evaluation of pension plans: *Provided*,
 22 however, That these requirements shall not apply to any
 23 actuary who served as a member of the Committee prior to
 24 January 1, 1975. The Committee shall examine the actuarial
 25 reports and estimates made by the Board and shall have

1 authority to recommend to the Board such changes in actu-
 2 arial methods as they may deem necessary. The compensa-
 3 tion of the members of the Committee, exclusive of the
 4 member designated by the Secretary, shall be fixed by the
 5 Board on a per diem basis.

6 “(f) The Board shall include in its annual report a
 7 statement of the status and the operations of the Railroad
 8 Retirement Supplemental Accounts. At intervals not longer
 9 than three years the Board shall make an estimate of the
 10 liabilities created by this Act and shall include such estimate
 11 in its annual report.

12 “PRIVATE PENSIONS

13 “SEC. 16. Nothing in this Act shall be taken as restrict-
 14 ing or discouraging payment by employers to retired em-
 15 ployees of pensions or gratuities in addition to the annuities
 16 paid to such employees under this Act, nor shall this Act
 17 be taken as terminating any trust heretofore created for the
 18 payment of such pensions or gratuities. The annuity, except
 19 a supplemental annuity under section 2 (b), of an individual
 20 shall not be reduced on account of any pension or gratuity
 21 paid by an employer to such individual.

22 “FREE TRANSPORTATION

23 “SEC. 17. It shall not be unlawful for carriers by rail-
 24 road subject to this Act to furnish free transportation to in-
 25 dividuals receiving annuities under this Act in the same man-

1 ner as such transportation is furnished to employees in their
 2 service.

3 “CREDITING SERVICE UNDER THE SOCIAL SECURITY ACT

4 “SEC. 18. (1) Except as provided in subdivision (2),
 5 the term ‘employment’ as defined in section 210 of the Social
 6 Security Act shall not include service performed by an in-
 7 dividual as an employee as defined in section 1 (b) of this
 8 Act.

9 “(2) For the purpose of determining (i) monthly in-
 10 surance benefits under the Social Security Act to an em-
 11 ployee who will have completed less than ten years of service
 12 and to others deriving from him or her during his or her life
 13 and (ii) monthly insurance benefits and lump-sum death
 14 benefits under such Act with respect to the death of an em-
 15 ployee who (A) will have completed less than ten years
 16 of service or (B) will have completed ten or more years of
 17 service but will not have had a current connection with the
 18 railroad industry at the time of his death, and for the pur-
 19 poses of section 203 of that Act, section 210 (a) (9) of the
 20 Social Security Act and subdivision (1) of this subsection
 21 shall not operate to exclude from ‘employment’ under the
 22 Social Security Act service which would otherwise be in-
 23 cluded in such ‘employment’ but for such sections. For such
 24 purpose, compensation paid in a calendar year shall, in the
 25 absence of evidence to the contrary, be presumed to have

1 been paid in equal proportions with respect to all months in
 2 the year in which the employee will have been in service as
 3 an employee. In the application of the Social Security Act
 4 pursuant to this subdivision to service as an employee, all
 5 service as defined in section 1(d) of this Act shall be
 6 deemed to have been performed within the United States.

7 "AUTOMATIC BENEFIT ELIGIBILITY REQUIREMENT

8 ADJUSTMENTS

9 "SEC. 19. (a) If title II of the Social Security Act is
 10 amended at any time after December 31, 1974, to reduce
 11 the eligibility requirements for old-age insurance benefits,
 12 disability insurance benefits, wife's insurance benefits
 13 payable to a wife, husband's insurance benefits, child's in-
 14 surance benefits payable to a child of a deceased individual,
 15 widow's insurance benefits payable to a widow, widower's
 16 insurance benefits, mother's insurance benefits payable to a
 17 widow, or parent's insurance benefits, such reduced eligi-
 18 bility requirements shall be applicable, in accordance with
 19 regulations prescribed by the Board, to individuals, spouses,
 20 or survivors, as the case may be, under section 2 of this
 21 Act to the extent that such reduced eligibility requirements
 22 would provide such individuals, spouses, or survivors with
 23 entitlement to annuities under such section 2 to which they
 24 would not be entitled except for such reduced eligibility
 25 requirements: *Provided, however,* That no annuity shall be

1 paid to any person pursuant to the provisions of this sub-
 2 section if that person does not satisfy an eligibility require-
 3 ment imposed by section 2 of this Act of a kind not imposed
 4 by the Social Security Act on December 31, 1974, or an
 5 eligibility requirement imposed by section 2 of this Act of
 6 a kind which was imposed by the Social Security Act on
 7 December 31, 1974, but which was not reduced by the
 8 amendment to that Act: *Provided further,* That the annuity
 9 amounts to which such individuals, spouses, or survivors
 10 will be entitled under this Act by reason of the provisions
 11 of this subsection shall be only such amounts as are deter-
 12 mined under the provisions of section 3(a), 4(a), or 4(f),
 13 respectively, of this Act.

14 "(b) If title II of the Social Security Act is amended
 15 at any time after December 31, 1974, to provide monthly
 16 insurance benefits under that Act to a class of beneficiaries
 17 not entitled to such benefits thereunder prior to January 1,
 18 1975, every person who is a member of such class of bene-
 19 ficiaries shall be entitled to annuities under section 2 of
 20 this Act, in accordance with regulations prescribed by the
 21 Board, in an amount equal to the amount of the monthly
 22 insurance benefit to which such person would have been
 23 entitled under the Social Security Act if service as an em-
 24 ployee after December 31, 1936, had been included in
 25 the term 'employment' as defined in that Act.

1 “(c) If section 226 or title XVIII of the Social Security
 2 Act is amended at any time after December 31, 1974, to
 3 reduce the conditions of entitlement to, or to expand the
 4 nature of, the benefits payable thereunder, or if health care
 5 benefits in addition to, or in lieu of, the benefits payable under
 6 such section 226 or such title XVIII are provided by any
 7 provision of law which becomes effective at any time after
 8 December 31, 1974, such reductions in the conditions of
 9 entitlement to benefits, such expanded benefits, or such addi-
 10 tional, or substituted, health care benefits shall be available
 11 to every employee (as defined in this Act), and those deriv-
 12 ing from him, in the same manner, and to the same extent, as
 13 if his service as an employee after December 31, 1936, had
 14 been included in the term employment as defined in the
 15 Social Security Act. The Board shall have the same authority,
 16 in accordance with regulations prescribed by it, to determine
 17 the rights of employees who will have completed ten years of
 18 service, and of those deriving from such employees, to bene-
 19 fits provided by reason of the provisions of this subsection as
 20 the Secretary of Health, Education, and Welfare has with
 21 respect to individuals insured under the Social Security Act.

22 “(d) Notwithstanding the provisions of subsections
 23 (a), (b), and (c) of this section—

24 “(1) No annuity or other benefit shall be payable
 25 to any person on the basis of the compensation and years

1 of service of an individual by reason of the provisions
 2 of subsection (a), (b), or (c) of this section if, and to
 3 the extent that, such annuity or other benefit would
 4 duplicate a benefit payable to such person on the basis
 5 of such compensation and years of service under a pro-
 6 vision of the Social Security Act, or any other Act of
 7 Congress, which becomes effective after December 31,
 8 1974.

9 “(2) No annuity shall be payable to a person by
 10 reason of subsection (a) or (b) of this section unless
 11 the individual upon whose compensation and years of
 12 service such annuity would be based will have (A) com-
 13 pleted ten years of service, and (B) in the case of a
 14 survivor, had a current connection with the railroad
 15 industry at the time of his death.

16 “(3) If the Social Security Act is amended after
 17 December 31, 1974, to remove any, or all, restriction
 18 on the receipt of more than one monthly insurance bene-
 19 fit thereunder, annuity amounts provided a person under
 20 section 3 (h), 4 (e), or 4 (h) of this Act, or under sec-
 21 tion 204 (a) (3), 204 (a) (4), 206 (a) (3), or 207 (3)
 22 of title II of this Act, shall be reduced (but not below
 23 zero) by the amount of any annuity provided such per-
 24 son under this Act by reason of such amendment.

1 “(4) If and to the extent that an annuity or other
2 benefit payable to a person by reason of the provisions
3 of subsection (a), (b), or (c) of this section duplicates
4 an annuity or other benefit then payable to such person
5 under other provisions of this Act, such annuity or other
6 benefit then payable under other provisions of this Act
7 shall be reduced (but not below zero) by the amount of
8 the annuity or other benefit payable by reason of sub-
9 section (a), (b), or (c).

10 “SEPARABILITY

11 “SEC. 20. If any provision of this Act, or the application
12 thereof to any person or circumstance, should be held invalid;
13 the remainder of such Act, or the application of such provi-
14 sion to other persons or circumstances, shall not be affected
15 thereby.

16 “SHORT TITLE

17 “SEC. 21. This Act may be cited as the ‘Railroad Retire-
18 ment Act of 1974’.”

19 TITLE II—TRANSITIONAL PROVISIONS

20 SEC. 201. The claims of individuals who, prior to the
21 effective date of title I of this Act, became eligible for
22 annuities, supplemental annuities, or death benefits under
23 section 2, 3 (j), or 5 of the Railroad Retirement Act of 1937
24 shall be adjudicated by the Board under that Act in the same
25 manner and with the same effect as if title I of this Act had

1 not been enacted: *Provided, however*, That no annuity, sup-
2 plemental annuity, or death benefit shall be awarded under
3 the Railroad Retirement Act of 1937 on the basis of an
4 application therefor filed with the Board on or after the
5 effective date of title I of this Act: *Provided further*, That
6 no annuity under the Railroad Retirement Act of 1935, no
7 annuity or supplemental annuity under the Railroad Retire-
8 ment Act of 1937, and no pension under section 6 of the
9 Railroad Retirement Act of 1937 shall be payable for any
10 month after December 31, 1974.

11 SEC. 202. (a) Every individual who would have been
12 entitled to an annuity under the Railroad Retirement Act of
13 1935 for the month of January 1975, if this Act had not
14 been enacted, shall be entitled to an annuity under paragraph
15 (i) of section 2 (a) (1) of the Railroad Retirement Act of
16 1974, beginning January 1, 1975, in an amount determined
17 under the provisions of section 3 (a) of such Act, which
18 amount shall initially be equal to the amount determined
19 under clause (i) of section 3 (a) (6) of the Railroad Retire-
20 ment Act of 1937 for the purpose of computing the last
21 increase in such individual's annuity under the Railroad
22 Retirement Act of 1935 pursuant to the provisions of section
23 105 of Public Law 93-69.

24 (b) The amount of the annuity of an individual under
25 subsection (a) of this section shall be increased by an

1 amount, if any, equal to the amount by which (i) his annuity
2 under the Railroad Retirement Act of 1935 plus his monthly
3 insurance benefit under the Social Security Act for the month
4 of December 1974 exceeds (ii) his annuity under subsection
5 (a) of this section for the month of January 1975.

6 SEC. 203. (a) Every individual who would have been
7 entitled to a pension under section 6 of the Railroad Retirement
8 Act of 1937 for the month of January 1975, if this Act
9 had not been enacted, shall be entitled to an annuity under
10 paragraph (i) of section 2 (a) (1) of the Railroad Retirement
11 Act of 1974 in an amount determined under the provisions
12 of section 3 (a) of such Act, which amount shall
13 initially be equal to the amount determined under clause (i)
14 of section 3 (a) (6) of the Railroad Retirement Act of 1937
15 for the purpose of computing the last increase in such individual's
16 pension under section 6 of the Railroad Retirement Act of 1937
17 pursuant to the provisions of section 105 of Public Law 93-69.

18
19 (b) The amount of the annuity of an individual under
20 subsection (a) of this section shall be increased by an
21 amount, if any, equal to the amount by which (i) his pension
22 under section 6 of the Railroad Retirement Act of 1937
23 plus his monthly insurance benefit under the Social Security
24 Act for the month of December 1974 exceeds (ii) his

1 annuity under subsection (a) of this section for the month
2 of January 1975.

3 (c) The annuities of each individual under the preceding
4 subsections of this section shall be paid on the first
5 day of each calendar month thereafter during his life.

6 SEC. 204. (a) Every individual who was entitled to an
7 annuity under section 2 (a) 1, 2 (a) 2, 2 (a) 3, 2 (a) 4, or
8 2 (a) 5 of the Railroad Retirement Act of 1937 for the
9 month of December 1974, or who would have been entitled
10 to such an annuity for such month except for the provisions
11 of section 2 (d) of such Act, and who would have been
12 entitled to such an annuity for the month of January 1975,
13 if this Act had not been enacted, shall be entitled to an
14 annuity under paragraph (i), (ii), (iii), (iv), or (v),
15 respectively, of section 2 (a) (1) of the Railroad Retirement
16 Act of 1974, beginning January 1, 1975: *Provided,*
17 *however,* That if an individual who was entitled to an annuity
18 under section 2 (a) 4 or 2 (a) 5 of the Railroad Retirement
19 Act of 1974 is age 65 or older, on January 1, 1975,
20 such individual shall be entitled to an annuity under paragraph
21 (i) of section 2 (a) (1) of the Railroad Retirement
22 Act of 1974. For purposes of this subsection—

23 (1) that portion of the individual's annuity as
24 is provided under section 3 (a) of the Railroad Retirement
25 Act of 1974 shall be in an amount equal to the

1 amount determined under clause (i) of section 3 (a)
 2 (6) of the Railroad Retirement Act of 1937 for the
 3 purpose of computing the last increase in the amount
 4 of such individual's annuity as computed under the pro-
 5 visions of section 3 (a), and that part of section 3 (e)
 6 which preceded the first proviso, of the Railroad
 7 Retirement Act of 1937;

8 (2) that portion of the individual's annuity as is
 9 provided under section 3 (b) (1) of the Railroad Retire-
 10 ment Act of 1974 shall be in an amount, if any, equal to
 11 the amount by which (A) his annuity under section
 12 2 (a) of the Railroad Retirement Act of 1937 for the
 13 month of December 1974 (before any reduction on ac-
 14 count of age and without regard to section 2 (d) of
 15 such Act) exceeds (B) the amount of his annuity
 16 provided under paragraph (1) of this subsection for
 17 the month of January 1975: *Provided, however, That*
 18 *if the annuity of any individual under the Railroad Re-*
 19 *tirement Act of 1937 for the month of December 1974*
 20 *was computed under the first proviso of section 3 (e)*
 21 *of such Act, the annuity of such individual for purposes*
 22 *of clause (A) of this paragraph shall be the annuity*
 23 *which such individual would have received under such*
 24 *Act for the month of December 1974, if no other person*

1 had been included in the computation of the annuity of
 2 such individual; and

3 (3) if the individual was entitled to an old-age
 4 insurance benefit or a disability insurance benefit under
 5 the Social Security Act on December 31, 1974, or was
 6 fully insured under that Act on that date, the annuity
 7 amounts provided under paragraphs (1) and (2) of this
 8 subsection shall be increased by an amount determined
 9 under the provisions of section 3 (h) (1) of the Railroad
 10 Retirement Act of 1974: *Provided, however, That, if the*
 11 *individual was entitled to an old-age insurance benefit or*
 12 *a disability insurance benefit under the Social Security*
 13 *Act on December 31, 1974, such amount shall not be*
 14 *less nor more than an amount which would cause the*
 15 *total of the annuity amounts provided the individual by*
 16 *the provisions of this subsection for the month of Janu-*
 17 *ary 1975 to equal the total of the annuity under the*
 18 *Railroad Retirement Act of 1937 (prior to any reduction*
 19 *on account of age and without regard to section 2 (d) of*
 20 *that Act) plus the old-age or disability insurance benefit*
 21 *under the Social Security Act (before any reduction on*
 22 *account of age and deductions on account of work)*
 23 *which such individual would have received for such*
 24 *month if this Act had not been enacted.*

1 (4) if the individual was entitled to a wife's, hus-
 2 band's, widow's, or widower's insurance benefit under
 3 the Social Security Act on December 31, 1974, or is the
 4 wife, husband, widow, or widower of a person who was
 5 fully insured under that Act on that date, the annuity
 6 amounts provided under paragraphs (1) and (2) of this
 7 subsection shall be increased by an amount determined
 8 under the provisions of section 3 (h) (3) of the Railroad
 9 Retirement Act of 1974.

10 (b) The annuity provided an individual by subsection
 11 (a) of this section shall be in lieu of any old-age insurance
 12 benefit or disability insurance benefit otherwise payable to
 13 such individual under the Social Security Act.

14 (c) An individual who was awarded an annuity under
 15 section 2 (a) of the Railroad Retirement Act of 1937, but
 16 who could not have become eligible for an annuity under
 17 paragraph 2 of such section, shall not be eligible for an an-
 18 nuity under paragraph (ii) of section 2 (a) (1) of the Rail-
 19 road Retirement Act of 1974.

20 SEC. 205. (a) Every individual who was entitled to a
 21 supplemental annuity under section 3 (j) of the Railroad
 22 Retirement Act of 1937 for the month of December 1974, or
 23 who would have been entitled to such a supplemental an-
 24 nuity for such month except for the provisions of section
 25 2 (d) of such Act, and who would have been entitled to such

1 a supplemental annuity for the month of January 1975, if
 2 this Act had not been enacted, shall be entitled to a sup-
 3 plemental annuity under section 2 (b) (1) of the Railroad
 4 Retirement Act of 1974, beginning January 1, 1975, in
 5 an amount, the provisions of section 3 (e) of such Act not-
 6 withstanding, equal to the amount of the supplemental an-
 7 nuity to which such individual was entitled under section
 8 3 (j) of the Railroad Retirement Act of 1937 for the month
 9 of December 1974, or to which such individual would have
 10 been entitled for such month under such section 3 (j) except
 11 for the provisions of section 2 (d) of such Act.

12 (b) An individual who was awarded an annuity under
 13 section 2 (a) of the Railroad Retirement Act of 1937, but
 14 who could not have become eligible for a supplemental an-
 15 nuity under section 3 (j) of such Act if this Act had not
 16 been enacted, shall not be eligible for a supplemental annuity
 17 under section 2 (b) of the Railroad Retirement Act of 1974.

18 SEC. 206. (a) Every spouse who was entitled to an
 19 annuity under section 2 (e) or 2 (h) of the Railroad Retire-
 20 ment Act of 1937 for the month of December 1974, or who
 21 would have been entitled to such an annuity for such month
 22 except for the provisions of section 2 (d) of such Act, and
 23 who would have been entitled to such an annuity for the
 24 month of January 1975, if this Act had not been enacted,
 25 shall be entitled to an annuity under section 2 (c) of the

1 Railroad Retirement Act of 1974, beginning January 1,
2 1975. For purposes of this subsection—

3 (1) that portion of the spouse's annuity as is
4 provided under section 4 (a) of the Railroad Retirement
5 Act of 1974 shall be in an amount equal to the amount
6 determined under clause (i) of section 3 (a) (6) of the
7 Railroad Retirement Act of 1937 for the purpose of
8 computing the last increase in the amount of such
9 spouse's annuity as computed under the provisions of
10 section 2 of the Railroad Retirement Act of 1937: *Pro-*
11 *vided, however,* That the amount of such annuity shall be
12 subject to reduction in accordance with the provisions of
13 section 202 (k) or 202 (q) of the Social Security Act,
14 other than a reduction on account of age, in the same
15 manner as any wife's insurance benefit or husband's in-
16 surance benefit payable under section 202 of the Social
17 Security Act;

18 (2) that portion of the spouse's annuity as is pro-
19 vided under section 4 (b) of the Railroad Retirement
20 Act of 1974 shall be in an amount, if any, equal to 50
21 per centum of the individual's annuity as computed in
22 accordance with the provisions of paragraph (2) of
23 section 204 (a) of this title: *Provided, however,* That if
24 (A) the amounts of the annuity provided a spouse for
25 the month of January 1975 by the provisions of para-

1 graph (1) and the preceding provisions of this para-
2 graph exceed (B) the amount of the annuity to which
3 such spouse was entitled (before any reduction on ac-
4 count of age) for the month of December 1974 under
5 section 2 (e) or 2 (h) of the Railroad Retirement Act
6 of 1937 (deeming, for this purpose, any increase in the
7 amount of such annuity which, had this Act not been
8 enacted, would have become effective January 1, 1975,
9 by reason of an increase in the maximum amount pay-
10 able as a wife's insurance benefit under the Social
11 Security Act to have been effective for the month of De-
12 cember 1974), or to which such spouse would have been
13 entitled for such month under such section 2 (e) or
14 2 (h) except for the provisions of section 2 (d) of such
15 Act, the amount of the annuity provided such spouse
16 for the month of January 1975 by the preceding provi-
17 sions of this paragraph shall be reduced until the total
18 of the amounts described in clause (A) of this proviso
19 equals the amount described in clause (B); and

20 (3) if the spouse was entitled to an old-age insur-
21 ance benefit or a disability insurance benefit under the
22 Social Security Act of December 31, 1974, or was fully
23 insured under that Act on that date, or was entitled to
24 a wife's or a husband's insurance benefit under that
25 Act on that date, the annuity amounts provided under

1 paragraphs (1) and (2) of this subsection shall be
 2 increased by an amount determined under the provisions
 3 of section 4 (e) (1) or, if the spouse was entitled only
 4 to a wife's or husband's insurance benefit, 4 (e) (3) of
 5 the Railroad Retirement Act of 1974: *Provided, how-*
 6 *ever,* That, if the spouse was entitled to a monthly
 7 insurance benefit under the Social Security Act on De-
 8 cember 31, 1974, such amount shall not be less nor more
 9 than an amount which would cause (A) the total of
 10 (i) the annuity amounts provided the spouse by the
 11 provisions of this subsection for the month of January
 12 1975 plus (ii) the monthly insurance benefit to which
 13 such spouse is entitled for that month under the Social
 14 Security Act (before any reductions on account of age
 15 and deductions on account of work) to equal (B) the
 16 total of (i) the spouse's annuity under the Railroad Re-
 17 tirement Act of 1937 (prior to any reduction on ac-
 18 count of age and without regard to section 2 (d) of that
 19 Act) plus (ii) the monthly insurance benefit under the
 20 Social Security Act (before any reduction on account
 21 of age and deductions on account of work) which such
 22 spouse would have received for such month if this Act
 23 had not been enacted.

24 (b) The annuity provided a spouse by subsection (a)
 25 of this section shall be in lieu of any wife's insurance benefit

1 or husband's insurance benefit otherwise payable to such
 2 spouse under the Social Security Act.

3 SEC. 207. Every survivor who was entitled to an annuity
 4 under section 5 of the Railroad Retirement Act of 1937 for
 5 the month of December 1974, or who would have been en-
 6 titled to such an annuity for such month except for the pro-
 7 visions of section 5 (i) of such Act, and who would have
 8 been entitled to such an annuity for the month of January
 9 1975, if this Act had not been enacted, shall be entitled to
 10 an annuity under section 2 (d) of the Railroad Retirement
 11 Act of 1974 beginning January 1, 1975. For purposes of
 12 this section—

13 (1) that portion of the survivor's annuity as is
 14 provided under section 4 (f) of the Railroad Retirement
 15 Act of 1974 shall be in an amount equal to the amount
 16 determined under clause (i) of section 3 (a) (6) of the
 17 Railroad Retirement Act of 1937 for the purpose of com-
 18 puting the last increase in the amount of such survivor's
 19 annuity as computed under the provisions of section 5
 20 (q) of the Railroad Retirement Act of 1937: *Provided,*
 21 *however,* That the amount of such annuity shall be
 22 subject to reduction in accordance with the provisions
 23 of section 202 (k) or 202 (q) of the Social Security Act
 24 in the same manner as any widow's insurance benefit,
 25 mother's insurance benefit, widower's insurance benefit,

parent's insurance benefit, or child's insurance benefit payable under section 202 of the Social Security Act;

(2) that portion of the survivor's annuity as is provided under section 4(g) of the Railroad Retirement Act of 1974 shall be in an amount equal to 30 per centum of the amount computed in accordance with the provisions of paragraph (1) of this section prior to any reductions, other than reductions on account of age, in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act; and

(3) if the survivor is a widow or widower who was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, or was fully insured under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this section shall be increased by an amount determined under the provisions of 4(h)

(1) of the Railroad Retirement Act of 1974: *Provided, however, That, if the widow or widower was entitled to a monthly insurance benefit under the Social Security Act on December 31, 1974, such amount shall not be less nor more than an amount which would cause (A) the total of (i) the annuity amounts provided the widow or widower by the provisions of this section for the month of January 1975 plus (ii) the monthly insurance*

benefit to which such widow or widower is entitled for that month under the Social Security Act (before any deductions on account of work) to equal (B) the total of (i) the widow's or widower's annuity under the Railroad Retirement Act of 1937 (without regard to section 5(i) of that Act) plus (ii) the monthly insurance benefit under the Social Security Act (before any deductions on account of work) which such widow or widower would have received for such month if this Act had not been enacted.

SEC. 208. For purposes of paragraph (1) of section 204(a), paragraph (1) of section 206(a), and paragraph (1) of section 207, the fact that the amount of the annuity payable to an individual, spouse, or survivor under the Railroad Retirement Act of 1937 for the month of December 1974 may not (i) in the case of an individual have been computed under the provisions of section 3(a) of such Act or that part of section 3(e) of such Act which precedes the first proviso; (ii) in the case of a spouse, have been computed under the provisions of section 2 of such Act; or (iii) in the case of a survivor, have been computed under the provisions of section 5 of such Act, shall be disregarded, and the amount determined under clause (i) of section 3(a)(6) of such Act with respect to such individual, spouse, or survivor shall, for purposes of such paragraphs, be the

1 amount which would have been determined under such
 2 clause (i) if the annuity of such individual had been com-
 3 puted under the provisions of section 3 (a), and that part
 4 of section 3 (e) which preceded the first proviso, of such
 5 Act; the annuity of such spouse had been computed under
 6 the provisions of section 2 of such Act; or the annuity of
 7 such survivor had been computed under the provisions of
 8 section 5 of such Act.

9 SEC. 209. (a) Whenever monthly insurance benefits
 10 under section 202 of the Social Security Act are increased,
 11 the amount of each annuity provided by section 202 (a),
 12 section 203 (a), paragraph (1) of section 204 (a), paragraph
 13 (1) of section 206 (a), and paragraphs (1) and (2) of
 14 section 207 shall be increased in the same manner, and
 15 effective the same date, as other annuities of the same type
 16 payable under section 2 of the Railroad Retirement Act of
 17 1974 are increased.

18 (b) The annuity amounts provided by section 202 (b),
 19 section 203 (b), paragraph (2) of section 204 (a), and
 20 paragraph (2) of section 206 (a) shall be increased by the
 21 same percentage, or percentages, and effective the same
 22 date, or dates, as other annuity amounts of the same type are
 23 increased pursuant to the provisions of section 3 (g) of the
 24 Railroad Retirement Act of 1974.

1 SEC. 210. The election of a joint and survivor annuity
 2 made before July 31, 1946, by an individual to whom an
 3 annuity accrues under the Railroad Retirement Act of 1937
 4 before January 1, 1975, shall be given effect as though the
 5 provisions of law under which the election was made had
 6 continued to be operative unless such election had been re-
 7 voked prior to the time the annuity of such individual began
 8 to accrue.

9 TITLE III—AMENDMENTS TO THE SOCIAL 10 SECURITY ACT

11 SEC. 301. (a) Section 202 (l) of the Social Security
 12 Act is amended by striking out all that appears therein and
 13 inserting in lieu thereof the following:

14 “(l) If any person is entitled, or would upon application
 15 be entitled, to an annuity under section 2 of the Railroad
 16 Retirement Act of 1974, without regard to sections 2 (e),
 17 2 (f), and 2 (g) of that Act, or to a lump-sum payment
 18 under section 6 (b) of such Act, on the basis of the earnings
 19 record of an individual who will have completed ten years
 20 of service creditable under that Act, no monthly benefit,
 21 and no lump-sum death payment, shall be paid to such
 22 person under this section or section 223 on the basis of the
 23 wages and self-employment income of such individual.”

24 (b) Section 202 (q) of such Act is amended by adding
 25 at the end thereof the following new paragraph:

1 “(10) For purposes of this subsection and subsection
2 (k), the terms ‘old-age insurance benefit’ and ‘disability
3 insurance benefit’ shall include an annuity under section
4 2(a)(1) of the Railroad Retirement Act of 1974 in the
5 amount determined under section 3(a) of that Act and
6 section 204(a)(1) of title II of that Act.”

7 SEC. 302. Section 205(o) of the Social Security Act
8 is amended—

9 (1) by striking out “(o)” at the beginning thereof
10 and inserting in lieu thereof “(o)(1)”;

11 (2) by striking out “section 5 of the Railroad Re-
12 tirement Act of 1937” and inserting in lieu thereof
13 “section 2 of the Railroad Retirement Act of 1974”;

14 (3) by striking out “subsection (f)(1) of such
15 section” and inserting in lieu thereof “section 6(b)
16 of such Act”;

17 (4) by striking out “section 4 of such Act” and
18 inserting in lieu thereof “section 3(i) of such Act”; and

19 (5) by adding at the end thereof the following
20 new paragraph:

21 “(2) Notwithstanding any other provisions of this sec-
22 tion, the Secretary shall not determine entitlement to, make
23 awards of, or certify payments of, any monthly insurance
24 benefits or lump-sum death benefits payable under this title
25 to (A) an individual who will have completed ten years of

1 service creditable under the Railroad Retirement Act of
2 1974, (B) the wife or husband of such an individual, (C)
3 any survivor of such an individual if such survivor is entitled,
4 or could upon application become entitled, to benefits under
5 section 2 of the Railroad Retirement Act of 1974, and (D)
6 any other person entitled to benefits under section 202 of this
7 Act on the basis of the wages and self-employment income of
8 such an individual, except a survivor of such an individual if
9 such individual did not have a current connection with the
10 railroad industry at the time of his death, but shall accept the
11 determinations with respect thereto made by the Railroad
12 Retirement Board in accordance with section 7(b)(2) of
13 the Railroad Retirement Act of 1974.”

14 SEC. 303. Sections 216(b), 216(c), 216(f), and 216
15 (g) of the Social Security Act are each amended by striking
16 out “section 5 of the Railroad Retirement Act of 1937” and
17 inserting in lieu thereof “section 2 of the Railroad Retirement
18 Act of 1974”.

19 SEC. 304. (a) Section 226(b) of the Social Security
20 Act is amended by striking out “section 22 of the Railroad
21 Retirement Act of 1937” from paragraph (2) and inserting
22 in lieu thereof “section 7(d) of the Railroad Retirement Act
23 of 1974”.

24 (b) Section 226(d) of such Act is amended by striking
25 out “section 21 or section 22 of the Railroad Retirement Act

1 of 1937" each time it appears therein and inserting in lieu
2 thereof "section 7 (d) of the Railroad Retirement Act of
3 1974".

4 SEC. 305. Section 1840 (b) of the Social Security Act is
5 amended by striking out "or pension under the Railroad Re-
6 tirement Act of 1937" from paragraph (1) and inserting in
7 lieu thereof "under the Railroad Retirement Act of 1974".

8 SEC. 306. Section 1842 (g) of the Social Security Act
9 is amended by striking out "section 21 (b) of the Railroad
10 Retirement Act of 1937" and inserting in lieu thereof "sec-
11 tion 7 (d) of the Railroad Retirement Act of 1974".

12 SEC. 307. Section 1843 (b) of the Social Security Act
13 is amended by striking out "or pension under the Railroad
14 Retirement Act of 1937" and inserting in lieu thereof "under
15 the Railroad Retirement Act of 1974".

16 SEC. 308. Section 1870 (b) of the Social Security Act
17 is amended by striking out "Railroad Retirement Act of
18 1937" each time it appears therein and inserting in lieu
19 thereof "Railroad Retirement Act of 1974".

20 SEC. 309. Section 1874 (a) of the Social Security Act is
21 amended by striking out "Railroad Retirement Act of 1937"
22 and inserting in lieu thereof "Railroad Retirement Act of
23 1974".

1 TITLE IV—AMENDMENTS TO THE RAILROAD 2 UNEMPLOYMENT INSURANCE ACT

3 SEC. 401. (a) Section 2 (c) of the Railroad Unemploy-
4 ment Insurance Act is amended by striking out "Railroad
5 Retirement Act of 1937" and inserting in lieu thereof "Rail-
6 road Retirement Act of 1974".

7 (b) Section 2 (g) of such Act is amended by striking
8 out "section 3 (f) (1) of the Railroad Retirement Act of
9 1937" each time it appears therein and inserting in lieu
10 thereof "section 6 (a) (1) of the Railroad Retirement Act
11 of 1974".

12 SEC. 402. Section 4 (a-1) of the Railroad Unemploy-
13 ment Insurance Act is amended by striking out "or pensions
14 under the Railroad Retirement Act of 1935 or the Railroad
15 Retirement Act of 1937" from paragraph (ii) and inserting
16 in lieu thereof "under the Railroad Retirement Act of 1974".

17 SEC. 403. Section 10 of the Railroad Unemployment
18 Insurance Act is amended by striking out subsection (h)
19 and all that appears therein.

20 SEC. 404. Section 11 (c) of the Railroad Unemployment
21 Insurance Act is amended—

22 (a) by striking out "Railroad Retirement Act of
23 1937 and the Railroad Retirement Act of 1935" and
24 inserting in lieu thereof "Railroad Retirement Act of
25 1974"; and

(b) by striking out “such Acts” and inserting in lieu thereof “such Act”.

SEC. 405. Section 12 (1) of the Railroad Unemployment Insurance Act is amended by striking out “section 10 (b) (4) of the Railroad Retirement Act of 1937” and inserting in lieu thereof “subdivisions (5), (6), and (9) of section 7 (b) of the Railroad Retirement Act of 1974”.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 501. (a) Section 3221 (c) of the Internal Revenue Code of 1954 is amended—

(1) by striking out “for appropriation to the Railroad Retirement Supplemental Account provided for in section 15 (b) of the Railroad Retirement Act of 1937”;

(2) by striking out “under section 3 (j) of such Act” and inserting in lieu thereof “at the level provided under section 3 (j) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974”;

and

(3) by inserting after “section 3 (j) (2) of the Railroad Retirement Act of 1937” “or section 2 (h) (2) of the Railroad Retirement Act of 1974”.

(b) Section 3221 (d) of such Code is amended—

(1) by striking out “section 3 (j) of the Railroad Retirement Act of 1937” and inserting in lieu thereof “section 2 (b) of the Railroad Retirement Act of 1974”;

and

(2) by striking out “section 3 (j) of such Act” and inserting in lieu thereof “section 2 (b) of such Act”.

SEC. 502. Section 6413 (c) of the Internal Revenue Code of 1954 is amended—

(a) by inserting “or section 3201, or by both such sections,” after “section 3101” in paragraph (1) thereof; and

(b) by adding at the end of paragraph (1) the following new sentence: “The term ‘wages’ as used in this paragraph shall, for purposes of this paragraph, include ‘compensation’ as defined in section 3231 (e).”

TITLE VI—MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

SEC. 601. Section 3 (a) (6) of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new sentences: “If the individual entitled to an increase determined under the preceding provisions of this paragraph is also entitled to a benefit for the same month under title II of the Social Security Act, there shall, any provisions to the contrary notwithstanding, be offset against the total of the increase, or increases, of such individual deter-

1 mined under the preceding provisions of this paragraph, any
 2 amount by which such individual's social security benefit
 3 was increased during the period July 1, 1974, through De-
 4 cember 31, 1974. For purposes of approximating any such
 5 offsets, the Railroad Retirement Board is authorized to de-
 6 termine the percentage figure which, when applied against
 7 current social security benefits, will produce approximately
 8 the amount of the increase, or increases, in social security
 9 benefits during the period July 1, 1974, through Decem-
 10 ber 31, 1974. The amount produced by applying such per-
 11 centage figure to the current social security benefit of an
 12 individual shall be the amount utilized in making the offset
 13 prescribed by the provisions of this paragraph."

14 SEC. 602. (a) The provisions of title I of this Act shall
 15 become effective on January 1, 1975, except as otherwise
 16 provided herein: *Provided, however,* That annuities awarded
 17 under section 2 of the Railroad Retirement Act of 1974 on
 18 the basis of an application therefor filed with the Board on or
 19 after such date may, subject to the limitations prescribed in
 20 section 5 (a) of such Act, begin prior to such date, except
 21 that no annuity under paragraph (ii) of section 2 (a) (1)
 22 of such Act shall begin to accrue to a man prior to July 1,
 23 1974.

24 (b) The provision of section 1 (o) of the Railroad Re-
 25 tirement Act of 1974 which provides that a "current con-

1 nection with the railroad industry" will not be broken by
 2 "employment with the Department of Transportation, the
 3 Interstate Commerce Commission, the National Mediation
 4 Board, or the Railroad Retirement Board" shall not be ap-
 5 plicable (A) for purposes of paragraph (iv) of section
 6 2 (a) (1) of such Act, to an individual who became disabled,
 7 as provided for purposes of such paragraph, prior to Jan-
 8 uary 1, 1975, (B) for purposes of section 2 (b) (1) of such
 9 Act, to an individual whose annuity under section 2 (a) of
 10 the Railroad Retirement Act of 1937 or section 2 (a) (1)
 11 of the Railroad Retirement Act of 1974 first began to ac-
 12 crue prior to January 1, 1975, and (C) for purposes of
 13 section 2 (d) (1) of such Act, to a survivor of a deceased
 14 employee if such employee died prior to January 1, 1975.

15 (c) The provisions of clause (i) (B) and clause (ii)
 16 (B) of section 2 (c) (1) of the Railroad Retirement Act of
 17 1974 shall not be applicable to the spouse of an individual if
 18 (A) such individual will have completed thirty years of serv-
 19 ice and will have been awarded an annuity under section 2
 20 (a) of the Railroad Retirement Act of 1937 or section 2 (a)
 21 (1) of the Railroad Retirement Act of 1974 which first
 22 began to accrue prior to July 1, 1974, or (B) such individ-
 23 ual will have completed less than thirty years of service and
 24 will have been awarded an annuity under section 2 (a) of the
 25 Railroad Retirement Act of 1937 or section 2 (a) (1) of the

1 Railroad Retirement Act of 1974 which first began to accrue
 2 prior to January 1, 1975. For purposes of the entitlement of
 3 the spouse of an individual described in clause (A) or (B)
 4 of the preceding sentence to an annuity under such section 2
 5 (c) (1), the provisions of clause (i) (B) of such section 2
 6 (c) (1) shall be deemed to read: "(B) has attained the age
 7 of 65".

8 (d) The provisions of section 2 (b) (1) of the Railroad
 9 Retirement Act of 1974 which permit an individual to be-
 10 come entitled to a supplemental annuity thereunder if he "has
 11 attained age 60 and completed thirty years of service" shall
 12 not be applicable to an individual who was awarded an an-
 13 nuity under section 2 (a) of the Railroad Retirement Act of
 14 1974 or section 2 (a) (1) of the Railroad Retirement Act of
 15 1974 which first began to accrue prior to July 1, 1974.

16 (e) The provisions of section 7 (e) of the Railroad
 17 Retirement Act of 1974 shall be effective on the enactment
 18 date of this Act and shall apply with respect to all gifts
 19 and bequests covered thereunder, regardless of the date on
 20 which such gifts or bequests were made.

21 SEC. 603. The provisions of title II of this Act and
 22 the amendments made by title III and title IV of this Act
 23 shall become effective on January 1, 1975.

24 SEC. 604. The amendments made by the provisions of
 25 title V of this Act shall become effective on January 1, 1975,

1 and shall apply only with respect to compensation paid for
 2 services rendered on or after that date.

3 SEC. 605. The amendment made by section 601 of this
 4 Act shall be effective on the enactment date of this Act and
 5 shall apply with respect to any increase in annuities under
 6 the Railroad Retirement Act of 1937 which becomes effec-
 7 tive after June 30, 1974.

93D CONGRESS
2D SESSION

H. R. 15301

A BILL

To amend the Railroad Retirement Act of 1937
to revise the retirement system for employees
of employers covered thereunder, and for
other purposes.

By Mr. STAGGERS

JUNE 10, 1974

Referred to the Committee on Interstate and Foreign
Commerce

file
ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: Roy L. Ash

FROM: Paul H. O'Neill

SUBJECT: Railroad Retirement Legislation ✓

Background

The Railroad Retirement system is in a serious deficit situation. If uncorrected, the system faces bankruptcy in the mid-1980's. The industry (labor and management) have proposed that the problem be resolved through a Federal subsidy of about \$400 million per year. The House Committee on Interstate and Foreign Commerce is now considering a bill (H.R. 15301) which would provide such a subsidy.

Current Position

The previous Administration took the firm position that the Railroad Retirement System should be supported by the industry - not the general taxpayers nor by a tap on the Social Security taxpayers. We have suggested a series of actions which could be taken to correct the financial imbalance without resorting to a public subsidy. Minority members of the Committee (Jim Broyhill, Sam Devine) have indicated that they will support us on this issue.

Congressman Staggers may try to gain your agreement to a Federal subsidy approach.

Recommendation

Maintain the current position.

JUL 3 1 1974

Honorable Harley O. Staggers
Chairman, Committee on Interstate
and Foreign Commerce
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your request of June 18, 1974, for the views of this Office on H.R. 15301, a bill "To amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder and for other purposes."

The Administration is fundamentally opposed to H.R. 15301 in its present form. In our view, this bill does not properly address the basic issue which must be faced at this time. That issue, in its most straightforward form is: Who should pay the cost of restoring the Railroad Retirement fund to a position of financial solvency?

H.R. 15301 attempts to deal with the problem by providing for a series of payments from the Social Security trust fund to the Railroad Retirement fund totalling more than \$4 1/2 billion over the next 25 years or so. This rests on the assertion that the Social Security system is somehow responsible for the existence of the "windfall dual benefit", the cost of which, coincidentally, roughly equals the estimated actuarial deficit. This would require millions of wage-earners covered by Social Security to finance benefits enacted in the Railroad Retirement Act and available only to retired railroad employees and their dependents. Those paying the bill would earn no benefits and receive no payments.

The Administration is firmly opposed to any device which treats the problems of the Railroad Retirement fund as being the responsibility of the Social Security taxpayers or anyone else other than the employers and employees of the railroad industry.

The Congress created the Railroad Retirement System as an independent, self-supporting retirement system for one



particular industry. It is inappropriate and highly inequitable to levy the costs of that System on taxpayers who cannot hope to benefit from its existence.

The responsibility for overcoming the problems of this System must be with the industry it serves and the individuals who have benefitted from it in the past and will continue to receive its benefits in the future.

There are two obvious ways in which this responsibility can be satisfied. One is by increasing revenues, the other by limiting benefits. H.R. 15301 contains some features which limit benefits. Unfortunately, these changes do not go far enough to solve the problem and they are coupled with liberalizations which actually increase the costs of the fund. The bill provides no increases in revenues except for the proposal that the System be subsidized by Social Security.

In our view, the bill fails to meet the obligation imposed on the industry by the Congress in Public Law 93-69, to develop a proposal for placing the System on a sound actuarial footing.

In our view, Congress now has the responsibility for solving the problems of the Railroad Retirement System without resorting to the inappropriate device of outside subsidies. There are a number of possibilities which should be explored:

1. The proposed liberalizations could (and in our view, should) be deferred until taxes are increased to pay for them.
2. The proposed new formula could be simplified and the level of benefits reduced.
3. The amount protected under the old formula could be reduced.
4. The costs of phasing out windfall dual benefits could be reduced by any of the following:
 - Outright termination rather than gradual phaseout;
 - Restrictions on cost-of-living increases for dual beneficiaries until the windfall element has been absorbed; or



-- Restrictions on cost-of-living increases for all Railroad Retirement beneficiaries until the cost of the windfall benefit has been balanced.

5. Revenues could be increased by raising the payroll tax or by levying an earmarked tax on rail cargo.

Some combination of these changes could restore the System to the proper condition of being financed by the industry which it is designed to serve.

If a comprehensive bill which would produce a sound, industry-financed system cannot be enacted within the time remaining in this Session, the Administration strongly recommends that the Congress enact a temporary tax sufficient to finance any further extension of the present temporary benefits.

While the financing provisions are the most prominent unacceptable feature of H.R. 15301, there are several other seriously objectionable provisions of the bill. First, the proposed new benefit formula is inordinately complex. This complexity will seriously impede efficient administration of both the Railroad Retirement and Social Security systems. In addition, it will be impossible for the individual beneficiary to understand the workings of the system, thus undermining its credibility and public support. In our view, the benefit formula can, and should, be greatly simplified.

Second, the bill provides for the Railroad Retirement Board, in effect, to administer the provisions of Title II of the Social Security Act with respect to any person eligible for benefits under the Railroad Retirement Act, with no provision for review by the Social Security Administration.

Having two separate agencies simultaneously administering the same statutory provisions will inevitably lead to confusion and loss of efficiency. In addition, it will be difficult to explain this arrangement to beneficiaries who are entitled to Social Security benefits in their own right and whose connection to the railroad industry is only marginal. These individuals would normally look to the Social Security Administration for their benefits. In our view, the Board should not administer Social Security benefits with respect to dependents and survivors. Any determinations of the Board affecting Social Security benefits should be subject to review by the Social Security Administration.



4

Our objections to H.R. 15301 in its present form, and the Administration's recommendations for change, are set forth in greater detail in the attached supplement to this report.

In view of these considerations, the Administration considers H.R. 15301 to be unacceptable in its present form. Its enactment would not be in accord with the program of the President.

Sincerely,

(Signed) Roy L. Ash

Director

Enclosure

cc:

~~1~~ courtesies

RRB

Official file - Legis. Records

LR Chron (Stimpson)

Director's Chron

Mr. Fischer

Mr. O'Neill

Mr. Eberle (2)

Mr. Havens

HRD:HHavens:bb 7-29-74

H.R. 15301

Supplement to H.R. 15301 Report to the Committee on Interstate and Foreign Commerce of the House of Representatives by the Office of Management and Budget

Most revisions in the Railroad Retirement system have originated in collective bargaining processes within the industry. Since the Railroad Retirement system provisions are written into Federal law, these industry proposals must be submitted to Congress for enactment. Recognizing the difficult process of negotiation on the part of railroad labor and railroad management which precede any new proposals, the Administration usually does not object to such changes unless a proposal upsets the financial balance of the system or adversely affects other important public interests. H.R. 15301 represents a case in which the Administration must object to the proposal because of its seriously adverse impact.

The plan set forth in H.R. 15301 depends for its solvency on a series of payments from the Social Security trust funds totalling more than \$4 1/2 billion. This action would impose a tax burden on mostly middle and lower income workers to whom the Railroad Retirement system will not provide benefits. In this important respect, therefore, the plan is clearly unfair. This unwarranted burden arises from a basic financial imbalance in the proposal which must be corrected within the Railroad Retirement system itself.

The Department of Health, Education, and Welfare is strongly opposed to the proposal for increased payments to Railroad Retirement from the Social Security trust funds and we concur with the Department's position.

The Office of Management and Budget recommends that further consideration be given to eliminating or reducing some of the costs of the proposal, or to providing additional resources from within the industry, or to some combination of these.

I. The Structure and the Cost of the Proposal

The Railroad Retirement system under present law is operating with an actuarial deficiency of about 9% of taxable payroll. If the benefit structure and the funding in H.R. 15301

were adopted, the actuarial deficiency would be reduced to 0.24%. It would be useful, therefore, to summarize the changes proposed to achieve this objective.

The present Railroad Retirement benefit may be conceived of as having three elements: (1) An amount which would have been paid to the retiree by Social Security if railroad employment had been covered under Social Security. The Railroad Retirement system is reimbursed from the Social Security trust funds for the additional amounts that Social Security would have paid if railroad employment had been covered by Social Security. (2) The balance of the regular Railroad Retirement benefit is financed entirely from within the industry through a payroll tax on employers. (3) In addition, there is a supplemental pension consisting of a flat monthly amount paid according to length of service for service exceeding 25 years. Also financed through a payroll tax, paid entirely by the employers.

The factors which caused the current deficiency are not attributable to any single benefit, but rather to the total structure of benefits and taxes. Generally, benefit increases (except those provided in 1970 and later while the Commission on Railroad Retirement was studying the system and since the completion of that study) had been presumed to be adequately funded according to what was known about the economic conditions of the railroad industry at the time. The fundamental problem is that the industry itself has declined from earlier expectations and the smaller payroll tax base is not now able to support the present built-in costs.

In recent years, it has been known that in order to bring the current system within balance, it would be necessary either to reduce benefits or to increase Railroad Retirement taxes. The Commission on Railroad Retirement and later the intra-industry study group of labor and management representatives, agreed that the most likely savings could be achieved by eliminating windfall dual benefits. The cost of these dual benefits has been estimated at almost 12% of taxable payroll.

Elimination of windfall dual entitlement is the single element in H.R. 15301 which is intended to restore the financial balance in the proposed system. However, the entire

12%-of-payroll cost of the present dual benefit provisions would not be recovered under the proposal. For example, annuitants with dual entitlement already on the rolls would continue to receive dual benefits, and employees who had not yet retired, but who had vested in both Social Security and Railroad Retirement coverage, would receive dual benefits when they retired. The new proposal would only eliminate further vesting in dual benefits after the effective date of the new system. As a result, there would be a residual cost for the "windfall dual benefits" totalling about 4 3/4% of payroll.

H.R. 15301 makes certain other changes in the benefit structure, increasing some categories and decreasing others. But as with dual benefits, vesting up to the date of changeover is protected. The new structure contains:

- A component equivalent to the Social Security benefit which the retiree would have received under Social Security and which is reimbursed by Social Security (an "imputed" Social Security benefit), but safeguarded against dual benefits.
- A component equivalent to a pure staff-pension Railroad Retirement benefit based on average salary and length of service with accrual beginning on the changeover data.
- A component equivalent to the old supplemental pension based on longevity.
- A component designed to protect vesting which was accrued prior to the changeover date. This component has three separate elements making the overall new retirement benefit a six-layer benefit.

The net result is that except for the savings produced by eliminating new accruals toward dual benefits, further savings in benefits under this proposal have been offset by further liberalizations in benefits. At the tax rates provided in the bill, there is still a 4.6% deficiency in the system.

To fund these costs, the legislation proposes no new taxes upon the industry. In fact, the level of taxes on the industry will be slightly reduced.

The legislation proposes that 4.36% of the deficiency be covered by an increased reimbursement through the financial interchange from Social Security to cover the costs of protecting accrued windfall dual benefits. As indicated previously, we oppose this proposed subsidy from Social Security, and recommend instead that the Congress consider some combination of reducing the costs of the benefit package and increasing revenues from within the industry. Some possible means of doing this are outlined in the subsequent sections of this report.

II. Opportunities for Reducing Benefit Costs

- (a) The amount to be protected by the old formula could be reduced. This includes, of course, much of the windfall dual benefit that has been "vested" by employees not yet retired, as well as the more favorable wage replacement under the old formula than under the new formula. Although it can be anticipated that persons nearing retirement will seek to protect their accrued vested benefits at as high a level as possible, it should be remembered that the old formula could not be supported by existing resource base. Therefore, the degree to which the system can afford to protect new retirees in terms of the old benefit formula depends on how much can be taken away from future benefit levels or how additional taxes can be raised. The Congress could appropriately consider belt-tightening in this area, particularly since the benefits proposed for protection are at levels that could not be supported under the old system.
- (b) The level of benefits under the new formula could be simplified and, in the process reduced. The new formula has become so complex during the process of bargaining that at least one of its purposes, namely, wage replacement, has been minimized. The benefit now includes large components of flat monthly dollar awards related to length of service, and an additional flat monthly award for longevity (the supplemental pensior). Under this complex proposed formula, it is even possible for a person to retire with a greater monthly benefit

than he earned before retirement. Under these circumstances, the level of benefits has become a bargaining issue concerning degrees of liberalization. Such liberalization may be proper when sufficient funding is available but not in the face of the present deficiency.

- (c) New liberalizations should be deferred until taxes are increased to pay for them. The proposal contains a number of new benefit liberalizations. We take no position on their individual merit, and, if there were adequate funds available to pay for them, we would have no objection to their inclusion in the bill. But under deficiency conditions, we believe they should be of the lowest priority. For example: The overall minimum guaranty for survivors on the benefit rolls would be increased in this bill from 110% of Social Security to 130%, costing 1.22% of payroll.

Another candidate for reconsideration is the provision which permits retirement on full annuity at age 60, costing 1.25% of payroll. This provision was enacted in 1973, but without providing for its funding, presumably in the expectation that adequate funding would be provided in the 1974 revision of the Railroad Retirement system.

There are a number of additional costs deriving from the relationships between the Railroad Retirement system and the Social Security system by which the Railroad Retirement system proposes to enrich the imputed Social Security benefits of its own beneficiaries. For example, Railroad Retirement would pay full benefits (without actuarial reduction) to persons who retire at age 60 with 30 years of service. Social Security will not pay unreduced benefits to persons who retire before age 65. Therefore, it would be necessary for the Railroad Retirement system to pay the equivalent of unreduced Social Security benefits until the person reached age 62 and continue to pay the difference between benefits at age 62 and the reduced benefits thereafter. These enrichments would add another 1.26% of payroll costs.

III. The Need to Increase Revenues

It has long been a principle of both the Federal Government

and the industry that new benefits should not be introduced into the system unless funds were provided from within the industry to cover the costs. The only exceptions to this principle were the temporary benefit increases of 1970 through 1973 when it was understood that a revised retirement system would provide the resources to resolve the financing problem.

We believe that proposals for raising the necessary revenues from within the industry must be seriously considered. If the costs of the proposal were reduced to some degree, particularly those arising from the proposed liberalizations, we believe the remaining additional burden could be borne by the industry.

It may be argued that a tax on the industry would be immediately passed on to the consumer. We think, however, that the costs of the Railroad Retirement system should be a part of the industry's costs which its users should bear as is the case in other sectors of the economy and indeed other parts of the transportation industry. We believe that competition with other modes of transportation would provide a far better moderator of benefits and costs than the interjection of subsidy.

IV. Funding Some of the Costs From Outside the Industry

A key element in the system proposed under H.R. 15301 is the suggestion that the protected amount of the windfall dual benefits should be financed by the Social Security trust funds. The arguments offered by the proponents of this proposal are without substance. They consist of such assertions as: (1) the windfall is a "Social Security" benefit, (2) Railroad Retirement has absorbed the costs of this benefit up until now and it is not too much to ask Social Security to carry the remaining costs, (3) in other situations such as civil service retirement, the Social Security system has paid the whole cost of the second benefit and (4) the cost is negligible to the Social Security system. The response to these arguments is being furnished more fully to the Committee by HEW and need not be repeated here. It is worth noting, however, that this proposal is inconsistent with the recommendations of the Commission on Railroad Retirement, and has met with objections from the Chairman of the House Ways and Means Committee and other individuals and organizations.

The alternative of a general fund contribution to cover the deficiency is equally unacceptable because it, too, would destroy the essential boundaries between an industry retirement system and general public financing and, therefore, levels and commensurate tax rates. The tax and benefit changes in the Railroad Retirement system which have developed historically out of collective bargaining in the industry between labor and management have not included the participation of any representative of the public. The Federal legislation which has established and changed the system has been not a public approval of the changes but rather the means for executing the program within the industry. Accordingly, it is not appropriate to attribute the deficiency to Federal participation in the shaping of the program.

The potential future exposure of Federal taxpayers under the proposed legislation is serious and distressing. Since the bargaining on changes in the system takes place between labor and management within the industry, and since the principle means proposed for handling costs in excess of revenues is a subsidy from outside the industry, there is essentially no restraint on the amount or the frequency with which Federal taxpayers may be asked to pay additional subsidies.

Finally, we see no basis for shifting the tax burden to the general public for a benefit which does not flow to the public.

V. Other Objections to H.R. 15301

In addition to the unresolved problems of financing the system, the proposal contains other objectionable features of an administrative nature. Most critical of these objections are as follows: (1) The benefit formula is extremely complicated. It will be costly to administer and impossible to explain to the public. It is very likely that the complexity of the formula is not worth the difference in benefit yield that a more simple formula would have produced. Moreover, experience has shown that systems become even more complex with time. With such a start, within a few years it would surely be necessary to redesign the system all over again simply because the added complexity

would have prevented it from being effectively administered.

(2) The proposal would authorize the Railroad Retirement Board to administer all benefits payable under the Railroad Retirement Act and the Social Security Act to any employee or the dependent or survivor of an employee who has been credited with 10 years of railroad service. The Board's determinations under this provision would not be subject to review by the Social Security Administration. This would not only create extensive new paperwork for the Railroad Retirement Board, but without authority for review by Social Security, it would be confusing and difficult to achieve uniform treatment under the same law by two independent agencies. This is particularly objectionable to persons who are insured in their own right under Social Security but are dependents under the Railroad Retirement system. Social Security is the basic retirement system for the vast majority of the Nation's workers; no system for a particular occupational group should have final authority for determining the Social Security entitlement of its workers.

VI. Recommendations

In view of the comments above, we strongly recommend against the enactment of H.R. 15301, which is unacceptable in its present form. As a minimum, in order to safeguard the public interest, the bill should be modified to eliminate the inappropriate device of outside subsidies, and to eliminate the actuarial deficit through some combination of the following alternatives:

1. The proposed liberalizations could (and in our view should) be deferred until taxes are increased to pay for them.
2. The proposed new formula could be simplified and the level of benefits reduced.
3. The amount protected under the old formula could be reduced.
4. The costs of phasing out windfall dual benefits could be reduced by any of the following:

- Outright termination rather than gradual phase-out;
- Restrictions on cost-of-living increases for dual beneficiaries until the windfall element has been absorbed; or
- Restrictions on cost-of-living increases for all Railroad Retirement beneficiaries until the cost of the windfall benefit has been balanced.

5. Revenues could be increased by raising the payroll tax or by levying an earmarked tax on rail cargo.

If the necessary modification of this bill cannot be accomplished by the statutory deadline of January 1, 1975, we would recommend that a temporary tax be imposed on the industry sufficient to finance any continuation of the present temporary benefits, pending the enactment of a sound, industry-financed system.

THE WHITE HOUSE
WASHINGTON

August 16, 1974

RECOMMENDED TELEPHONE CALL

TO: Representative Harley O. Staggers (D-W.Va.)

PURPOSE: To return Congressman Staggers call of Wednesday, August 14, 1974, concerning H.R. 15301, Railroad Retirement

VIA: William E. Timmons

RECOMMENDED BY: Max L. Friedersdorf *m.f.*

BACKGROUND:

1. Chairman Staggers was calling to enlist Presidential support for objectionable Committee bill which has since been reported out of full Committee by voice vote.
2. Chairman Staggers' bill would shift the burden of railroad retirement financing to the general Treasury, costing \$390 million the first year, and rising to \$4.5 billion over 20 years.
3. House Republicans believe the Democratic Leadership will press for early action after the recess, but Republicans hope to delay Floor consideration until near adjournment and force Staggers to accept a simple, one-year extension of the present law.

TALKING POINTS:

1. Harley, I am sorry I missed your call and understand you have now reported the Committee bill.
2. I am aware of the serious deficit situation in the Railroad Retirement system, but cannot support the Federal subsidy because of our serious inflation problems.
3. I would prefer a one-year extension of the existing structure, without dipping into appropriated public funds.
4. Harley, I hope we can work together to keep spending down and bring this inflation under control.

THE WHITE HOUSE
WASHINGTON

INFORMATION

August 16, 1974

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM E. TIMMONS

SUBJECT: H.R. 15301, Railroad Retirement

The full House Committee on Interstate and Foreign Commerce reported out by voice vote Thursday, August 14, 1974, the bill H.R. 15301, Railroad Retirement.

The objectionable Committee version was adopted, calling for a \$390 million subsidy the first year out of the general Treasury, and an eventual expenditure of \$4.5 billion over 20 years.

The House Democratic Leadership will press for early consideration after the August 22 - September 11 House recess.

Republican strategy is to delay House action as long as possible, eventually forcing Chairman Staggers to bring a bill in at the eleventh hour in mid-October, under extension, providing for a simple, one-year extension of the current structure.

Legislation in some form is needed before adjournment because pensions of 900,000 retirees will drop 50% on January 1, 1975, unless the present retirement structure is extended, or new legislation passed.

Jim Broyhill and Sam Devine will be working to delay consideration of the Committee bill.